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FILED - West District
San Bernardino County Clerk
FEB 27 2001
By Susan King Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DIVISION

11 CHINO BASIN MUNICIPAL WATER DISTRICT,)
12 Plaintiff,)
13 v.)
14 THE CITY OF CHINO,)
15 Defendants.)
16)
17)
18)
19)

CASE NO. RCV 51010
Judge: Honorable J. MICHAEL GUNN
**EX PARTE APPLICATION FOR
AN ORDER SHORTENING TIME
FOR THE FILING OF MOTION
TO CONTINUE MARCH 8, 2001
HEARING**
Date: February 28, 2001
Time: 8:30 PM
Dept: R8

21 APPLICATION FOR AN ORDER SHORTENING TIME

22 Watermaster hereby applies for an Order Shortening Time for the hearing of a Motion to
23 Continue the scheduled March 8, 2001 hearing.

24 This Court may order that the time prescribed by statute for notice and hearing a motion
25 may be shortened for good cause. Code.Civ.Proc. § 1005; Rules 317, 325, California Rules of
26 Court; San Bernardino Local Court Rule 510.

27 Good cause exists for this Court to enter an Order Shortening Time for the hearing of
28 Watermaster's Motion to Continue. The parties have completed their task of drafting a revised

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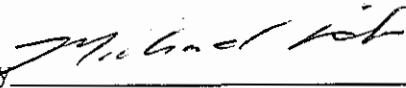
1 Chino Basin Watermaster Rules and Regulations (“Rules”), but it has not been possible to
2 schedule the Court ordered workshop prior to March 8, 2001. It is important that this workshop
3 occur prior to the hearing so that the Special Referee and the Court can have sufficient time to
4 review the ~~hearing~~ rules. MTF

5 Both the Watermaster Advisory Committee and the Board approved and adopted the
6 Rules on February 15, 2001. It was only after that time that it was determined that it would not be
7 possible to hold the workshop with the Referee until March 8, 2001.

8 Thus, it was not possible to have determined that a continuance of the March 8, 2001
9 would be required until well within the time required for filing such a motion. Good cause
10 therefore exists for the Court to order that the time prescribed by statute for notice and hearing a
11 motion may be shortened.

12
13 DATED: February 23, 2001

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15 By 

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8 **COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DIVISION**
9

10 CHINO BASIN MUNICIPAL WATER DISTRICT,)
11 Plaintiff,)
12 v.)
13 THE CITY OF CHINO,)
14 Defendants.)

CASE NO. RCV 51010

Judge: Honorable J. MICHAEL GUNN

EX PARTE MOTION FOR A CONTINUANCE

Date: March 8, 2001
Time: 1:30 pm
Dept: R8

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19 **MOTION FOR A CONTINUANCE**

20 In June of last year, the parties to the Judgment negotiated a Peace Agreement that resolved
21 long-standing issues that were inhibiting the finalization of the Chino Basin Optimum Basin
22 Management Program ("OBMP"). This Peace Agreement and the OBMP Implementation Plan were
23 submitted to the Court which issued an Order requiring Watermaster to proceed in accordance with
24 the Peace Agreement.

25 Certain compromises negotiated in the Peace Agreement necessitated that minor changes be
26 made to the Judgment. Accordingly, on September 28, 2000, the Court heard arguments concerning
27 a motion to amend the Judgment. The Court granted this motion, but had further questions
28 concerning the Peace Agreement that had not yet been addressed by the parties. The parties agreed

1 to resolve many of these issues through the submittal of a Post-Order Memorandum, and to resolve
2 others through a revision of the Rules and Regulations for the Chino Basin.

3 The Court thus scheduled a hearing for February 1, 2001 in order to: (1) approve the revised
4 Rules and Regulations; (2) approve the Post-Order Memorandum; (3) receive a report on the status
5 of Western Municipal Water District's rescission of its conditional execution of the Peace Agreement;
6 and (4) receive Watermaster's 23rd Annual Report.

7 On January 31, 2001, this Court heard and granted an Ex Parte Motion for a Continuance of
8 the hearing scheduled for February 1, 2001 filed by the Chino Basin Watermaster General Counsel.
9 The Court ordered the hearing continued until March 8, 2001, and ordered that a workshop be
10 scheduled prior to the hearing in order to allow the parties to present the revised Chino Basin
11 Watermaster Rules and Regulations ("Rules") to the Special Referee.

12 On February 15, 2001 the Chino Basin Advisory Committee and Board both unanimously
13 approved and adopted the completed revision of the Rules and authorized General Counsel to
14 forward the Rules to the Court for its review. There is now no known opposition to the Rules by any
15 party to the Judgment.

16 Even though the Rules have been completed and are thus ready for review by the Court,
17 scheduling considerations have necessitated that the workshop with the Special Referee can not be
18 held until March 8, 2001. It is understood that Western will rescind its earlier conditional approval
19 of the Peace Agreement once an appropriate term sheet is executed by both buyers and sellers of
20 desalted water. Individual contracts could be executed contemporaneously. However, it may be that
21 the final contracts will trail a more definitive facilities design. In any event, the term sheet would
22 be of sufficient detail and of a binding nature for Western to proceed.

23 The parties have not succeeded in reaching an agreement that would be memorialized by a
24 term sheet for a number of reasons. First, the sheer herculean effort to complete the Rules required
25 the complete attention of the parties to the Judgment, the Board and the Advisory Committee.
26 Several all day sessions were held among the stakeholders to achieve consensus and unanimous
27 support for the Rules. With all parties focused on completing the Rules, it was difficult to apply
28

1 the same level of effort to the completion of the desalter agreements and the rescission of the Western
2 conditional resolution in support of the Peace Agreement.

3 Second, the parties to the Judgment have been waiting for technical and financial consultants
4 to complete the facilities and financial plan so that intelligent decisions can be made on the terms for
5 the desalter agreements. The expected preferred design alternative was first distributed on Friday
6 February 23, 2001, for review by the purchasers, and financial pro-formas are expected to be first
7 made available on Tuesday February 27, 2001.

8 Watermaster General Counsel held a meeting with is the purchasers on Wednesday, February
9 21, 2001 to develop the "outstanding issues list." The purchasers and sellers will meet on
10 Wednesday, February 28, 2001, to discuss whether the list is complete and begin meeting as
11 frequently as necessary to obtain a term sheet. The Watermaster Board has requested each of the
12 parties to submit a statement in writing to the Watermaster Board by March 1, 2001 identifying the
13 impediments to resolution of any outstanding issues. Once this report is prepared, Watermaster
14 believes that a workshop with the Special Referee will be timely and it has been presently scheduled
15 for March 8, 2001 at 10:00 a.m.

16 For all these reasons, the parties respectfully request the Court to continue the March 8, 2001
17 hearing until April 12, 2001 or some other such date as is convenient for the Court.

18
19 **DATED:** 2/23/01

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By 

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CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

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 February 27, 2001, I served the documents identified below:

- 1) **EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR THE FILING OF MOTION TO CONTINUE MARCH 8, 2001 HEARING**
- 2) **EX PARTE MOTION FOR A CONTINUANCE** of the March 8, 2001 hearing until April 12, 2001.

by placing a true copy of same in sealed envelopes for delivery by United States Postal Service mail at Rancho Cucamonga, California, to each of the addresses shown on the 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 February 27, 2001.



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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
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