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

CHINO BASIN MUNICIPAL WATER
DISTRICT

Plaintiff,

vs.

CITY OF CHINO, ET AL.

Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the
Honorable JOHN P. WADE]

**SUPPLEMENTAL BRIEF RE
WATERMASTER'S MOTION FOR
APPROVAL OF TEMPLATE STORAGE
AND RECOVERY AGREEMENT**

Hearing Date: August 11, 2009
Time: 9:30 a.m.
Dept: S32

On July 20, 2009, Watermaster filed its *Motion for Approval of Template Storage and Recovery Agreement*. Section II.3.b. of the Motion described the way that proceeds from the auction would be utilized in order to satisfy the goal of broad mutual benefit, as articulated in the Peace Agreement. Subsequent to the filing of the Motion, the Overlying (Non-Agricultural) Pool ("Non-Agricultural Pool") and the Appropriative Pool entered into further discussions regarding the allocation of these proceeds. These discussions resulted in a stipulation that broadens the allocation of proceeds.

One term of the agreement between the Non-Agricultural Pool and the Appropriative Pool calls for a revision of the procedure for allocation of the proceeds, as adopted by the Advisory Committee and the Board on June 25, 2009. This written procedure, as previously adopted, is quoted in full in Watermaster's Motion at page 11, lines 4-12.

1 On July 30, 2009, the Advisory Committee and the Board voted unanimously to adopt the
2 change recommended by the agreement between the Non-Agricultural Pool and the Appropriative
3 Pool. The new procedure, with the approved revisions shown, is as follows:

4
5 "Upon receipt of a written recommendation from the Appropriative
6 Pool and further Board approval, Watermaster may authorize the use
7 of excess revenues received from the Purchase and Sale Agreement for
8 ~~the Appropriative Pool share of~~ capital improvements to be spread
9 equitably among management zones and that are: (i) designed,
10 approved and scheduled for timely implementation under the Court
11 approved Recharge Master Plan or any approved yield
12 enhancement/preservation program and (ii) will facilitate
13 Watermaster's recharge goals of maintaining hydrologic balance
14 within each Management Zone and the Basin. "Capital
15 improvements" means physical facilities that will be actually used in
16 the production, storage, treatment and distribution of water that will
17 recharge the Chino Basin, including but not limited to recharge basins,
18 injection wells, pipelines and water supplies. The qualifying capital
19 improvements may facilitate recharge directly or indirectly through
20 approved in-lieu strategies."

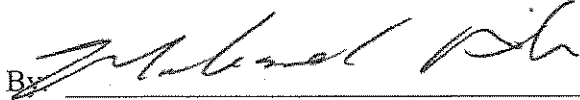
21
22 This revision should not alter the Court's consideration in any manner. If anything, the
23 procedure for allocation of proceeds from the auction is now even more broad. However, because
24 this written procedure was recommended by Watermaster to be included verbatim in the Court's
25 Order, a new Revised Proposed Order is being filed concurrently with this supplemental pleading.

26
27 Watermaster respectfully requests the Court to sign the submitted Revised Proposed Order.
28 Watermaster knows of no opposition to this request. ¹

29 ¹ On July 31, 2009 the Overlying (Agricultural) Pool ("Agricultural Pool") filed its *Comments to Chino Basin*
30 *Watermaster's motion for Approval of Template Storage and Recovery Agreement*. The Agricultural Pool highlights the
31 policy concerns with exporting water from the Chino Basin. Watermaster shares these policy concerns, but does not
32 interpret the Agricultural Pool's *Comments* as an objection to the Court's approval of Watermaster's Motion.

1 Dated: August 4, 2009

BROWNSTEIN HYATT FARBER SCHRECK, LLP

2
3 By 

4 MICHAEL T. FIFE
5 SCOTT S. SLATER
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7 CHINO BASIN WATERMASTER
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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 August 4, 2009 I served the following:

1) SUPPLEMENTAL BRIEF RE WATERMASTER'S MOTION FOR APPROVAL OF TEMPLATE STORAGE AND RECOVERY AGREEMENT

☒ 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

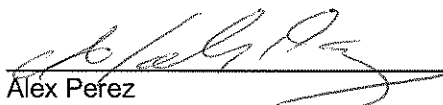
☐ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

☐ 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 August 4, 2009 in Rancho Cucamonga, California.



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