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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO

13 CHINO BASIN MUNICIPAL WATER
14 DISTRICT,

15 Plaintiff,

16 v.

17 CITY OF CHINO, et al.,

18 Defendant.

19 **Case No. RCV 51010**

20 [Assigned for All Purposes to the Honorable
21 STANFORD E. REICHERT]

22 **MOTION FOR ADOPTION OF
23 RESTATED JUDGMENT; TRANSMITTAL
24 OF ANNUAL REPORT; AND REQUEST
25 FOR APPROVAL OF INTERVENTION**

26 **I. MOTION FOR ADOPTION OF RESTATED JUDGMENT**

27 For the convenience of the Court and the Parties, Watermaster prepared a Restated
28 Judgment that was intended to assist the Court in implementing the Judgment under its continuing
jurisdiction. The Court has made scores of orders and determinations since the Judgment was
entered in 1978 and the Judgment has been amended on several occasions.

At the Court's October 28, 2011 hearing, the Court considered Watermaster's submission
of the Restated Judgment as a document for the Court's reference. The Restated Judgment is a
complete form of the 1978 Judgment combined with all subsequent amendments the Court has
previously ordered into the text of the Judgment itself. The Restated Judgment makes no changes
to the Judgment beyond incorporating all amendments that have been previously approved by the
Court.

Prior to the October 28, 2011 hearing, Watermaster submitted the Restated Judgment as

1 an “unofficial” reference document, with the original 1978 Judgment, as amended, remaining the
2 legally operative document. However, at the October 28, 2011 hearing, the Court requested that,
3 at some time in the future, Watermaster move the Court to adopt the Restated Judgment as the
4 official and legally operative judgment. No substantive changes have been made to the Restated
5 Judgment since it was submitted to the Court for the October 28, 2011 hearing.

6 In compiling the Restated Judgment, Watermaster counsel’s intent was to incorporate all
7 previously ordered amendments, and the attached version of the Judgment represents
8 Watermaster’s good faith effort to incorporate all previously ordered amendments to the
9 Judgment. Nevertheless, counsel for some of the Parties to the Judgment have expressed some
10 reservation that an important order or amendment may have been overlooked. Consequently, to
11 alleviate any concern that Watermaster counsel may have inadvertently omitted the effect of any
12 order, if it is later discovered that previously ordered amendments to the Judgment were
13 inadvertently omitted, the parties wish the Court to confirm that any Orders or Ruling pertinent to
14 the Judgment, or any amendments to the Judgment omitted from the Restated Judgment, retain
15 their effect independent of the Restated Judgment. Similar to the Parties’ request for the adoption
16 of this Restated Judgment, if any such amendments are discovered, any Party to the Judgment or
17 Watermaster could then move the Court for amendment of the Restated Judgment to incorporate
18 such previous amendments.

19 Pursuant to Paragraph 15 of the Judgment, full jurisdiction, power and authority are
20 retained and reserved to the Court as to all matters contained in the Judgment, for the purpose of
21 enabling the Court to make such further or supplemental orders or directions as may be necessary
22 or appropriate for interpretation, enforcement or carrying out of the Judgment, and to modify,
23 amend or amplify any of the provisions of the Judgment. (Judgment, ¶ 15.) In the context of
24 groundwater adjudications, California courts have acknowledged a trial court’s power to amend
25 or restate a judgment pursuant to the court’s continuing jurisdiction, where such jurisdiction has
26 been reserved. (*Central and West Basin Water Replenishment District v. Southern California*
27 *Water Co.*, (2003) 109 Cal.App.4th 891, 903-04 [courts regularly affirm the expansive retention
28 of jurisdiction in cases involving water rights and trial court had ability, under such retention, to

1 consider motion to adopt restated judgment amending provisions of judgment]; see also *Hillside*
2 *Memorial Park and Mortuary v. Golden State Water Co.* (2011) 199 Cal.App.4th 658 (review
3 granted and opinion superseded on other grounds.)

4 In the instant case, the adoption of the Restated Judgment as the officially and legally
5 operative version of the Judgment to accurately and conveniently reflect the Court’s prior orders
6 falls within the Court’s broad powers of reserved jurisdiction under Paragraph 15 to make further
7 or supplemental orders necessary or appropriate for the interpretation, enforcement or carrying
8 out of the Judgment. As the Court stated at the October 28, 2011 hearing, its objective in seeking
9 the Restated Judgment as the official and legally operative version of the Judgment was to
10 provide for ease of interpretation, enforcement and carrying out of the Judgment. (October 28,
11 2011 Hearing Transcript, 19:14-21 [“the whole point of getting a restated judgment, in the court’s
12 mind, was getting one final document in one final place that the court would order this is the
13 judgment and nobody will ever have to go back in the way that you’ve had to go back and
14 expending a lot of time and money and effort trying to figure out what the real judgment is
15 because it had been amended so many times over the course of 30 years”].) The Court’s reserved
16 jurisdiction provides for its modification and amendment of the Judgment in furtherance of this
17 goal. (Judgment, ¶ 15.)

18 The adoption of the Restated Judgment as the official and legally operative version of the
19 Judgment has been considered by each of the three Pool Committees, the Advisory Committee,
20 and the Watermaster Board. With the Court’s provision that any Orders or Ruling pertinent to the
21 Judgment, or any amendments to the Judgment omitted from the Restated Judgment retain their
22 effect independent of the Restated Judgment, Watermaster counsel believes that no party objects
23 to the Court taking such action.

