

COPY

FILED-Rancho Cucamonga District
SAN BERNARDINO COUNTY
SUPERIOR COURT

FEB 20 2002

By *Nancy S. King* Deputy

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

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, et al.,
Defendants

CASE NO. RCV 51010

ORDER GRANTING MOTION FOR
DECLARATION REGARDING
DISCHARGE OF OBLIGATIONS
UNDER ARTICLE VII OF THE
PEACE AGREEMENT

Date: February 20, 2002
Dept: 8
Time: 11:30 a.m.

The Chino Basin Watermaster ("Watermaster") has filed a motion to obtain a judicial declaration that performance of the Integrated Chino-Arlington Desalters System Term Sheet ("Term Sheet") and any agreement executed in furtherance thereof fully discharges and satisfies all obligations, responsibilities, and liabilities of Inland Empire Utilities Agency ("IEUA") and Western Municipal Water District ("Western") under Article VII of the Peace Agreement for the Chino Basin, dated June 29, 2000 ("Peace Agreement"), except for those provisions regarding "Future Desalters."

1 The Peace Agreement was negotiated by the parties to this action to facilitate
2 implementation of the judicially approved Optimum Basin Management Program for
3 the Chino Basin ("OBMP"). Article VII of the Peace Agreement expresses the parties'
4 agreement to implement the desalter element of the OBMP. At the time the Peace
5 Agreement was negotiated, it was expected that IEUA and Western would construct,
6 operate and maintain the new desalters (the Chino I Desalter Expansion and Chino II
7 Desalter Project) in the same manner as the existing desalter (Chino I Desalter).
8 (Peace Agreement, § 7.1, 7.2(b).) However, the recently negotiated Term Sheet,
9 which also expresses the parties' agreement to implement the desalter element of the
10 OBMP, calls for the formation of a joint enterprise group, known as the Chino Basin
11 Desalter Authority ("CDA"), to construct, operate and maintain the new desalters. The
12 parties to the Term Sheet include some, but not all, of the parties to the Peace
13 Agreement. Apparently because the provisions of the Term Sheet vary from the
14 provisions of the Article VII Peace Agreement and because not all of the parties to the
15 Peace Agreement have approved the Term Sheet, Watermaster has filed the instant
16 motion seeking a judicial declaration.

17 The Court has continuing jurisdiction regarding the implementation of the
18 OBMP, of which the construction, operation and maintenance of new desalters is a key
19 element. From a review of the Term Sheet and related agreements, it appears that
20 except as to "Future Desalters" performance of the new agreements will implement the
21 desalter element of the OBMP in the same manner as Article VII of the Peace
22 Agreement. The difference is that, under the Term Sheet and related agreements,
23 construction, operation and maintenance of the new desalters will not be undertaken
24 by Western, IEUA and OCWD through Project Committee 14 of the Santa Ana
25 Watershed Project Authority ("SAWPA"); instead, construction will be undertaken by
26 the members of CDA (e.g. the cities of Chino, Chino Hills, Norco and Ontario, the
27 Jurupa Community Services District, Santa Ana River Water Company, and ex officio
28

1 member, IEUA). Therefore, it appears to the Court that the requested relief is
2 appropriate. Moreover, no opposition to the motion has been filed.

3 The Court notes, however, that the interplay between the Peace Agreement, the
4 Term Sheet, and related agreements is not readily apparent to the casual reader. The
5 Court, therefore, requests Watermaster to file a post-hearing brief providing a
6 description of the various agreements and explanation of the interplay among the
7 agreements. The Court also notes that a copy of the fully executed Term Sheet has
8 not been lodged with the Court, although Watermaster's motion indicates it has been
9 executed. Further, because all of the agreements related to the Term Sheet have not
10 been completed, copies of the fully executed related agreements have not been
11 lodged with the Court. As a consequence, the Court requests that copies of all fully
12 executed agreements related to implementation of the desalter element of the OBMP
13 be filed with the post-hearing brief.

14 Satisfactory proof having been made and good cause appearing, IT IS
15 HEREBY ORDERED AND DECREED that performance of the Term Sheet and any
16 agreements executed in furtherance thereof shall fully discharge and satisfy all
17 obligations, responsibilities and liabilities of IEUA and Western concerning
18 implementation of the desalter element of the OBMP as described under Article VII of
19 the Peace Agreement, except for those provisions regarding "Future Desalters." In
20 addition, it is ordered that Watermaster file a post-hearing brief describing the various
21 agreements implementing the desalter element of the OBMP and explaining the
22 interplay among the agreements. The post-hearing brief shall be filed by
23 March 25, 2002. Finally, Watermaster is ordered to file copies of the fully executed
24 Term Sheet and related agreements pertaining to implementation of the desalter
25 element of the OBMP with the post-hearing brief.

26

27 Dated: February 20, 2002

28

J. Michael Gunn

J. Michael Gunn, Judge

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 20, 2002 I served the attached:

***ORDER GRANTING MOTION FOR DECLARATION REGARDING DISCHARGE OF
OBLIGATIONS UNDER ARTICLE VII OF THE PEACE AGREEMENT***

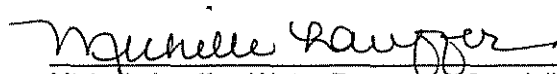
HEARING DATE: FEBRUARY 20, 2002 AT 11:30 A.M.

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, addresses as follows:

See attached service list:

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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 20, 2002.


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