

FEE EXEMPT

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CHINO BASIN WATERMASTER

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]

**NOTICE OF RULINGS AND NOTICE OF
HEARING**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 25, 2014, at 1:30 p.m. in Department R-6 of the above-entitled Court, the Honorable Stanford E. Reichert conducted a hearing and issued the Ruling and Order, a copy of which is attached hereto as "Exhibit A," the Order Approving Section 5 of Watermaster's 2013 Amendment to 2010 Recharge Master Plan Update, a copy of which is attached hereto as "Exhibit B," and the Order Regarding Watermaster's Safe Yield Recalculation, a copy of which is attached hereto as "Exhibit C."

The Court set a hearing date on the Overlying (Non-Agricultural) Pool's Motion Regarding Amendment to the Judgment Relating to Quorum and Voting of the Non-Agricultural (Overlying) Pool Committee for July 11, 2014, at 1:30 p.m. in Department R-6 of the above-entitled Court. In conjunction with the hearing date, the Court set the following briefing schedule:

1 The Overlying (Non-Agricultural) Pool shall file and serve its moving papers on or before
2 4:00 p.m. on **May 23, 2014**.

3 Oppositions to the Overlying (Non-Agricultural) Pool's Motion shall be filed and served
4 on or before 4:00 p.m. on **June 6, 2014**.

5 Replies to Oppositions to the Overlying (Non-Agricultural) Pool's Motion shall be filed
6 and served on or before 4:00 p.m. on **June 13, 2014**.

7
8 Dated: April 29, 2014

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

9
10
11 By: 

12 SCOTT S. SLATER
13 BRADLEY J. HERREMA
14 ATTORNEYS FOR
15 CHINO BASIN WATERMASTER
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EXHIBIT A

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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

APR 25 2014

BY Virginia J. Knicker DEPUTY

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

~~XXXXXXXXXX~~
RULING AND ORDER

Date: April 25, 2014

Dept: R 6

Time: 1:30 p.m.

For the reasons set forth herein, the motion of Watermaster and Inland Empire Utilities Agency (IEUA) for approval of the Section 5 of the 2013 Recharge Master Plan Update is granted. The court denies the City of Fontana's motion to revise Section 5 of the 2013 Recharge Update and Restated Judgment.

The court notes that Monte Vista Water District and Monte Vista Irrigation Company have opposed the motion on behalf of a number of members of the Appropriative Pool including Fontana Union Water Company and Fontana Water Company as well as Cucamonga Valley Water District, San Antonio Water Company and the Cities of Chino Hills, Upland, and Pomona.

1 FACTUAL CONTEXT

- 2 a) The City of Fontana (Fontana) states that Section 5 of the 2013 Recharge
3 Master Plan Update addresses how Watermaster will calculate the amount of
4 stormwater recharge, and any result New Yield associated therewith, attributed
5 to the Regional Water Quality Control Board's permit for Municipal Separate
6 Storm Sewer System (MS4) projects.
- 7 b) Fontana argues that Section 5 intentionally omitted any reference to how
8 stormwater recharge from MS4 or other projects will be allocated.
- 9 c) Fontana argues that the 2010 RMPU allocated MS4 stormwater recharge
10 credits to the owners of those projects.
- 11 d) Without this allocation set forth in Section 5, Fontana argues that recharge will
12 be allocated only to those entities with a share of Chino Basin's Operating Safe
13 Yield (OSY).
- 14 e) Fontana argues that it holds only a de minimus share of OSY so it would not
15 receive any recharge allocation for the MS4 projects that are 1) located within
16 the city's jurisdiction; 2) funded with fees levied pursuant to the city's police
17 power and authority; and 3) paid for by local developers, and ultimately, the
18 citizens and businesses within the city.
- 19 f) Fontana moves the court to order into Section 5 language that explicitly
20 allocates groundwater recharge by MS4 projects to the local municipalities
21 responsible for implementing MS4 programs.
- 22 g) Fontana argues that doing so will incentivize municipalities to develop
23 "robust" MS4 recharge projects thereby benefiting the Chino Basin and all
24 persons who depend on its water supply.

25
26 DECISION AND ORDER

- 27 1) The restated judgment provides no legal basis for the court to order the Fontana's
28 explicit groundwater allocation language into Section 5 of the 2013 Recharge

1 Master Plan Update.

2 a) Judgment ¶15 gives the court continuing jurisdiction to “make such further or
3 supplemental orders or directions as necessary or appropriate for
4 interpretation, enforcement or carrying out of this judgment, and to amend,
5 modify or amplify any of the provisions of this judgment” subject to certain
6 nonpertinent exceptions.

7 i) The court’s objective is ordinarily to determine whether matters presented
8 and proposed measures were consistent with and promoted the physical
9 solution under the Judgment and whether they were consistent with Article
10 X, Section 2 of the California Constitution.

