		FEE EXEMPT	
1	SCOTT SLATER (State Bar No. 117317) MICHAEL FIFE (State Bar No. 203025)	FILED - West District	
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3	Santa Barbara, CA 93101-2782 Telephone: (805) 963-7000	SEP 2 9 2000	
4	Facsimile: (805) 965-4333	By Estimony The State of the St	
5	Attorneys for Chino Basin Watermaster	J. Dept. 19	
6 7			
8	SUPERIOR COURT OF THI	E STATE OF CALIFORNIA	
9	COUNTY OF SAN BERNARDINO		
10			
11	CHINO BASIN MUNICIPAL) CASE NO. RCV 51010	
12	WATER DISTRICT,)	
13	Plaintiff,		
14	V.	NOTICE OF ENTRY OF ORDERCONCERNING MOTION TO	
15	CITY OF CHINO, et al.,) EXTEND NINE-MEMBER BOARD) AND ORDER CONCERNING	
16	Defendants.) MOTION TO AMEND JUDGMENT	
17		}	
18			
19	TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:		
20	Please take notice that on September 28, 2000, the Court entered its Order Concerning		
21	Motion to Extend Nine-Member Board and Order	Concerning Motion to Amend Judgment. A true	
22	and correct copy of these Orders are attached hereto and made a part hereof by this reference.		
23	The Court also provided guidance on the factors that it will consider when deciding to		
24	reappoint the Nine-Member Watermaster Board in 2005. These factors are:		
25	(1) All production meters will be installed;		
26	(2) Basin Monitoring will be completed	y in place and will have been the basis for the	
27 28	semi-annual reports specified in the	Order;	
ا ت-	1		

NOTICE OF ENTRY OF ORDER

1	(3)	The Recharge Master Plan will be complete and appropriate recharge facilities will	
2		have been installed;	
3	(4)	The OBMP Desalter I Expansion and Desalter II will be installed and operational,	
4		with demonstrated delivery of desalted water for municipal use in the Basin.	
5	In addition, the Court wishes to schedule a hearing on February 1, 2001 at 2:00 pm. The		
6	purpose of the hearing will be to:		
7	(1)	Approve the Revised Rules and Regulations for the Chino Basin;	
8	(2)	Approve the post-Order memorandum which will be filed on October 26, 2000;	
9	(3) Receive a report on the status Western Municipal Water District's recission of its		
10		conditional execution of the Peace Agreement; and	
11	(4)	Receive Watermaster's Annual Report.	
12	The Revised Rules and Regulations for the Chino Basin should be submitted to the Court		
13	by December	31, 2000.	
[4			
5			
6	Dated: Septer	nber 28, 2000 HATCH AND PARENT	
7		By Mahael Wit	
8		Michael Fife	
9		Attorneys for Chino Basin Watermaster	
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CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

VS.

CITY OF CHINO, et al.,

Defendants

CASE NO. RCV 51010

ORDER CONCERNING MOTION TO EXTEND NINE-MEMBER BOARD

Date: September 28, 2000

Dept: 8

Time: 2:00 p.m.

Background

On February 19, 1998, the Court appointed a nine-member board consisting of representatives from the Overlying (Agricultural) Pool, the Overlying (Non-agricultural) Pool, the Appropriative Pool, and three municipal water districts to serve as Interim Watermaster for the Chino Groundwater Basin (hereinafter sometimes referred to as "Basin"). Watermaster was directed to notice a hearing on or before October 28, 1999, to consider all parties' input as to the continuance of the nine-member board. The Court informed the parties that one of the measures that would be used in determining the effectiveness of the nine-member board, in functioning as a steward of the Basin,

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would be the progress made on the adoption of an optimum basin management program ("OBMP") for the Basin. The OBMP was to be submitted to the Court no later than September 30, 1999, and a hearing was set on October 28, 1999, to consider whether to approve and order full implementation of the program. The deadline for approval of the OBMP was continued several times. The Court finally approved the OBMP, consisting of the Phase I Report and Implementation Plan, subject to certain conditions precedent, on July 13, 2000.

