

FEE EXEMPT

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6 **CHINO BASIN WATERMASTER**

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN BERNARDINO**

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11 **CHINO BASIN MUNICIPAL WATER**
12 **DISTRICT,**

13 **Plaintiff,**

14 **v.**

15 **CITY OF CHINO, et al.,**

16 **Defendant.**

Case No. RCV 51010

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

**STATUS REPORT ON WATERMASTER'S
SAFE YIELD RECALCULATION**

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18 Pursuant to the Court's continuing jurisdiction and the prior orders of this Court, the
19 Chino Basin Watermaster ("Watermaster") is responsible for setting Safe Yield and administering
20 the decree. This Status Report is provided to advise the Court of Watermaster's ongoing efforts
21 and its expected time for the completion of previously ordered actions. Watermaster respectfully
22 requests that the Court accept the Status Report and approve the proposed timeline for completion
23 by its adoption of the proposed Order, attached hereto for the Court's convenience and
24 consideration.

25 **I. BACKGROUND**

26 The Basin's Safe Yield¹ was initially set in the Judgment at 140,000 acre feet per year.

27 ¹ The Basin's Safe Yield is defined within the Judgment as: "The long-term average annual
28 quantity of ground water (excluding replenishment or stored water but including return flow to
the Basin from use of replenishment or stored water) which can be produced from the Basin

1 (Restated Judgment, ¶ 6.) As required by the Restated Judgment and the Court's further orders,
2 Watermaster has a duty to set the Safe Yield, subject to the Court's continuing jurisdiction. (See
3 Restated Judgment, ¶¶ 4.(x), 15.(a), Exhibit "H", ¶ 10.(a)(1); July 13, 2000 Order Concerning
4 Adoption of OBMP; July 19, 2001 Order Granting Final Approval of Watermaster Rules and
5 Regulations; Approving Intervention of CCG Ontario, LLC; Continuance of Hearing re Status
6 Report; Filing of Motions to Amend Judgment.)

7 In 2000, in developing the Implementation Plan for the Optimum Basin Management
8 Program ("OBMP"), as part of Program Elements 8 (Develop and Implement Groundwater
9 Storage Management Program) and 9 (Develop and Implement Storage and Recovery Programs),
10 the Parties planned that, based on the need for additional data regarding the Basin, in year
11 2010/11 and every ten years thereafter, Watermaster would compute the Safe Yield² for the prior
12 ten-year period, and reset Safe Yield for the next the next ten-year period. (OBMP
13 Implementation Plan, p. 45.) The Watermaster Rules and Regulations, approved by this Court in
14 July 2001, also provide for the initial recalculation of the Basin's Safe Yield in year 2010/11
15 based upon the data from the ten-year period of 2000/01 to 2009/2010. (Watermaster Rules and
16 Regulations, § 6.5.) This base period was specifically selected to incorporate new data and
17 information that would become available for the first time, post Peace Agreement. (Declaration
18 of Mark Wildermuth in Support of Status Report on Watermaster's Safe Yield Recalculation
19 ("Wildermuth Decl."), at ¶ 4.)

20 At the close of the ten-year period that was identified in the OBMP Implementation Plan
21 and the Rules and Regulations, in the opinion of its technical expert, Watermaster was not able to
22 competently perform the required calculation because of insufficient data and the absence of
23 important analytical tools; namely, the ability to model the operation of the groundwater basin.
24 (Wildermuth Decl., at ¶ 5.) In addition, the need to complete competing projects impacted
25 available staff and consultant time. (Declaration of Danielle Maurizio in Support of Status Report
26 under cultural conditions of a particular year without causing an undesirable result." (Restated
27 Judgment, ¶ 4.(x).)

28 ² The Implementation Plan additionally provided for the computation and reset of the Basin's
storage loss rate, but this has been superseded by an alternative mechanism, pursuant the Peace II
Agreement. (OBMP Implementation Plan, p. 45; Peace II Agreement, ¶ 7.4.)

1 on Watermaster's Safe Yield Recalculation ("Maurizio Decl."), at ¶ 5.)

2 In 2010/2011, Watermaster, through its consultant Wildermuth Environmental, began the
3 process of methodically gathering and analyzing data using the prescribed base period.
4 (Wildermuth Decl., at ¶ 5.) Over the past three years, Watermaster has caused the collection of
5 all required data and fully funded the work of its hydrologic consultant in updating its hydrologic
6 model of the movement of water within the Basin ("Basin Model"). (Maurizio Decl., at ¶ 7.) In
7 the opinion of its expert, Watermaster now has the ability to complete the calculation using the
8 specified base period 2001-2010 as set forth in the OBMP Implementation Plan and Rules and
9 Regulations. (Wildermuth Decl., at ¶ 6.)

