

FILED-Rancho Cucamonga District
SAN BERNARDINO COUNTY
SUPERIOR COURT

MAY 01 2002

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

11	CHINO BASIN MUNICIPAL WATER DISTRICT,)	CASE NO. RCV 51010
12	Plaintiff,)	Judge: Honorable J. MICHAEL GUNN
13	v.)	WATERMASTER REPORT ON
14	THE CITY OF CHINO,)	PROGRESS OF INTERIM PLAN
15	Defendants.)	STAKEHOLDER PROCESS
16		Hearing Date: June 19, 2002
17		Hearing Time: 11:00 am
		Dept: 8

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18 The purpose of this Report is to explain both the status of the proceedings to develop an
19 Interim Plan by consensus and the actions that will be taken after the submission of this Report,
20 but before the June 19, 2002 hearing, to continue to work on achieving a complete consensus.
21 Watermaster remains optimistic that a complete consensus-based Interim Plan can be achieved.

22
23 I.
24 INTRODUCTION

25 Program Element 4 ("PE4") of the Optimum Basin Management Program ("OBMP")
26 Implementation Plan acknowledges the existence of subsidence and fissuring within
27 Management Zone 1 ("MZ1") and states that, although there is some uncertainty as to causes,
28 "[t]he occurrence of subsidence and fissuring in Management Zone 1 is not acceptable and
should be reduced to tolerable levels or abated." (OBMP Implementation Plan at 26.) The

1 Implementation Plan goes on to say that, “[t]here is some uncertainty as to the causes of
2 subsidence and fissuring and more information is necessary to distinguish among potential
3 causes. Therefore an interim management plan will be developed to minimize subsidence and
4 fissuring while new information is collected to assess the causes and to develop an effective
5 long-term management plan.” (Id.)

6 The Implementation Plan also generally describes the elements of the interim
7 management plan. These are (1) monitoring of long term balance of recharge and production in
8 MZ1; (2) determine gaps in existing knowledge; (3) implementation of a process to fill the gaps
9 in existing knowledge; (4) voluntary modifications to groundwater production patterns in MZ1;
10 and (5) formulation of a long-term management plan.

11 For the last two months, the parties have been meeting in an effort to develop a detailed
12 Interim Plan that would specify how these elements are to be implemented. The Court has
13 directed Watermaster counsel to report on the progress of this process by May 1, 2001.

14 II.

15 PROCEDURAL HISTORY

16 On December 7, 2001, the City of Chino Hills filed a Petition for Writ of Mandate
17 pursuant to the California Code of Civil Procedure § 1085 and for Declaratory Relief against the
18 City of Chino alleging, inter alia, a violation of Public Utilities Code § 10101 and requesting the
19 issuance of an alternative writ. Chino Hills requested a special assignment of its case to the
20 Honorable J. Michael Gunn, as he is the judge exercising continuing jurisdiction of the Court in
21 *Chino Basin Municipal Water District v. City of Chino*, San Bernardino Superior Court Case No.
22 RCV 51010 (“the Judgment”).

23 The Supervising Civil Judge of the San Bernardino Superior Court on his own motion
24 severed the case into two components. Through an Order dated December 19, 2001, the Court
25 ordered that Chino Hills’ claim for the issuance of an alternative writ arising from the alleged
26 violation of PUC § 10101 and related laws be assigned case number RCV 59670 and be assigned
27 to the civil department for handling. All other aspects of the case are to be heard by Judge Gunn
28 under the Judgment.

1 Also on December 19, 2001, Judge Gunn issued an Order directing the parties to appear
2 on February 28, 2002 to report on the technical work performed to date by Watermaster and
3 others concerning subsidence and related issues. Briefs and other written materials were to be
4 filed for this hearing no later than January 31, 2002.

5 On January 29, 2002, Watermaster filed its Report of Watermaster Activities Regarding
6 Subsidence and Request for Finding and Further Order. This Report was accompanied by a
7 Declaration from Watermaster's consulting hydrologist Mark Wildermuth.

8 On January 31, 2002, the City of Chino filed a Response to the Court's Order for
9 Information; and Motion Pursuant to Paragraph 15 of the Judgment. The substance of Chino's
10 paragraph 15 Motion is a request for the Court to assume jurisdiction over the subsidence issue
11 and to make certain findings regarding the causes of subsidence in MZ1. Chino also requested
12 that the Court establish a process for resolving the subsidence problem in MZ1.