11 b) Fontana’s motion is outside of court’s jurisdiction under ¶15 because Fontana
12 has failed to identify any specific incentives regarding stormwater recharge that
13 are required to promote the physical solution. Fontana seeks a general policy
14 statement concerning ground water recharge which is outside of the judgment.

15 c) Judgment ¶14 enjoins parties from either placing water into storage or
16 withdrawing water from storage in the Chino Basin unless pursuant to an
17 agreement with Watermaster. Fontana’s proposed Flood Protection Project
18 does not qualify under the Judgment for either a storage agreement or for a
19 local storage account.

20 d) The judgment allocates basin yield to those producers who have established
21 their rights by use. Fontana has never been one of those water producers.
22 The order of April 25, 1996, confirming and approving interventions,
23 established that the city of Fontana shall have an initial share of the operating
24 safe yield of zero (0.0) percent.

25 i) Fontana argues that it holds only a de minimus share of OSY. Actually,
26 Fontana holds a zero share of OSY.

27 ii) The court finds not only a quantitative difference between a minimum
28 share and no share of OSY, but also a qualitative difference between a

1 minimum share and none whatsoever. The court refuses to reinterpret
2 Fontana's Judgment zero share into some share.

- 3 e) The Judgment apportions groundwater supply and rights to those actually
4 producing groundwater, so the judgment establishes a system to govern the
5 rights of groundwater storage capacity and the Chino Basin. (Judgment at
6 ¶11-12.) The Judgment also establishes a physical solution, including a
7 requirement to prepare an Optimum Basin Management Program (OBMP,
8 Judgment at ¶41). The Judgment also establishes an elaborate administration
9 of the judgment under supervision of the court's continuing jurisdiction and a
10 court-appointed Watermaster.
- 11 f) The parties and Watermaster have agreed upon a series of measures and
12 procedures to administer and manage the groundwater resources of the Chino
13 Basin. The court refers to these measures and procedures collectively as the
14 Court Approved Management Agreements (CAM agreements) which
15 established detailed regional cost/benefit sharing structures.
- 16 i) The CAM agreements include: 1) the Chino Basin Peace Agreement, dated
17 June 29, 2000, and two amendments thereto.; 2) the OBMP, court
18 approved July 13, 2000; 3) the Peace II Measures, court approved
19 December 21, 2007; 4) the OBMP Implementation Plan dated June 29,
20 2000; 5) the Recharge Master Plan and updates, phase 1 1998, updated in
21 2010; and 6) the Watermaster Rules and Regulations June 2000, amended
22 September 2007. In addition, the CAM agreements also include numerous
23 reports submitted as condition subsequent the court's approval of the
24 CAM agreements and implementing agreements and related measures for
25 managing the Chino Basin, such as the Chino Basin Desalter Authority,
26 formed September 25, 2001, and the Regional Water Quality Control
27 Board approval of a Basin Plan Amendment, Resolution R8-2004-0001,
28 January 22, 2004.

- 1 (1) The court notes that the parties to these agreements and the judgment,
2 especially the water-producing members of the Appropriative Pool,
3 have expended enormous time, money, and resources to negotiate,
4 prepare, and obtain court approval of these CAM agreements. The
5 judgment and the CAM agreements were developed almost entirely by
6 water-producing members of the Appropriative Pool and entirely
7 without participation of or funding from Fontana.
- 8 ii) There is a current proposal to reduce operating safe yield by almost two-
9 thirds. Fontana's motion fails to take into account these current proposals.
10 These failures show that Fontana's motion seeks a court ordered policy
11 statement without complete facts, complete context, or a justiciable
12 controversy.
- 13 g) Watermaster has the appropriative right to direct and capture stormwater.
14 Fontana's Flood Protection Project lacks an agreement for groundwater
15 storage and recovery as required by the Judgment. The Judgment establishes
16 specific requirements and standards for storage and recovery of water for the
17 basin.
- 18 h) Fontana seeks an individual right that stormwater be directed into Fontana's
19 proposed "Vulcan Pit Flood Control and Aquifer Recharge Project" (Flood
20 Protection Project).
- 21 i) Stormwater recharge benefits are to be administered according to the
22 Restated Judgment and the groundwater management agreements among
23 the parties to the Judgment. The specific relief sought by Fontana's
24 motion is not properly before the court. Fontana cannot claim or
25 adjudicate as a matter of individual entitlement to stormwater yield that
26 recharges to the Chino Basin through the Flood Control Project.
- 27 ii) There is no present controversy as to the allocation of credit for any
28 specific quantity of recharge stormwater. The court refuses to make a

1 prospective ruling or policy statement regarding credits and incentives for
2 Fontana in isolation of a comprehensive project for finance of stormwater
3 recharge and other considerations.

4 i) Fontana's Flood Protection Project proposes to capture water tributary to the
5 Chino Basin, which by definition is not supplemental water, so the Judgment
6 and Watermaster Rules and Regulations prohibit Fontana from obtaining a
7 Storage Agreement for water captured by its Flood Protection Project.