10 Following its completion of its forensic exercise of data collection, model update and
11 model calibration, Watermaster then began the process of obtaining stakeholder input as to the
12 Safe Yield recalculation process and peer review of the updated Basin Model. Toward that end,
13 Watermaster has held four workshops, on July 30, 2013, August 29, 2013, December 18, 2013,
14 and January 21, 2014, and two technical modeling review sessions specifically in regard to the
15 update to the model: January 30, 2014 and March 3, 2014. (Declaration of Peter Kavounas in
16 Support of Status Report on Watermaster's Safe Yield Recalculation ("Kavounas Decl."), at ¶ 3.)
17 Watermaster staff and consultants have additionally conducted numerous meetings with smaller
18 subsets of interested Parties. (*Id.*)

19 **II. WATERMASTER'S RECOMMENDATION**

20 It is now the opinion of Watermaster's expert Mr. Wildermuth that Watermaster can
21 competently, reasonably, and accurately perform the required Safe Yield recalculation arising
22 from the OBMP Implementation Plan and prior Orders of this Court. (Wildermuth Decl., at ¶ 6.)
23 However, it is also the opinion of Watermaster's expert that use of the previously established base
24 period for recalculation may not be the most appropriate or technically defensible base period, as
25 it is not representative of current conditions or conditions to be expected in the Basin.
26 (Wildermuth Decl., at ¶ 7.) Accordingly, while Watermaster has collected and analyzed the
27 required data, and the updated Basin Model is calibrated to the movement of water within the
28 Basin, it has been the sentiment of many Watermaster Parties and technical experts that the use of

1 a more representative base period should be evaluated in performing the recalculation.
2 (Kavounas Decl., at ¶ 4.) The work of Watermaster's expert in updating the Basin model and
3 gathering the data necessary to recalculate the Basin's Safe Yield has surfaced other Basin
4 management issues related to the Safe Yield recalculation. (Wildermuth Decl., at ¶ 8.)

5 Moreover, Watermaster is cognizant that the technical function of arithmetically
6 calculating a new Safe Yield must take into account the cultural conditions of the Basin, Material
7 Physical Injury, timing and socio-economic considerations. (Kavounas Decl., at ¶ 5.) Thus,
8 Watermaster requests the Court's concurrence and approval of its proposed schedule for
9 completion that is reasonably calculated to allow Watermaster to return to the Court not later than
10 October 1, 2014, (see Kavounas Decl., at ¶ 6), or a later date that is preferable to the Court, with a
11 motion for the Court's approval as to: (i) the recalculated and reset Safe Yield along with (ii)
12 other suitable recommendations that will address how Basin management issues, cultural
13 conditions of the Basin, Material Physical Injury, timing and socio-economic considerations
14 factor into the recalculation and reset, and (iii) how the reset should be implemented.
15 Watermaster also recommends the filing of a progress report with the Court on August 1, 2014 to
16 apprise the Court of its progress in the interim.

17
18 Dated: April 11, 2014

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

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21 By: 

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23 BRADLEY J. HERREMA
24 ATTORNEYS FOR
25 CHINO BASIN WATERMASTER
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN BERNARDINO

12 CHINO BASIN MUNICIPAL WATER
13 DISTRICT,

14 Plaintiff,

15 v.

16 CITY OF CHINO, et al.,

17 Defendant.

Case No. RCV 51010

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

**DECLARATION OF PETER KAVOUNAS
IN SUPPORT OF STATUS REPORT ON
WATERMASTER'S SAFE YIELD
RECALCULATION**

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19
20 I, PETER KAVOUNAS, declare:

21 1. I currently serve as the General Manager of the Chino Basin Watermaster
22 ("Watermaster"). I have served in this capacity since September 4, 2012. I have personal
23 knowledge of the facts stated in this declaration, except where stated on information and belief,
24 and if called as a witness, I could and would competently testify to them under oath.

25 2. As the General Manager of Watermaster, I am intimately familiar with actions
26 taken by the Pool Committees, Advisory Committee and Board, and the directives to staff from
27 the Board. My role as General Manager includes attending all Pool, Advisory and Board
28 meetings.