Discussion

Extension of Appointment of Nine-member Board

On August 30, 2000, Watermaster filed a Motion to Extend the Nine-Member Board for a Full Five-Year Term. The motion requests the Court to order that the current nine-member structure of the Watermaster board continue in effect for a full five-year term. Watermaster asserts that all of the conditions precedent set forth in the Court's July 13, 2000, Order have been satisfied. However, as noted in Special Referee Anne Schneider's Report and Recommendation Concerning Motion to Extend Nine-Member Board, there are several outstanding issues that must be resolved before it can be said that all of the conditions have been satisfied. First, it is not clear that unanimous approval of the Peace Agreement regarding the Chino Groundwater Basin, dated June 29, 2000, hereinafter "Peace Agreement," has been obtained. Western Municipal Water District's "ratification" of the Peace Agreement was conditional. Watermaster reports the need for further negotiations related to the purchase of desalted water. Second, Watermaster states that the California Legislature has appropriated \$235,000,000 for the benefit of the Santa Ana Watershed Project Authority ("SAWPA") and allocated this sum to the State Water Resources Control Board ("SWRCB") for distribution. Watermaster further states that SAWPA has submitted an application to SWRCB for distribution of these funds, including

\$56,000,000 to be used to fund the Chino II desalter and an expansion of the Chino I desalter. However, Watermaster has not explained how the \$121,000,000 condition precedent is satisfied when only \$56,000,000 of the funds allocated to SAWPA are to be used for the Chino Basin desalter project. Third, while Watermaster has submitted a schedule and process for submission to the Court of detailed periodic reports regarding compliance with the Implementation Plan for the OBMP, the schedule has some omissions. For example, Program Elements 3 and 5, which encompass the desalter project, are not included in the schedule.

It must be noted that the City of Chino has filed an Opposition to Motion to Extend the Nine-Member Board for a Full Five-Year Term. Although it supports the continuation of the current nine-member board structure, the City of Chino asserts that Court guidance is needed with respect to the establishment of "criteria, procedures and schedules for the rotation of Appropriative Pool members" serving on the nine-member board. Watermaster responds that several groups must determine a procedure for rotation: Overlying (Agricultural) Pool, Overlying (Non-agricultural) Pool, and the three municipal districts that hold seats on the board and the Appropriative Pool. Watermaster is hopeful that a complete consensus will emerge prior to October 31, 2000, and requests the Court to allow the consensus-building process to continue and give the parties until October 31, 2000, to resolve their differences. An inability to reach consensus on the rotation issue is of considerable concern to the Court. The Court is unwilling to extend the appointment of the board unless and until the rotation issue is resolved.

Periodic Reporting Requirements

In the exercise of its continuing jurisdiction, the Court shall require periodic progress reports regarding implementation of the OBMP to ensure that the Watermaster is performing its independent function and keeping to the schedule

adopted for OBMP implementation. The Court adopts the following schedule for OBMP reporting:

Report No. 1	March 31, 2001
LEDOIL MO. I	Maion J., 2001

Report No. 2	September 30, 2001
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Report No. 10 coincides with the end of the appointment of the Nine-Member Board. The OBMP progress reports, together with independent assessment of OBMP implementation status, including verification of data to be provided by the Special Referee and her technical expert, will be the basis for consideration of continuing the appointment. The Court may schedule hearings to coincide with some or all of these reports. Alternatively, the Court may, from time to time, direct the Special Referee to conduct a workshop in lieu of a court hearing. The reports should follow the format prescribed in Special Referee Anne Schneider's Report and Recommendation Concerning Motion to Extend Nine Member Board.