13 On February 14, 2002, Monte Vista Water District filed a Motion to strike portions of the
14 City of Chino's Motion. Similarly, on February 18, 2002, the City of Chino Hills filed an
15 objection to the City of Chino's Motion. Chino Hills joined in Monte Vista's Motion and also
16 joined in Watermaster's Motion.

17 Following these filings, Watermaster filed a Motion for a Continuance asking the Court
18 to defer ruling on the pleadings that had been filed and to direct the parties to convene a
19 stakeholder process in order to develop a consensus-based Interim Plan to address subsidence.
20 Twelve other parties, including Chino and Chino Hills, joined in this Motion.

21 On February 25, 2002, the Special Referee issued a Report and Recommendation
22 Concerning Motions Filed Related to Subsidence. This Report recommended granting
23 Watermaster's Motion for a Continuance. Following hearing, the Court on February 28, 2002,
24 ordered Watermaster to convene a stakeholder process and report back to the Court by May 1,
25 2002 on any consensus that has been achieved on how best to further implement PE4. The other
26 parties that have filed pleadings have been given until May 16, 2002 to file supplemental
27 pleadings updating the Court on the issues that have been resolved and those that remain
28

1 unresolved. A hearing has been set for June 19, 2002 at 11:00 am to set a schedule for further
2 briefing and set a new hearing date, if necessary.

3 **III.**

4 **INTERIM PLAN STAKEHOLDER PROCESS**

5 The parties have met regularly in an attempt to develop an Interim Plan within the
6 framework described by PE4. Weekly meetings have been held of both the full group of
7 attorneys, managers and technical consultants, and special meetings of which the purpose was
8 solely to address technical issues.

9 Through these meetings, the parties have been successful in achieving consensus on many
10 elements of the Interim Plan.

11 In general, the Interim Plan affirms that it must implement all of the elements of a plan as
12 described in the OBMP Implementation Plan. It also acknowledges that expenses associated with
13 implementation of the Interim Plan must be fairly and reasonably allocated in accordance with
14 the Judgment, the Peace Agreement and the OBMP. The initial term of the Interim Plan is three
15 years. Thereafter, it may either be extended, amended or replaced by a long-term plan. The
16 specific salient points of the plan include the following.

17 **A. Formation of Technical Group**

18 The Interim Plan establishes a Technical Group whose purpose is to serve as a
19 clearinghouse for technical information, as well as a forum for full professional discussion, input
20 and peer review for the benefit of Watermaster regarding the historical causes of subsidence and
21 fissuring. The ultimate goal of this Technical Group is to develop a long-term plan based upon
22 the information gathered through the monitoring efforts described below.

23 Membership on the Technical Group will be open to a representative from each of those
24 parties to the Judgment who are presently producing groundwater from MZ1. Such a
25 representative will be selected at the discretion of the party represented; however, the
26 representative shall have a professional background that emphasizes operations, geology,
27 hydrology or engineering.

28

1 Watermaster will provide all technical support for the meetings of the Technical Group
2 and will attempt wherever possible to facilitate the development of consensus with due regard for
3 proper science. Where it is not possible to develop consensus, Watermaster may appoint a
4 facilitator or mediator. When necessary, meetings of the Technical Group may be adjourned
5 to settlement discussions with legal counsel present in order to encourage full participation and
6 discussion of sensitive subject matters.

7 **B. Monitoring Program**

8 Watermaster will proceed with its comprehensive monitoring program for MZ1 in
9 accordance with PE4. Currently, the activities associated with this monitoring program include
10 the installation of multi-nested piezometers and extensometers. A site has been selected for this
11 project, and the parties are working closely to move the project forward.

12 The Technical Group will provide comment and assist Watermaster in developing a full
13 and complete study of subsidence and fissuring and in the development of recommendations for
14 consideration and potential action by Watermaster under the Interim Plan. Watermaster reserves
15 its discretion to determine what portion of the annual budget will be allocated for the monitoring
16 program.

17 **C. Voluntary Management Program**

18 Consistent with PE4, the Interim Plan participating producers have expressed a
19 willingness to modify their groundwater production in MZ1. This modification in production will
20 take the form of a reduction in pumping from certain wells. The pumping reduction will be for
21 the nine-month period commencing on October 1 and ending on June 30. The goal is to achieve a
22 total of 3000 acre-feet (AF) per year reduction in pumping from all of the participating wells.
23 This goal is based upon Watermaster's willingness and ability to deliver 3000 AF of substitute
24 supply to the cities of Chino and Chino Hills.

