

FEB 28 2002

By *Adrian Williams* Deputy

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**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 RECEIVING  
SUPPLEMENTAL DESALTER  
REPORT, SUPPLEMENTAL OBMP  
REPORT, 24<sup>th</sup> ANNUAL REPORT,  
AND INITIAL STATE OF BASIN  
REPORT; ORDER CONTINUING  
HEARING ON SUBSIDENCE

Date: February 28, 2002  
Dept: 8  
Time: 11:00 a.m.

On February 28, 2002, the Court held a hearing on Watermaster's Supplemental Desalter Status Report, Watermaster's Supplemental OBMP Implementation Status Report No. 2, Watermaster's 24<sup>th</sup> Annual Report, and Watermaster's Initial State of the Basin Report. A hearing was also scheduled for the Court to receive technical reports from Watermaster and others concerning subsidence and related issues. Satisfactory proof having been made and good cause appearing, IT IS HEREBY ORDERED AND DECREED:

I.

SUPPLEMENTAL OBMP IMPLEMENTATION STATUS REPORT NO. 2

On November 15, 2001, the Court received a status report from Watermaster on the desalter component of the Optimum Basin Management Program for the Chino Basin ("OBMP"). The Court acknowledged the progress that had been made to date concerning the Desalter I Expansion and Desalter II Project, but expressed concern with the apparent delay in completing the Desalter I Expansion. Watermaster was directed to file a Supplemental Status Report.

The Court has received and considered Watermaster's Supplemental Desalter Status Report, dated December 13, 2001 ("Supplemental Desalter Report"). The Court also has considered the Special Referee's Report and Recommendation Concerning the Supplemental Desalter Report, which is incorporated herein by this reference. The Court adopts the recommendation that Mr. Scalmanini be kept apprised of design plans for Chino I Expansion and Chino II Desalter Project through regular design progress reports. Of course, when the design plans become final, they should be submitted to the Court as part of the OBMP reporting process. In addition, Mr. Scalmanini should be kept apprised of the overall project schedule and any changes made to that schedule as a result of Proposition 13 funding requirements.

II.

SUPPLEMENTAL OBMP IMPLEMENTATION STATUS REPORT NO. 2

Watermaster submitted its second OBMP implementation progress report on September 30, 2001. In the Court's Order dated November 15, 2001, a concern was expressed that the report did not address the schedule and budget status and that an Initial State of the Basin Report had not been completed. Accordingly, Watermaster was directed to file a Supplemental OBMP Implementation Status Report ("Supplemental OBMP Report").

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1 The Court has received and considered the Supplemental OBMP Report and  
2 the Special Referee's Report and Recommendation Concerning the Supplemental  
3 OBMP Report, which is incorporated herein by this reference. The Court adopts the  
4 recommendations of the Special Referee with regard to schedule reporting, budget  
5 reporting and mitigation tracking.

6  
7 III.

8 WATERMASTER'S 24th ANNUAL REPORT

9 Watermaster is required, under paragraph 48 of the Judgment, to file an annual  
10 report containing details of the operation of the pools, a review of Watermaster  
11 activities, and a certified audit of all assessments and expenditures pursuant to the  
12 Physical Solution. The recently revised Chino Basin Watermaster Rules and  
13 Regulations also requires the annual report to include an update on implementation of  
14 the OBMP for the Chino Basin, and on a biannual basis, an engineering appendix with  
15 a specific 'state of the basin' report. Finally, the report is to include a compilation of  
16 any amendments to the Rules and Regulations.

17 Watermaster transmitted its annual report to the Court on January 29, 2001.  
18 The Court has reviewed the annual report and the comments made by the Special  
19 Referee. Watermaster's 24<sup>th</sup> Annual Report is received and filed.

20  
21 IV.

22 DRAFT INITIAL STATE OF THE BASIN REPORT

23 The Court's Order, dated November 15, 2001, directed Watermaster to file an  
24 Initial State of the Basin Report, no later than January 31, 2002. The Court has  
25 considered the Draft Initial State of the Basin Report transmitted by Watermaster with  
26 the 24<sup>th</sup> Annual Report. The Court also has considered the Special Referee's Report  
27 and Recommendation Concerning the Initial State of the Basin Report, which is  
28 incorporated herein by this reference.

1 The Court adopts the recommendation that an "initial" point in time be selected  
2 for the description of the "initial state of the basin." The Court also adopts the  
3 recommendations that a conclusion be added to each section describing the state of  
4 the basin at that "initial" time and that an executive summary be added to the final  
5 report. Having Watermaster prepare a useful reference against which to assess the  
6 effectiveness of implementing the OBMP is far more expedient than having the Court,  
7 in the exercise of its continuing jurisdiction, require the Special Referee and her  
8 Technical Expert to prepare such a report.

9  
10 V.

11 TECHNICAL REPORTS CONCERNING SUBSIDENCE AND RELATED ISSUES

12 In response to a petition for writ of mandate filed by the City of Chino Hills  
13 against the City of Chino, on December 19, 2001, the Court issued an order to all  
14 parties to the Judgment to appear "to report on the status of the technical work  
15 performed to date by Watermaster and others concerning subsidence and related  
16 issues." Watermaster filed a Report of Activities and Request for Further Finding and  
17 Order, in response to the Court's Order. In addition, the City of Chino filed a Response  
18 and Motion Pursuant to Paragraph 15 of the Judgment. Subsequently, Monte Vista  
19 Water District filed a Motion to Strike Portions of City of Chino's Motion, the City of  
20 Chino Hills filed an Objection to the City of Chino's Motion, and the City of Chino filed a  
21 response to Monte Vista's Motion to Strike.

