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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 RE-APPOINTING NINE-
MEMBER BOARD FOR FURTHER
FIVE-YEAR TERM

Date: Feb. 9, 2006

Dept: 8

Time: 2:00 p.m.

///

Introduction

On February 19, 1998, this Court appointed a nine-member board consisting of representatives from the Overlying (Agricultural) Pool, Overlying (Non-Agricultural) Pool, and the Appropriative Pool, and three municipal water districts to serve as Interim Watermaster. On September 28, 2000, this Court re-appointed the nine-member board for a full five-year term, which ended on September 28, 2005, but was extended to February 9, 2006, by order dated September 22, 2005. The motion before

1 this Court is for re-appointment of the nine-member board for another five-year term,
2 which would end on Thursday, February 10, 2011.

3 Special Referee Anne Schneider filed comments and recommendations
4 concerning the motion, recommending an interim two-year appointment subject to
5 several conditions. In turn, Watermaster filed comments and opposition to the Special
6 Referee's report, explaining that it seeks an unconditional appointment, reiterating that
7 it seeks a five-year term, and offering further support for its motion. The City of
8 Ontario and Cucamonga Valley Water District filed objections to the Special Referee's
9 Report, requesting a five-year re-appointment and raising issues concerning the role
10 of the Special Referee. Chino Basin Water Conservation District, Three Valleys
11 Municipal Water District and Inland Empire Utilities Agency filed joinders, supporting
12 the motion to re-appoint the nine-member board for a five-year term. The City of
13 Chino Hills filed a response to objections, joining in the motion for a five-year re-
14 appointment and objecting to all arguments concerning the role of the Special
15 Referee, on the basis that this issue is not presently before this Court. Monte Vista
16 Water District also filed a response to objections, urging this Court to adopt the
17 Special Referee's recommendation. This Court has considered all of these filings, in
18 addition to the stipulation offered by Watermaster, which is discussed next.

19 Watermaster filed a stipulation on behalf of itself, the City of Ontario and
20 Cucamonga County Water District. The stipulation provides that, upon notice, the
21 Special Referee and Technical Expert are welcome to attend Watermaster-
22 administered workshops on the "Peace II process," the plan for future desalters, and
23 related activities. The attendance by the Special Referee and the Technical Expert
24 would be deemed "informal," to relieve the parties of the requirement of a formal
25 record compiled by a court reporter. The stipulation further provides that a workshop
26 to be conducted by the Special Referee be set in July 2006, to address the Peace II
27 process, desalters, and related activities; and if necessary, a court hearing also will be
28 set. Finally the stipulation acknowledges that Watermaster was required to report on

1 a plan for future desalters on or before September 28, 2005, but Watermaster has not
2 yet complied with this requirement. In the stipulation, Watermaster commits to
3 meeting the report requirement by July 2006, and Watermaster agrees to produce
4 such a report at the workshop to be conducted by the Special Referee and Technical
5 Expert, presently contemplated to be held July 2006. This Court accepts the
6 stipulation and will incorporate some of its terms in its order.

7
8 Discussion

9 ///

10 Watermaster and the parties are to be commended for the remarkable
11 achievements in implementing the Optimum Basin Management Program ("OBMP")
12 over the last five years, which have not gone unnoticed by this Court. The Special
13 Referee also is to be commended for providing independent assessments of
14 Watermaster's effectiveness in implementing the OBMP and managing the basin. The
15 Court is particularly interested in concerns regarding the potential impacts of
16 Watermaster's plans for basin re-operation and hydraulic control, which were included
17 in the most recent Special Referee's report.

18 Watermaster and the parties are already aware of the importance to this Court
19 of development of future desalting capacity for the basin. This Court shares the
20 Special Referee's concern that Watermaster has not yet submitted a plan for future
21 desalters, and the Court intends to hold Watermaster to its commitment to have a plan
22 to present at the workshop to be conducted by the Special Referee in July. This Court
23 also shares the concern of the Special Referee regarding the absence in Watermaster
24 reporting of a clear reconciliation of replenishment with total pumping from the basin,
25 including desalter pumping; and in addition, the Court shares the concern that there
26 has been an absence in Watermaster reporting of a clear analysis of projected
27 requirements for recharge capability and the future availability of water for recharge.
28 Watermaster's control of storage and assessment of losses, and Watermaster's

1 obligation with respect to replenishment are also important to this Court, as well as the
2 progress being made with respect to Management Zone 1. Watermaster and the
3 parties are directed to address each of these concerns promptly, certainly no later
4 than the workshop in July 2006.

