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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendant.

Case No. RCV 51010
Judge: Hon. J. Michael Gunn

**OBJECTIONS BY CUCAMONGA VALLEY
WATER DISTRICT TO SPECIAL
REFEREE'S REPORT AND
RECOMMENDATIONS CONCERNING
MOTION TO RE-APPOINT THE NINE-
MEMBER BOARD FOR A FURTHER
FIVE-YEAR TERM**

Date: February 9, 2006
Time: 2:00 p.m.
Dept: 8

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Cucamonga Valley Water District (“CVWD”) submits the following Objections to the Comments and Recommendations provided by the Special Referee.

At the outset, CVWD notes that the timeframe provided by the Special Referee to respond to the Comments and Recommendations is insufficient to fully and accurately address the scope and nature of the Comments and Recommendations. Thus, CVWD requests that the Court grant a thirty-day extension of time to respond to the Special Referee’s Comments and Recommendations. The Objections and comments provided herein constitute a summary of CVWD’s response to the Special Referee’s Comments and Recommendations. Should the Court grant CVWD’s request for an extension of time, CVWD will provide a more comprehensive set of Objections and comments.

I. CVWD Objects to the Recommendation that Further Special Referee Involvement is Needed in Watermaster Affairs

Having reached the end of the first full five-year term of the Watermaster Board, the Special Referee has filed a Report which paints a bleak picture of the accomplishments of the parties over the past five years, and predictably suggests that the best way to move forward in the next five years is to increase the involvement of the Special Referee in the management of the Basin.

The Referee Report recommends that: “The Court should direct [the] Special Referee to conduct workshops with respect to the issues to be addressed by Watermaster.” (Referee Report, 15:23-24.) This open-ended recommendation suggests *carte blanche* for the Referee to conduct workshops on a variety of Watermaster issues, thus ensuring continued employment for the full staff of the Court’s consultants.¹

This recommendation seems to be an outgrowth of the entire tenor of the Special

¹ The Court’s consultant staff currently includes the Special Referee, an attorney assistant for the Special Referee and a technical assistant for the Special Referee. In effect, the Court’s consultant staff is nearly as large as Watermaster’s.

1 Referee's Report which discounts the many millions of dollars that have been spent on OBMP
2 implementation by the members of the Appropriative Pool over the past five years in order to
3 suggest that further (and perhaps increased) oversight by the Special Referee is necessary in order
4 to ensure continued implementation of the OBMP.

5
6 Furthermore, the steps outlined by the Special Referee appear to overreach the original
7 authority granted the Referee, and this usurps the proper role of the Watermaster and parties to
8 the Judgment. Notably, the cost of the Special Referee and the related expense incurred by the
9 Parties and their ratepayers to respond to the Special Referee and related issues continues to
10 grow; it is anticipated that this will become an issue for some Parties to the Judgment.

11 **II. The Diminished Role of the Court Over the Past Five Years is the Best**
12 **Evidence of the Success of Watermaster and Alone Justifies Reappointment**

13
14 The Special Referee's Report declines to mention even once the fact that in the past five
15 years, the Court has not been called upon to resolve a single contested issue between the parties.
16 The parties have demonstrated **complete** success in managing their conflicts amongst themselves,
17 and the primary work for the Court and its three consultants has been to review status reports and
18 approve specific implementation items. In the past five years, no party has found it necessary to
19 utilize the complaint procedure of Article X of Watermaster's Rules and Regulations, nor has any
20 party complained about the progress of OBMP implementation. This fact alone justifies the
21 reappointment of Watermaster.

22
23 The diminished role of the Court over the past five years is the best evidence that the
24 Watermaster process is working, and there is certainly no need for expensive Referee workshops
25 in order to establish that fact. Indeed, the long-term objective of the Court should be the gradual
26 phasing out of the Special Referee and technical experts, which add to the Parties' expenses and
27 may prove unnecessary in the future. The Watermaster successfully fulfilled its mission without
28 the need for a Special Referee until recently, when the Advisory Committee petitioned the Court

1 for a functional change to deal with the OBMP. At this time, it appears that the continuation of
2 the Special Referee is overly burdensome and does not promote consensus building among the
3 Parties who are charged with carrying out the OBMP and Judgment; thus, it is in the best interest
4 of the Parties to the Judgment and the ratepayers within the jurisdiction of Watermaster not to
5 continue the present role of the Special Referee. Rather, Watermaster should be permitted to
6 dictate its own schedule and develop management strategies consistent with the OBMP for the
7 public good.

8
9 **III. The Special Referee's "Construction" Of Watermaster's Motion as a Motion**
10 **for a Two-Year Reappointment is Incorrect**

11 The Special Referee suggests that Watermaster's motion should be construed as a motion
12 to re-appoint the Nine-Member Board for a period of two years. The Special Referee's
13 suggestion is faulty and would cause the Parties to deviate from their mission to complete work
14 that is significantly more important to the management of the Basin in order to respond to the
15 issues raised by the Special Referee. The Parties, through Watermaster, moved the Court for a
16 five-year re-appointment of the Watermaster Nine-Member Board. To the best of CVWD's
17 knowledge, the Motion is unopposed, and all Parties to the Judgment are supportive of a five-year
18 re-appointment under the conditions outlined in Watermaster's Motion. The Motion, which
19 expresses the intent and desire of the Parties, does not call for workshops or other added oversight
20 by the Special Referee. Such workshops do not further any objective of governance or
21 management.


22 Finally, it appears that the Special Referee takes exception to the format of the Parties'
23 reporting process. The Parties' reporting process is a product of this Court's orders; if the Court
24 desires a change in the format or frequency of the reporting process, the Court may so order.
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Thus, CVWD respectfully requests that the Court grant Watermaster's Motion to re-appoint the Nine-Member Board and decline to accept the recommendations of the Special Referee.

Dated: January 30, 2006

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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, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On January 29, 2006, I served the following:

- 1) COMMENTS AND OPPOSITION TO SPECIAL REFEREE REPORT; DECLARATION OF MICHAEL FIFE IN SUPPORT OF OPPOSITION TO SPECIAL REFEREE REPORT;
- 2) MEMORANDUM OF CITY OF ONTARIO IN SUPPORT OF MOTION TO WATERMASTER TO REAPPOINT THE NINE-MEMBER BOARD FOR A FURTHER FIVE-YEAR TERM AND OBJECTIONS TO SPECIAL REFEREE'S REPORT AND RECOMMENDATIONS;
- 3) OBJECTIONS BY CUCAMONGA VALLEY WATER DISTRICT TO SPECIAL REFEREE'S REPORT AND RECOMMENDATIONS CONCERNING MOTION TO RE-APPOINT THE NINE-MEMBER BOARD FOR A FURTHER FIVE-YEAR TERM.

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

See attached service list: Mailing List 1

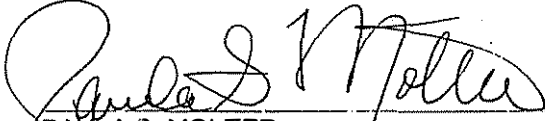
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 29, 2006 in Rancho Cucamonga, California.



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