22 Watermaster, joined by twelve other parties to Judgment, including the City of  
23 Chino Hills and the City of Chino, has filed a Motion for Continuance asking the Court  
24 to defer ruling on the pleadings filed pursuant to paragraph 15 of the Judgment.  
25 Reportedly, the parties have reached a consensus to convene a regularly scheduled  
26 stakeholder process to solicit input and to better define all elements of Program  
27 Element 4 of the OBMP with regard to subsidence, including an interim management  
28 plan for subsidence. Watermaster also reports that the parties have acknowledged

1 that if they are successful in reaching an agreement on how to further implement  
2 OBMP Program Element 4, it will be unnecessary for the Court to rule on the motions  
3 filed in response to the Court's December 19 Order. Therefore, the Court anticipates  
4 that if the parties reach agreement on an interim management plan for subsidence,  
5 some, or perhaps all, of the motions before the Court will be withdrawn.

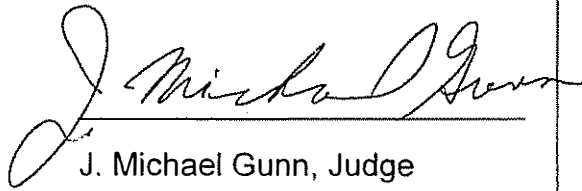
6 The Court has considered the Special Referee's Report and Recommendation  
7 Concerning Motions Filed Related to Subsidence, which is incorporated herein by this  
8 reference. The Special Referee believes that it would be extremely helpful to have  
9 such a stakeholder process convene. The Court agrees with the Special Referee that  
10 it is important for Mr. Scalmanini to closely monitor that process so that he can report  
11 fully to the Court on the technical aspects currently existing and progress made in  
12 further implementing OBMP Program Element 4. The Court also adopts the  
13 recommendation concerning the contents of Watermaster's progress report to be filed  
14 by May 1, 2002.

15 The Court is mindful that it must not render advisory opinions and must consider  
16 the impact of making findings prematurely, which could prejudice the position of one or  
17 more of the parties. Before ruling on the merits of any controversy before it, the Court  
18 should thoroughly consider genuine controversies for adjudication. The Court intends  
19 to continue the hearing on all of the motions pertaining to subsidence, as requested by  
20 the majority of the parties. Therefore, the Court will not make any findings that may  
21 have an impact on the merits of the positions of one or more of the parties, including  
22 the findings requested by Watermaster in its Report of Activities and Request for  
23 Further Finding and Order.

24 The hearing on the technical reports and motions concerning subsidence is  
25 hereby continued. Watermaster shall convene the regularly scheduled stakeholder  
26 process that has been agreed upon by the majority of the parties and report back to  
27 the Court by May 1, 2002 on any consensus that has been achieved on how best to  
28 further implement OBMP Program Element 4. In addition, the parties that have filed

1 pleadings in connection with the hearing concerning subsidence, i.e., City of Chino,  
2 City of Chino Hills and Monte Vista Water District, shall file supplemental pleadings  
3 updating the Court on the issues that have been resolved and those that remain  
4 unresolved. The supplemental pleadings shall be filed by May 16, 2002. A schedule  
5 for further briefing and a new hearing date will be set after receiving Watermaster's  
6 report and supplemental pleadings, at a hearing to be held at 11:00 a.m., on June 19,  
7 2002.

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9 Dated: February 28, 2002

  
J. Michael Gunn, Judge

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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 28, 2002 I served the attached:

- 1) **ORDER RECEIVING SUPPLEMENTAL DESALTER REPORT; SUPPLEMENTAL OBMP REPORT; 24<sup>TH</sup> ANNUAL REPORT; AND INITIAL STATE OF BASIN REPORT; ORDER CONTINUING HEARING ON SUBSIDENCE**

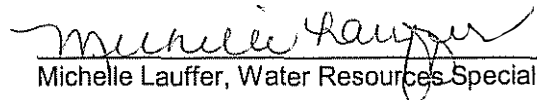
**HEARING DATE: FEBRUARY 28, 2002 AT 11:00 A.M.**

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, addressed as follows:

**See attached service lists:**

- 1) Attorney Service List
- 2) 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 February 28, 2002.

  
Michelle Lauffer, Water Resources Specialist

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CBWM BOARD  
3700 MINTERN  
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JUDY SCHURR  
76433 SHOSHONE DR  
INDIAN WELLS CA 92210

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

ROD SMITH  
STRATECON INC.  
2335 W FOOTHILL BLVD STE 11  
UPLAND CA 91786

KYLE SNAY  
SOUTHERN CA WATER CO  
401 S SAN DIMAS CANYON RD  
SAN DIMAS CA 91773

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

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

SWRCB  
SWRCB - DIV OF WATER RIGHTS  
P.O. BOX 2000  
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POMONA UTILITY SVS DEPT.  
148 N HUNTINGTON BLVD  
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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  
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ERICK VAUGHN  
ANGELICA RENTAL SERVICE  
1575 N CASE ST  
ORANGE CA 92867-3635

MARK WARD  
AMERON INTERNATIONAL  
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FONTANA CA 92335-6990

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

MICHAEL WHITEHEAD  
SAN GABRIEL VALLEY WC  
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EL MONTE CA 91734

MARK WILDERMUTH  
WILDERMUTH ENVIRONMENTAL INC  
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DENNIS YATES  
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