

1 ELLISON, SCHNEIDER & HARRIS L.L.P.
Anne J. Schneider, Esq. (Bar No. 72552)
2 2015 H Street
Sacramento, California 95814-3109
3 Telephone: (916) 447-2166

4 SPECIAL REFEREE

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

10
11 CHINO BASIN MUNICIPAL WATER)
DISTRICT,)
12)
Plaintiff,)
13)
v.)
14)
THE CITY OF CHINO,)
15)
Defendants.)

CASE NO. RCV 51010
Judge: Honorable J. Michael Gunn
SPECIAL REFEREE'S REPORT AND
COMMENTS CONCERNING
WATERMASTER'S TRANSMITTAL
OF REVISED RULES AND
REGULATIONS
Date: July 19, 2001
Time: 2:00 p.m.
Dept: 8

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19 I.

20 INTRODUCTION

21 On February 15, 2001, the Watermaster Board and Advisory Committee unanimously
22 approved and adopted a complete revision of the rules and regulations for the basin, entitled "Chino
23 Basin Watermaster Rules and Regulations" (hereinafter "New Rules"). On April 19, 2001, the Court
24 tentatively approved the New Rules subject to: (1) Watermaster's adoption of the changes and
25 clarifications discussed in the Special Referee's Report on Workshop and Comments Regarding
26 Watermaster's Revised Rules and Regulations; (2) modification of the New Rules' definition of
27 "Minimal Producer" to be consistent with the Judgment or Judgment modification of the definition
28 of "Minimal Producer;" (3) modification of the New Rules to provide notice to the Court and all

1 be referenced in and attached to the New Rules. In addition the Order requires that the New Rules
2 be amended to provide notice to the Court of any new or modified policies or procedures adopted
3 by the Board.

4 In Appendix 2 of the New Rules Watermaster has included two policies and procedures:
5 "Chino Basin Watermaster Agricultural Area Monitoring Program Notification Procedure for
6 Distribution of Groundwater Quality Data" and "Chino Basin Watermaster Procedure, Guidelines
7 and Fee Schedule for Release of Information and Documents." Watermaster represents in its
8 transmittal that "with the exception of those policies and procedures which pertain to wholly internal
9 affairs such as personnel matters" these are the only existing Watermaster policies and procedures.

10 Section 2.21 of the New Rules, which pertains to the Annual Report, has been modified to
11 state that the Annual Report shall include "a compilation of any amendments to the Rules and
12 Regulations made by Watermaster during the prior twelve (12) months and serve as notice to the
13 Court of the amendments." Section 3.0 of the New Rules, which pertains to the scope of
14 Watermaster's monitoring activities, has been modified to provide that monitoring procedures shall
15 be implemented through the development of appropriate Watermaster policies and procedures.
16 Further, "[a]ny such policies and procedures adopted by resolution or minute action shall be reported
17 to the Court in Watermaster's annual report." Presumably, the parties' intention is that all policies
18 and procedures adopted by Watermaster (which do not pertain to wholly internal affairs), including
19 those unrelated to monitoring activities, shall be reported to the Court in the Annual Report along
20 with any new or modified rules and regulations.

21 D. OBMP Reports

22 Section 2.21 of the New Rules, which pertains to the Annual Report, has been modified to
23 provide that the Annual Report "shall generally include an update on the status of the parties' efforts
24 to implement the OBMP." Further, "[o]n a biannual basis, the annual report shall include an
25 engineering appendix which contains a more specific 'state of the Basin' report including an update
26 on the status of individual OBMP related activities such as monitoring results and Watermaster'
27 analysis of Hydrologic Balance.

28 It is important to note that the OBMP reporting that is to be included in the Annual Report

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INTRODUCTION

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On February 15, 2001, the Watermaster Board and Advisory Committee unanimously approved and adopted a complete revision of the rules and regulations for the basin, entitled "Chino Basin Watermaster Rules and Regulations" (hereinafter "New Rules"). On April 19, 2001, the Court tentatively approved the New Rules subject to: (1) Watermaster's adoption of the changes and clarifications discussed in the Special Referee's Report on Workshop and Comments Regarding Watermaster's Revised Rules and Regulations; (2) modification of the New Rules' definition of "Minimal Producer" to be consistent with the Judgment or Judgment modification of the definition of "Minimal Producer;" (3) modification of the New Rules to provide notice to the Court and all

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1 active parties of new or revised policies and procedures adopted by the Board. The Court set the
2 instant hearing date to consider final approval of the New Rules. Watermaster reports that the
3 requested modifications have been made. The modifications have been submitted to the Court in
4 the form of a redlined copy of the New Rules, along with a transmittal discussing the changes made
5 to the New Rules. The modifications submitted to the Court did not include Appendix 1 forms.

6 II.

7 DISCUSSION

8 The Special Referee has carefully reviewed the redlined version of the New Rules and notes
9 that nearly all of the recommended changes and clarifications have been made. However, several
10 issues require clarification.

11 A. Safe Yield and Operating Safe Yield

12 The parties' commitment to recalculate Safe Yield in year 2010/2011 is included as section
13 6.5 of the New Rules. In addition, changes have been made to the provisions regarding Annual
14 Production Right and New Yield. As modified, Article VI provides consistency between the New
15 Rules and the Judgment. The Referee notes, however, that in Watermaster's transmittal on page 3,
16 lines 15- 28, there is a discussion about New Yield serving as a tool to accommodate adjustments
17 to "Operating Safe Yield." A review of the New Rules reveals that, consistent with the Judgment,
18 any adjustments made would be to "Safe Yield," not "Operating Safe Yield." The Referee assumes
19 that this is a typographical error in the transmittal.

20 B. Definition of Minimal Producer

21 The definition of "Minimal Producer" has not been changed to conform to the definition
22 contained in the Judgment, i.e., that a Minimal Producer is one "whose production does not exceed
23 five acre-feet per year." The Court's April 19 Order requires either that the definition be modified
24 or that a Judgment modification be sought. Watermaster's transmittal does not indicate that the
25 parties intend to seek Court approval of a Judgment modification that would change the definition
26 of Minimal Producer to one whose production does not exceed ten acre-feet per year.

27 C. Policies and Procedures

28 The Court's April 19 Order requires that all existing Watermaster policies and procedures

1 be referenced in and attached to the New Rules. In addition the Order requires that the New Rules
2 be amended to provide notice to the Court of any new or modified policies or procedures adopted
3 by the Board.

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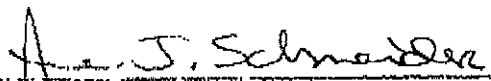
1 is not intended as a substitute for the ten biannual reports the Court previously ordered to be filed
2 by Watermaster at the end of March and the end of September of each calendar year. The OBMP
3 reporting included in the Annual Report will supplement the biannual reports, which will follow the
4 format prescribed in the Special Referee's Report and Recommendation Concerning Motion to
5 Extend Nine-Member Board.

6 **III.**

7 **CONCLUSION AND RECOMMENDATION**

8 The Special Referee recommends the New Rules be given final approval, subject to the
9 Watermaster committing to revise the definition of "Minimal Producer" to be consistent with the
10 Judgment, and providing Appendix I forms consistent with Special Referee's Report on Workshop
11 and Comments Regarding Watermaster's Revised Rules and Regulations.

12 Dated: July 16, 2001

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15 Anne A. Schneider, Special Referee
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