24 On this basis, Watermaster hereby respectfully requests that the Court adopt the attached
25 version of the Judgment (attached hereto as Exhibit “A”) as the official and legally operative copy
26 of the Judgment in the case *Chino Basin Municipal Water District v. City of Chino*, San
27 Bernardino Superior Court Case No. RCV 51010. Watermaster further requests that the Court, in
28 so doing, explicitly provide that its order is expressly subject to the caveat that any Orders or

1 Rulings pertinent to the Judgment, or any amendments to the Judgment omitted from the Restated
2 Judgment, retain their effect independent of the Restated Judgment.

3 **II. TRANSMITTAL OF ANNUAL REPORT**

4 To complete the Court's files, attached to this pleading as Exhibit "B" is a copy of Chino
5 Basin Watermaster's (Watermaster) Thirty-Fourth Annual Report (Fiscal Year 2010-2011).

6 Watermaster respectfully requests that the Court receive and file this Annual Report.

7 Watermaster knows of no opposition to the Court receiving and filing the report.

8 **III. REQUEST FOR INTERVENTION OF TAD NAKASE**

9 Watermaster respectfully requests approval of the request of Tad Nakase (TDN Land
10 Company) for intervention into the Overlying (Agricultural) Pool. Watermaster receives and
11 makes recommendations regarding petitions for intervention and accumulates them for filing with
12 the Court from time to time, provided that at least 48 hours notice is provided to any party.

13 (Judgment, ¶ 60 and Order re Intervention Procedures, July 14, 1978.) Only after court approval
14 is an intervenor bound by the Judgment and entitled to the rights and privileges accorded under
15 the Physical Solution. (Judgment, ¶ 60.) Neither the Judgment nor the July 14, 1978 Order
16 require a hearing to be held for uncontested interventions.

17 Watermaster received a Petition to Intervene into the Judgment from Tad Nakase in
18 January 2012. It is Watermaster's understanding that Mr. Nakase's production in the Basin has
19 been ongoing, but its existence has only recently come to Watermaster's attention. The requested
20 intervention was approved unanimously by the Appropriative, Overlying (Agricultural) and
21 Overlying (Non-Agricultural) Pools at their February 9, 2012 meetings, was approved
22 unanimously by the Advisory Committee at its February 16, 2012 meeting, and was approved
23 unanimously by the Board at its February 23, 2012 meeting. Watermaster knows of no
24 opposition to the intervention.

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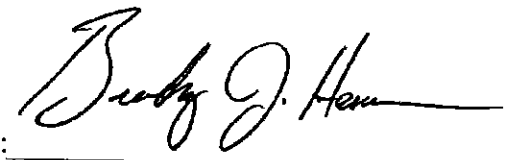
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RESPECTFULLY SUBMITTED,

Dated: September 6, 2012

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

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendant.

Case No. RCV 51010

**[PROPOSED] ORDER ADOPTING
RESTATED JUDGMENT, APPROVING
INTERVENTION OF TAD NAKASE (TDN
LAND COMPANY) INTO THE CHINO BASIN
JUDGMENT**

At the Court's October 28, 2011 hearing, the Court considered Watermaster's submission of a restated version of the 1978 Judgment, incorporating all previously ordered amendments, as a document for the Court's reference. The Court requested that, at some time in the future, Watermaster move the Court to adopt the Restated Judgment as the official and legally operative version of the Judgment.

Prior to the hearing and consistently thereafter, concern has been expressed by counsel to some of the Parties to the Judgment that the Court's entry of the Restated Judgment as proposed may be prejudicial and even defective. This concern is predicated upon the notion that despite the good faith intention of Watermaster and its staff and counsel, an Order or Ruling pertinent to the Judgment, or that an approved amendment has not been discovered. Consequently, Watermaster counsel has prepared the attached version of the Judgment, which represents Watermaster's good

1 faith effort to incorporate all previously ordered amendments to the Judgment.

2 Accordingly, IT IS HEREBY ORDERED THAT:

3 The attached Restated Judgment shall serve as the official and legally operative copy of
4 the Judgment in the case *Chino Basin Municipal Water District v. City of Chino*, San Bernardino
5 Superior Court Case No. RCV 51010. This Order is expressly subject to the caveat that any
6 Orders or Ruling pertinent to the Judgment, or any amendments to the Judgment omitted from the
7 Restated Judgment, retain their effect independent of the Restated Judgment.

8 Good cause appearing therefore, IT IS HEREBY FURTHER ORDERED that

9 The intervention of Tad Nakase (TDN Land Company) into the Overlying (Agricultural)
10 Pool is approved.

11
12 Dated: _____, 2012

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15 HON. STANFORD E. REICHERT
16 JUDGE OF THE SUPERIOR COURT

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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 September 10, 2012 I served the following:

1. **MOTION FOR ADOPTION OF RESTATED JUDGMENT; TRANSMITTAL OF ANNUAL REPORT; AND REQUEST FOR APPROVAL OF INTERVENTION**
2. **[PROPOSED] ORDER ADOPTING RESTATED JUDGMENT, APPROVING INTERVENTION OF TAD NAKASE (TDN LAND COMPANY) INTO THE CHINO BASIN JUDGMENT**

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 September 10, 2012 in Rancho Cucamonga, California.



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