1 3. Following its completion of its forensic exercise of data collection, model update
2 and model calibration, Watermaster began the process of obtaining stakeholder input as to the
3 Safe Yield recalculation process and peer review of the updated Basin Model. Towards that end,
4 Watermaster has held four workshops, on July 30, 2013, August 29, 2013, December 18, 2013,
5 and January 21, 2014 and two technical modeling review sessions specifically in regard to the
6 update to the model: January 30, 2014 and March 3, 2014.

7 4. While Watermaster has collected and analyzed the required data, and the updated
8 Basin Model is calibrated to the movement of water within the Basin, it has been the sentiment of
9 many Watermaster Parties and technical experts that the use of a more representative base period
10 should be evaluated in performing the recalculation.

11 5. The members of the Watermaster Board are also cognizant that the technical
12 function of arithmetically calculating a new Safe Yield must take into account the cultural
13 conditions of the Basin, Material Physical Injury, timing and socio-economic considerations.

14 6. Based on the resources available to Watermaster and the work remaining to be
15 done in regard to the Safe Yield recalculation and reset, Watermaster staff has proposed a
16 schedule for completion that is reasonably calculated to allow Watermaster to complete the
17 necessary work and return to the Court not later than October 1, 2014.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct to the best of my knowledge.
20

21 Executed on April 10, 2014, at Rancho Cucamonga, California.

22 
23 PETER KAVOUNAS

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

12 CHINO BASIN MUNICIPAL WATER
13 DISTRICT,

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15 v.

16 CITY OF CHINO, et al.,

17 Defendant.

Case No. RCV 51010

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

**DECLARATION OF DANIELLE D.
MAURIZIO IN SUPPORT OF STATUS
REPORT ON WATERMASTER'S SAFE
YIELD RECALCULATION**

18
19 I, DANIELLE D. MAURIZIO, declare:

20 1. I am currently employed as Assistant General Manager of the Chino Basin
21 Watermaster ("Watermaster"). I have been employed by Watermaster for 10 years. I have
22 personal knowledge of the facts stated in this declaration, except where stated on information and
23 belief, and if called as a witness, I could and would competently testify to them under oath.

24 2. In my capacity as Assistant General Manager, I am familiar with the day to day
25 operations of Watermaster, including Watermaster's activities in implementation of the Optimum
26 Basin Management Program and the Recharge Master Plan for the Chino Basin.

27 3. From approximately March 1, 2011 to May 1, 2011, and then again from mid-
28 November, 2011 to mid-January, 2012, I served as interim Chief Executive Officer of

1 Watermaster.

2 4. The OBMP Implementation Plan and Watermaster Rules and Regulations
3 anticipate that in year 2010/11 and every ten years thereafter, Watermaster would compute the
4 Safe Yield of the Chino Basin for the prior ten-year period, and reset Safe Yield for the next the
5 next ten-year period.

6 5. During the time period of approximately 2010-11, the need to complete competing
7 projects, including the 2010 Recharge Master Plan Update and addressing issues related to
8 preemptive replenishment, impacted available staff and consultant time for devotion to
9 redetermination of the Safe Yield of the Basin.

10 6. At its April 28, 2011 meeting, the Watermaster Board amended its budget for
11 Fiscal Year 2010-11 to account for \$145,000 to be devoted to work by Watermaster's consultant
12 in the modeling necessary to redetermine the Safe Yield. Since the budget for Fiscal Year 2010-
13 11 did not include funds for the necessary work, Watermaster authorized the funds in order to
14 commence the modeling work sooner than the next Fiscal Year.

15 7. Over the past three years, Watermaster has caused the collection of all required
16 data and fully funded the work of its hydrologic consultant – Wildermuth Environmental, Inc. –
17 in updating its hydrologic model of the movement of water within the Basin, in order to give
18 Watermaster's consultant the ability to complete the calculation using the specified base period
19 2001-2010 as set forth in the OBMP Implementation Plan and Rules and Regulations.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct to the best of my knowledge.

22
23 Executed on April 10, 2014, at Rancho Cucamonga, California.

24 
25 _____
26 DANIELLE D. MAURIZIO
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28

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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

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

**DECLARATION OF MARK
WILDERMUTH IN SUPPORT OF STATUS
REPORT ON WATERMASTER'S SAFE
YIELD RECALCULATION**

I, MARK WILDERMUTH, declare:

1. I am the founder and President of Wildermuth Environmental Inc., a water resources consulting firm. My firm consults for the Chino Basin Watermaster ("Watermaster") with respect to implementation of the Basin's Optimum Basin Management Plan ("OBMP") and other Watermaster duties.

