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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO**

10
11 CHINO BASIN MUNICIPAL
12 WATER DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

) **CASE NO. R.C.V. 51010**

) **Judge: Honorable J. MICHAEL GUNN**

) **MOTION TO AMEND THE**
) **JUDGMENT**

) **Date: September 28, 2000**

) **Time: 2:00 p.m.**

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19
20 -
21 I.

22 **BACKGROUND**

23 In 1978, judgment was entered in *Chino Basin Municipal Water District v. City of*
24 *Chino*, a groundwater adjudication of the Chino Basin. This Judgment imposed a physical
25 solution in order to halt the decline of the groundwater levels in the Basin. The Judgment also
26 required the parties to develop an Optimum Basin Management Program ("OBMP") in order to
27 provide a comprehensive program that would offer a long-term solution to the many issues
28 facing the Basin. On June 29, 2000 a final OBMP for the Chino Basin was submitted to the

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1 Court, and on July 13, 2000 the Court approved the OBMP and ordered Watermaster to proceed
2 in accordance with its terms.

3 In the final months prior to completion of the OBMP, the parties negotiated a Peace
4 Agreement that resolved the issues inhibiting finalization of the OBMP. During these
5 negotiations it was recognized that certain minor but necessary amendments would need to be
6 made to the Judgment so that the final OBMP would be fully consistent with the Judgment. The
7 negotiating parties consented to these modifications and they became a part of the Peace
8 Agreement (Article IV, section 4).

9 In its July 13 Order approving the OBMP, the Court ordered that a hearing would be
10 held on September 28, 2000 to, in part, hear arguments on proposed amendments to the
11 Judgment. Part II of this brief describes Watermaster's recommended amendments to the
12 Judgment in conformance with the Peace Agreement. It is expressly intended the amendments to
13 the Judgment shall operate only for the term of the Peace Agreement and thus, a clause has been
14 included within each amendment to make this clear.

15 **II.**

16 **PROPOSED AMENDMENTS TO THE JUDGMENT**

17 Watermaster recommends the following amendments to the Judgment:

18 (a) The Judgment shall be amended so that the last sentence of Paragraph 8 of the
19 Judgment reads:

20 "All overlying rights are appurtenant to the land and cannot be assigned or
21 conveyed separate or apart therefrom except that *for the term of the*
22 *Peace Agreement* the members of the Overlying (Non-Agricultural) Pool
23 shall have the right to Transfer or lease their quantified production rights
24 within the Overlying (Non-Agricultural) Pool or to Watermaster in
25 conformance with the procedures described in the Peace Agreement
26 between the Parties therein, dated June 29, 2000."

27 (b) Paragraph 6 of Exhibit "G" to the Judgment regarding the Overlying Non-
28

1 Agricultural Pool shall be amended to read:

2 “Assignment. Rights herein decreed are appurtenant to that land and are
3 only assignable with the land for overlying use thereon; provided,
4 however, (a) that any appropriator who may, directly or indirectly,
5 undertake to provide water service to such overlying lands may, by an
6 appropriate agency agreement on a form approved by Watermaster,
7 exercise said overlying right to the extent, but only to the extent necessary
8 to provide water service to said overlying lands, and (b) the members of
9 the pool shall have the right to Transfer or lease their quantified
10 production rights within the pool or to Watermaster in conformance with
11 the procedures described in the Peace Agreement between the Parties
12 therein, dated June 29, 2000 *for the term of the Peace Agreement.*”

13 (c) The 1995 Amendment to the Judgment shall be amended as follows: Section
14 10(b)(3)(i) shall now read:

15 “*For the term of the Peace Agreement*, in any year in which sufficient
16 unallocated Safe Yield from the Overlying (Agricultural) Pool is available
17 for such conversion claims, Watermaster shall allocate to each
18 appropriator with a conversion claim, 2.0 acre-feet of unallocated Safe
19 Yield water for each converted acre for which conversion has been
20 approved and recorded by the Watermaster.”

21
22 Appendix 1 to the Judgment shall be construed to be consistent with this
23 amendment. All other parts of the 1995 Amendment shall remain the same.
24

25 **III.**

26 **CONCLUSION**

27 The Peace Agreement is a carefully constructed balance of the various interests in the
28


1 Basin that has enabled the OBMP to be finalized. One part of the negotiation of the Peace
2 Agreement was an agreement on the necessary amendments to the Judgment in order to make
3 the Peace Agreement and the Judgment fully consistent with one another. The signatories have
4 agreed that the amendments described above are the only *necessary* amendments in order to
5 achieve consistency.

6 Neither the signatories to the Peace Agreement nor Watermaster believe any other
7 proposed amendments are necessary at this time and accordingly urge this Court to make only
8 those changes necessary so that the final OBMP is consistent with the Judgment. The Judgment
9 has created a stable institutional framework in the Chino Basin that has made the development of
10 the OBMP possible. Changes to this framework should be made only where absolutely necessary
11 so as to cause minimal disruption to this stability. Watermaster has determined that the
12 amendments proposed above are the only necessary changes that need to be made consistent
13 with the Peace Agreement.

14 The parties have made a monumental effort to craft a solution that will fulfill the
15 overriding goal of managing the Chino Basin on a sustainable basis for the benefit of all.
16 Watermaster respectfully request that the Court approve the above referenced amendments in
17 furtherance of the physical solution.

18
19
20 Dated: August 14, 2000

HATCH AND PARENT

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22 By 
23 SCOTT S. SLATER
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28

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On August 15, 2000, I served the attached:


MOTION TO AMEND THE JUDGMENT

in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for overnight delivery by United States Postal Service mail at Rancho Cucamonga, California, addressed as follows:

See service lists attached:

Attorney Service List
Mailing List 1

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on August 15, 2000.


Mary L. Staula

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