5 The Court hereby accepts the Special Referee's Comments and
6 Recommendations Concerning Motion to Re-Appoint the Nine-Member Board for a
7 further Five-Year Term, which is incorporated herein by reference. However, the
8 Court declines to accept the recommendation to appoint the nine-member board to a
9 two-year interim appointment. Instead, the Court will re-appoint the nine-member
10 board for a full five-year term.

11 Watermaster has acknowledged that it has not yet presented a plan to address
12 future desalting. While the Court appreciates the substantial challenges facing
13 Watermaster, as well as the tremendous accomplishments in implementing the OBMP,
14 Watermaster must continue to make progress towards future desalting up to the
15 40,000 acre-feet per year initially described by the OBMP and as provided in previous
16 Orders of this Court. The Court is also interested in Watermaster's answers to
17 questions raised in the Special Referee's report and how Watermaster will address a
18 number of issues, including those expressly reserved for Watermaster action under
19 the Peace Agreement and Watermaster's Rules and Regulations. Watermaster
20 updates regarding modifications to its Rules and Regulations or other actions under
21 the Peace Agreement should be included in future reports to this Court. The Court
22 also directs Watermaster, its legal counsel, staff and consultants to ensure that in
23 future reporting the reports are timely, transparent and responsive to the question of
24 whether Watermaster is implementing the Peace Agreement and the OBMP in a
25 manner consistent with the Judgment and the continuing Orders of this Court. The
26 Special Referee's report is largely an effort to assist Watermaster in this regard.

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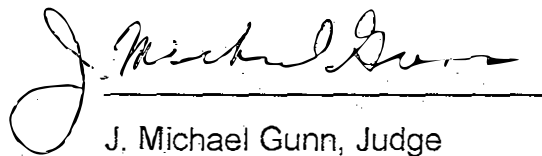
3 Conclusion and Order

4 The State of Basin Report—2004 is received and filed. Watermaster's motion
5 for re-appointment for another five-year term is GRANTED, subject to the Court's
6 continuing jurisdiction under paragraph 16 of the Judgment.¹

7 The OBMP status reports have been helpful in monitoring progress in OBMP
8 implementation; Watermaster is directed to continue filing those reports every six
9 months. This Court accepts Watermaster's offer to invite the Special Referee and the
10 Technical Expert to attend Watermaster-administered workshops on the "Peace II
11 process," the plan for future desalters, and related activities. This Court also accepts
12 Watermaster's suggestion of a workshop and Special Referee is directed to conduct a
13 workshop in July 2006, to address the concerns discussed above and to report on the
14 development of a detailed plan to reach the OBMP goal of 40,000 acre-feet per year of
15 desalting capacity, to be installed in the southern part of the basin by the year 2020.
16 Finally, Watermaster and the parties are reminded that this Court must approve any
17 change in the composition of the nine-member board. IT IS SO ORDERED.

18 ///

19
20 Dated: Feb. 9, 2006


J. Michael Gunn, Judge

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28 ¹ "Watermaster may be changed at any time by subsequent order of the Court, on its own motion, or on the motion of any party after notice and hearing."

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 February 9, 2006, I served the following:

1) ORDER RE-APPOINT NINE-MEMBER BOARD FOR 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

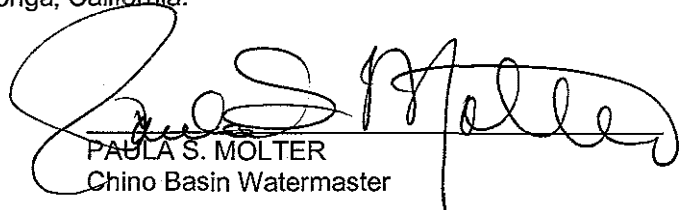
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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 February 9, 2006 in Rancho Cucamonga, California.


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