2. I am a hydrologist and a registered engineer and have been involved in the Chino Basin as such for approximately 34 years. I have personal knowledge of the facts stated in this declaration, except where stated on information and belief, and if called as a witness, I could and would competently testify to them under oath.

3. As a consultant to Watermaster, I am familiar with Watermaster's OBMP, the

1 OBMP Implementation Plan, and the Court-approved actions requiring OBMP implementation,
2 including the Peace Agreement and Peace II Agreement.

3 4. The OBMP Implementation Plan and Watermaster Rules and Regulations
4 anticipate that in year 2010/11 and every ten years thereafter, Watermaster would compute the
5 Safe Yield of the Chino Basin for the prior ten-year period, and reset Safe Yield for the next ten-
6 year period. During the development of the OBMP and the Peace Agreement, this base period
7 was specifically selected to incorporate new data and information that would become available
8 for the first time, post Peace Agreement.

9 5. In 2010/2011, Watermaster was not able to competently perform the required
10 recalculation of the Basin's Safe Yield because of insufficient data and the absence of important
11 analytical tools, namely the ability to model the operation of the groundwater basin. At that time,
12 we began the process of methodically gathering and analyzing data using the prescribed base
13 period.

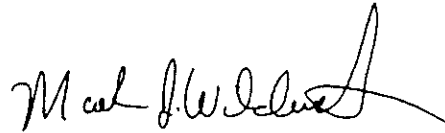
14 6. It is my opinion that Watermaster now has the ability to, and can competently,
15 reasonably, and accurately perform the required Safe Yield recalculation arising from the OBMP
16 Implementation Plan and prior Orders of this Court.

17 7. It is also my opinion that use of the previously established base period for
18 recalculation contained in the OBMP Implementation Plan and Rules and Regulations may not be
19 the most appropriate or technically defensible base period, as it is not representative of current
20 conditions and conditions to be expected in the Basin.

21 8. My work in updating the Basin model and gathering the data necessary to
22 recalculate the Basin's Safe Yield has surfaced other Basin management issues related to the Safe
23 Yield recalculation.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct to the best of my knowledge.
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Executed on April 11, 2014, at Honolulu, Hawaii.



MARK WILDERMUTH

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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

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

**[PROPOSED] ORDER REGARDING
WATERMASTER'S SAFE YIELD
RECALCULATION**

The Court having read, reviewed and considered the April 11, 2014 Status Report on
Watermaster's Safe Yield Recalculation ("Status Report"), including all declarations attached
thereto, IT IS HEREBY ORDERED that:

1. The Court accepts Watermaster's Status Report:
2. Watermaster is ordered to file, not later than _____, a motion for
the Court's approval as to: (i) the recalculated and reset Safe Yield along with (ii)
other suitable recommendations that will address how Basin management issues,
cultural conditions of the Basin, Material Physical Injury, timing and socio-
economic considerations factor into the recalculation and reset, and (iii) how the

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reset should be implemented (“Safe Yield Reset Motion”);

3. A hearing on the Safe Yield Reset Motion will be held on _____ at _____ a.m./p.m.;
4. Oppositions to Watermaster’s Safe Yield Reset Motion, if any, shall be filed and served on or before _____ p.m. on _____;
5. Watermaster’s reply to oppositions to the Safe Yield Reset Motion, if any, shall be filed and served on or before _____ p.m. on _____; and,
6. Watermaster shall file a progress report with the Court on or before August 1, 2014 to apprise the Court of its progress.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT

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 April 11, 2014 I served the following:

1. **STATUS REPORT ON WATERMASTER'S SAFE YIELD RECALCULATION**
2. **DECLARATION OF PETER KAVOUNAS IN SUPPORT OF STATUS REPORT ON WATERMASTER'S SAFE YIELD RECALCULATION**
3. **DECLARATION OF DANIELLE D. MAURIZIO IN SUPPORT OF STATUS REPORT ON WATERMASTER'S SAFE YIELD RECALCULATION**
4. **DECLARATION OF MARK WILDERMUTH IN SUPPORT OF STATUS REPORT ON WATERMASTER'S SAFE YIELD RECALCULATION**
5. **[PROPOSED] ORDER REGARDING WATERMASTER'S SAFE YIELD RECALCULATION**

/ X / 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

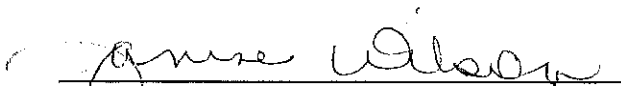
/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ 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.

/ X / 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 April 11, 2014 in Rancho Cucamonga, California.


By: Janine Wilson
Chino Basin Watermaster

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