Future Desalters

The Court wants to particularly note that the Peace Agreement predicates any future desalting capacity on a reevaluation of the need for additional desalting after the earlier of ten years or the conversion of 20,000 acres of agricultural land. The Court is mindful that while the parties to the Peace Agreement contemplate the construction of

future desalters and/or expansion of Chino I and/or Chino II Desalters, there are no provisions in the Peace Agreement that effectively ensure that they will be built. In effect, future desalters (and any expansions of the Chino I and II Desalters) will be built "if and only if" funding from sources other than the Parties can be secured. The OBMP (Phase I Report and Phase II Implementation Plan) calls for some 40,000 acre-feet per year of desalting capacity to be installed in the southern part of the Basin by 2020. The Court hereby gives notice to the parties that a primary concern of the Court in any future application for reappointment of the nine-member board will be the parties' continued commitment to provide for future desalters and preserve safe yield in accordance with the OBMP.

Order

Watermaster seeks an order continuing the current nine-member structure of the Watermaster Board in effect for a full five-year term and authorizing it to perform all managerial and administrative functions as specified in the Judgment, including the execution of all administrative and employment contracts. Watermaster states that it will propose a schedule for rotation of its board members no later than October 31, 2000.

The Court is not inclined to extend unconditionally the reappointment of the nine-member board until both the rotation and the Western Municipal Water District issues have been resolved. Therefore, the appointment shall be made subject to certain conditions. The failure of any one of these conditions shall be considered by the Court as a compelling reason to reconsider the appointment of the nine member board. Therefore, subject to the continuing jurisdiction of the Court and satisfaction of conditions numbers 1 - 5 below, the Court hereby issues its order:

that it recommends continuation of the appointment for only three years. The Court incorporates herein by reference the entirety of the Special Referee's Report and Recommendation Concerning the Motion to Extend Nine-Member Board. The nine-member board is hereby appointed for an additional five-year term, until September 30, 2005, subject to the continuing jurisdiction of the Court to reconsider the appointment in the event Watermaster fails to timely comply with the following conditions:

1. Watermaster's report on the status of its efforts to resolve the terms and conditions applicable to the purchase of desalted water and to secure a recission of Western Municipal Water District's conditional execution of the Peace Agreement no later than December 31, 2000; and

The Court has considered the Special Referee's Report and Recommendation

Concerning Motion to Extend Nine-Member Board and hereby issues its ruling accepting

the Report and adopting the Recommendation of Anne Schneider, except to the extent

- 2. Watermaster adoption and Court approval of Revised Rules and Regulations for Chino Basin by February 1, 2001; and
- 3. Submission of Reports Nos. 1 through 10 in accordance with the schedule set forth in the discussion above; and
- 4. Inclusion in such reports of schedule and budget information essentially in a form equivalent to Exhibit "E" and Table 4-14 of the Phase I Report; and
- 5. Watermaster cooperation in the independent assessment and verification of the data included in Reports Nos. 1 through 10 to be provided to the Court by the Special Referee and her technical expert.

The parties are forewarned that any future application for reappointment of the nine-member board may be conditioned on the development of a detailed plan to reach the OBMP goal of 40,000 acre-feet per year of desalting capacity to be installed in southern part of the Basin by 2020.

Dated: September 28, 2000

J. MICHAEL GUNN, Judge

Michael De

When I decide on reappointment in 5 years, I will be looking for the following:

All production meters will be installed;

Basin monitoring will be completely in place and will have been the basis for the semi-annual reports specified in my Order;

The Recharge Master Plan will be complete and appropriate recharge facilities will have been installed.

The OBMP Desalter I Expansion and Desalter II will be installed and operational, with demonstrated delivery of desalted water for municipal use in the basin.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER DISTRICT, ORDER CONCERNING NS. ORDER CONCERNING MOTION TO AMEND JUDGMENT Defendants Date: September 28, 2000 Dept: 8 Time: 2:00 p.m.