25 The reduction in pumping is to be measured against a baseline of production from the
26 specified well. Production from such wells during the nine-month period may be resumed in the
27 event of emergency or if Watermaster fails to provide a substitute or an alternate supply of water.
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D. Substitute Supply

A substitute or alternative supply of 3,000 AF of water shall be made available to replace the production from the wells whose production is voluntarily modified. The cost to the participating entity shall be the then prevailing WFA treatment and operations costs plus the IEUA surcharge. The substituted water shall be considered in-lieu stored water. The stored water will be made available by Watermaster to the parties to the Judgment for purchase pursuant to rules to be developed.

E. Reservation of Rights

Participation in the interim plan does not constitute an admission of liability or an acceptance of responsibility for the actions taken in accordance with the Interim Plan or for the impacts associated with subsidence in MZ1. No party to the Judgment waives any rights regarding interpretation of the Judgment, the OBMP Implementation Plan, the Peace Agreement or any other provision of law.

IV.

COMPLETION OF INTERIM PLAN

The parties have made much progress in developing the elements of the Interim Plan in a short period of time. However, within this time frame the group was unable to reach complete consensus on two elements of the Plan. Specifically, the parties have not achieved complete consensus on the following:

- (1) The factors to be studied by a comprehensive study plan related to subsidence.
- (2) From which specific wells pumping should be reduced in order to achieve the proposed 3000 acre-foot per year reduction.

The Watermaster Advisory Committee and Board believe that a recommendation regarding these two issues from a neutral third party would facilitate the completion of the Interim Plan by Watermaster. Parties have previously submitted pumping reduction plans. The Advisory Committee and Board therefore will hire an independent third party technical facilitator

1 to work with Watermaster staff to complete a technical review process by August 1, 2002, to
2 review previously submitted pumping reduction plans and to receive further information
3 regarding parties' pumping reduction plans in order to develop and recommend a plan. Initial
4 pumping modifications to commence on October 1, 2002. This recommendation will be directed
5 to Watermaster and will be considered by Watermaster in order to best finalize the Interim Plan.
6 Once a proposed Interim Plan has been finalized, it will be circulated through the full
7 Watermaster process for adoption.

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10 DATED: *April 30, 2002*

HATCH AND PARENT

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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 May 1, 2002 I served the attached:

1) *Watermaster Report on Progress of Interim Plan Stakeholder Process*

HEARING DATE: June 19, 2002 @ 11:00 a.m.

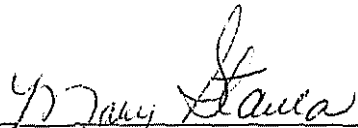
in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for overnight delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list:

Attorney Service List

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 May 1, 2002.



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Updated 5/1/02

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RIVERSIDE CA 92501-3339

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

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

DONALD SCHROEDER
CBWM BD (WMWD)
3700 MINTERN
RIVERSIDE CA 92509

JUDY SCHURR
76433 SHOSHONE DR
INDIAN WELLS CA 92210

DAVID SCRIVEN
KRIEGER & STEWART ENGINEERING
3602 UNIVERSITY AVE
RIVERSIDE CA 92501

MICHAEL SMITH
NICHOLS STEADBOILEAU & 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
SANDIMAS 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
SACRAMENTO CA 95809-2000

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

R.E. THRASH III
PRAXAIR
5705 AIRPORT DR
ONTARIO CA 91761

PETER VAN HAAM
OFFICE OF THE ATTORNEY GENERAL
300 S SPRING ST 11TH FL N TOWER
LOS ANGELES CA 90013-1232

ERNIE VAN SANT
DEPARTMENT OF CORRECTIONS - FAC.
MGMT DIV.
P.O. BOX 942883
SACRAMENTO CA 94283-0001

GEOFFREY VANDEN HEUVEL
CBWM BD (AG)
7551 KIMBALL AVE
CHINO CA 91710

ERICK VAUGHN
ANGELICA RENTAL SERVICE
1575 N CASE ST
ORANGE CA 92867-3635

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

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

DENNIS YATES
CBWM BD (CHINO)
P.O. BOX 667
CHINO CA 91708-0667