<u>Background</u>

On February 19, 1998, the Court directed Watermaster to prepare an optimum basin management program ("OBMP") for the Chino Basin. On July 13, 2000, the Court found, subject to certain conditions precedent, that Watermaster's support and approval of the Peace Agreement regarding the Chino Groundwater Basin, dated June 29, 2000, hereinafter "Peace Agreement," and Watermaster's commitment to implement the OBMP Phase I Report through the provisions of the OBMP Implementation Plan as expressly set forth in Article

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V of the Peace Agreement satisfied Watermaster's obligation to prepare an OBMP. One of the conditions precedent to that finding is Court approval of all Judgment modifications in furtherance of the OBMP.

On August 15, 2000, Watermaster filed a Motion to Amend the Judgment. No other party has submitted proposed Judgment modifications in furtherance of the OBMP, nor has opposition been filed to Watermaster's motion. Watermaster asserts that the parties to the Peace Agreement have agreed that the proposed amendments are the only Judgment modifications necessary to achieve consistency between the OBMP and the Judgment. Consequently, the parties have not provided comprehensive briefing on Judgment modification issues.

Discussion

Special Referee Anne Schneider has provided the Court (and the parties) with a thoughtful analysis of various provisions in the Peace Agreement that appear to be in conflict with the Judgment. Watermaster's motion recognizes some of these conflicts. However, the Special Referee's Report and Recommendation Regarding Watermaster's Motion to Amend Judgment notes several provisions in the Peace Agreement which appear to conflict with the Judgment, for which no modification is proposed. For example, Watermaster proposes to modify the amended Judgment Exhibit H conversion provisions to allow 2.0 acre-feet of unallocated Safe Yield water for each converted acre. However, no revision is proposed with respect to Appendix 1, which explains the basis for the existing 1.3 acre-feet per acre provision. Another example is the Peace Agreement provision which permits "Early Transfer" allocations of 32,800 acre-feet of water to occur annually, yet the Overlying (Agricultural) Pool is still entitled to pump 82,800 acre-feet per year without reduction. There are several other provisions of the Peace Agreement noted by the Special Referee which appear to conflict with the Judgment, for which no Judgment amendment is sought.

Order

Special

Referee's

Motion to Amend Judgment.

Report

considered the

2 3 Recommendation Regarding Motion to Amend Judgment and hereby issues its 4 ruling accepting the Report and adopting the Recommendation of Anne Schneider. 5 The Court incorporates herein by reference the entirety of the Special Referee's 6 Report and Recommendation Regarding 7 Watermaster's Motion to Amend the Judgment is granted subject to the 8 following: the parties are directed to file a post-hearing brief (s) clarifying their 9 10 intent with respect to the Peace Agreement provisions discussed in Sections IIB though IIF in the Special Referee's Report and Recommendation Regarding 11 12 Watermaster's Motion to Amend Judgment. The post-hearing brief (s) shall be submitted no later than October 26, 2000. 13 14

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Court

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Dated: September 28, 2000

Mishal Door J. MICHAEL GUNN, Judge

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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 September 29, 2000, I served the following as a result of the motions before the Court for hearing on September 28, 2000 at 2:00 p.m.

NOTICE OF ENTRY OF ORDER CONCERNING MOTION TO EXTEND NINE-MEMBER BOARD AND ORDER CONCERNING MOTION TO AMEND JUDGMENT

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

See attached service lists:

- Attorney Service List
- Mailing List A

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on September 29, 2000.

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LES RICHTER
CALIFORNIA SPEEDWAY
P.O. BOX 9300
FONTANA CA 92334-9300

DAVID RINGEL
MONTGOMERY WATSON
P.O. BOX 7009
PASADENA CA 91109-7009

ARNOLD RODRIGUEZ
SANTA ANA RIVER WATER CO
10530 54TH ST
MIRA LOMA CA 91752-2331

GLEN ROJAS CITY OF CHINO P.O. BOX 667 CHINO CA 91708-0667 WAYNE SALMI PRAXAIR 5705 AIRPORT DR ONTARIO CA 91761

PATRICK SAMPSON P.O. BOX 660 POMONA CA 91769 DIANE SANCHEZ
DWR
770 FAIRMONT AVE
GLENDALE CA 91203-1035

JOSEPH C SCALMANINI 500 FIRST ST WOODLAND CA 95695 JOE SCHENK CITY OF NORCO P.O. BOX 428 NORCO CA 91760-0428 JUDY SCHURR 30587 LOS ALTOS DR REDLANDS CA 92373 DAVID SCRIVEN
KRIEGER & STEWART ENGINEERING
3602 UNIVERSITY AVE
RIVERSIDE CA 92501

MICHAEL SMITH
NICHOLS STEAD BOILEAU & KOSTOFF
223 W FOOTHILL BLVD #200
CLAREMONT CA 91711-2708

NELL SOTO STATE CAPITOL ROOM NO 4066 SACRAMENTO CA 95814 BILL STAFFORD MARYGOLD MUTUAL WATER CO 9725 ALDER ST BLOOMINGTON CA 92316-1637

DAVID STARNES
MOBILE COMMUNITY MGMT CO
1801 E EDINGER AVE STE 230
SANTA ANA CA 92705

L HAIT STERN & GOLDBERG 9150 WILSHIRE BLVD STE 100 BEVERLY HILLS CA 90210 TOM STETSON STETSON ENGINEERS INC 3104 E GARVEY AVE WEST COVINA CA 91791

CRAIG STEWART
GEOMATRIX CONSULTANTS INC.
330 W BAY ST STE 140
COSTA MESA CA 92629

TRACI STEWART
CHINO BASIN WATERMASTER
8632 ARCHIBALD ST STE 109
RANCHO CUCAMONGA CA 91730

SWRCB - DIV OF WATER RIGHTS P.O. BOX 2000 SACRAMENTO CA 95809-2000

LENNA TANNER
CITY CLERK - CITY OF CHINO
P.O. BOX 667
CHINO CA 91708-0667

JIM TAYLOR
POMONA UTILITY SVS DEPT.
148 N HUNTINGTON BLVD
POMONA CA 91768

JERRY THIBEAULT RWQCB - SANTA ANA REGION 3737 MAIN ST STE 500 RIVERSIDE CA 92501-3339

MICHAEL THIES SPACE CENTER MIRA LOMA INC 3401 S ETIWANDA AVE BLDG 503 MIRA LOMA CA 91752-1126 JOHN THORNTON
PSOMAS AND ASSOCIATES
3187 RED HILL AVE, SUITE 250
COSTA MESA CA 92626

MANAGER
THREE VALLEYS M W D
P.O. BOX 1300
CLAREMONT CA 91711

GEOFFREY VANDEN HEUVEL CBWM BOARD 7551 KIMBALL AVE CHINO CA 91710 ERICK VAUGHN ANGELICA RENTAL SERVICE 1575 N CASE ST ORANGE CA 92867-3635 ERIC WANG SUNKIST GROWERS INC 760 E SUNKIST ST ONTARIO CA 91761

MARK WARD

AMERON INTERNATIONAL

13032 SLOVER AVE

FONTANA CA 92335-6990

RAY WELLINGTON
SAN ANTONIO WATER COMPANY
139 N EUCLID AVE
UPLAND CA 91786-6036

CHARLES R. WHITE DWR-SO DIST 770 FAIRMONT AVE GLENDALE CA 91203-1035

MICHAEL WHITEHEAD SAN GABRIEL VALLEY WC P.O. BOX 6010 EL MONTE CA 91734 MARK WILDERMUTH
WILDERMUTH ENVIRONMENTAL INC
415 N EL CAMINO REAL STE A
SAN CLEMENTE CA 92672

JEROME WILSON CBWM BOARD 6035 FALLING TREE LN ALTA LOMA CA 91737