8 j) Fontana's Flood Protection Project does not qualify for a Local Storage
9 Account under the CAM agreements, namely, the Chino basin Watermaster
10 rules and regulations, dated June 2001. A local storage account is available
11 only for a party's unproduced excess carryover share of OSY and for limited
12 aggregate quantities of supplemental water held by parties to the Judgment.

13 k) Fontana does not have the right to appropriate and divert surface water for
14 groundwater recharge purposes nor does Fontana have the right to recover
15 surface water recharge to storage for later beneficial use. The court accepts
16 the argument that State Water Board Decision §1646 gives these rights to
17 Watermaster. An attempt by Fontana to carry out its Flood Protection Project
18 as proposed in its motion appears to be contrary to the adjudicated water
19 rights set forth in the Judgment and CAM agreements and could be a trespass
20 upon the prior appropriative water rights obtained by Watermaster for the
21 benefit of the parties holding water rights under the Judgment.

22 i) Fontana does not have an appropriative right to direct and capture
23 stormwater in its Flood Protection Project, or on any other basis, for
24 recharge to the Chino Basin. Fontana does not have an adjudicated
25 groundwater right under the Chino Basin Judgment. Fontana has no
26 groundwater rights and no wells. Fontana does not have the right to store
27 and recapture recharged stormwater in the Chino basin pursuant to an
28 agreement with the Watermaster.

- 1
- 2) There is no other legal basis upon which the court can grant Fontana's motion.
- 3 a) The California Water Code provides the sole method to acquire rights in
- 4 surface water. According to Water Code §1225, "no right to appropriate for
- 5 use water subject to appropriation shall be initiated or required except upon
- 6 compliance with the provisions" of Water Code §1000 et seq.
- 7 b) Water Code §1052(a) states "the diversion or use of water subject to this
- 8 division other than as authorized in this division is a trespass."
- 9 c) Watermaster holds the exclusive right pursuant to a permit issued by the State
- 10 Water Resources Control Board (State Water Board) to appropriate surface
- 11 water for recharge to the Chino Basin. Fontana does not have a water right to
- 12 divert surface stormwater flows within the Santa Ana River watershed for
- 13 recharge into the Chino Basin.
- 14 d) The Santa Ana River watershed is fully appropriated under State Water Board
- 15 Order WR98-08. The court accepts the argument that this requires the filing
- 16 of an application to appropriate water from the Santa Ana River. (Water Code
- 17 §1206(a).) Fontana has not applied to appropriate water through its proposed
- 18 Flood Protection Project.
- 19 e) Fontana is attempting to claim as its own the water captured in its proposed
- 20 Flood Protection Project. Fontana has not demonstrated any legal entitlement
- 21 to use that water.
- 22 i) Fontana is attempting to capture water and put it to its beneficial use. To
- 23 accomplish this legally, the court accepts the argument that Fontana must
- 24 first obtain a water appropriation permit before it can claim a right to
- 25 beneficial use of the water impounded by its Flood Protection Project for
- 26 groundwater recharge, storage, and recovery for beneficial use on the
- 27 surface. Watermaster already has secured these rights from the State Water
- 28 Board on behalf of the water producing members of the Appropriative

- 1 Pool for use consistent with the Judgment and the CAM agreements.
- 2 f) On behalf of the water-producing members of the Appropriative Pool,
- 3 Watermaster has the exclusive water rights, authorized by the State Water
- 4 Board, divert up to 16,500 cfs stormwater flow from the Santa Ana River
- 5 watershed to recharge Chino Basin with the intent to hold the water in
- 6 groundwater/basin for recovery and beneficial use on the surface by those
- 7 with existing rights under the judgment. (State Water Board Decision 1646.)
- 8 g) As a basis to grant the motion, the court does not find persuasive Fontana's
- 9 argument that any recharge water inures to the benefit of the Appropriative
- 10 Pool.
- 11 i) Fontana provides no water to its citizens, but members of the
- 12 appropriative pool Fontana Union Water Company and Fontana Water
- 13 Company do, and they have opposed Fontana's motion.
- 14 ii) Fontana does not operate a water utility system serving its inhabitants, and
- 15 it has no wells or other supply infrastructure. Therefore it would not
- 16 produce the water it proposes to store in the Chino Basin, and furthermore
- 17 it has no agreement with its water providers to recover the water it
- 18 proposes to recharge.
- 19 iii) The language from the 2010 Recharge Master Plan Update §3.6.2 was
- 20 essentially recommendations for Watermaster with respect to new yield and
- 21 recharge projects. Fontana now asks the court to turn these
- 22 recommendations into court orders. There is no legal basis for the court to
- 23 do so.
- 24
- 25 3) Fontana's motion seeks an advisory opinion which the court refuses to give.
- 26 a) Fontana does not have an adjudicated groundwater right under the Chino
- 27 Basin Judgment.
- 28 i) Although a party has a right to seek review of "all actions, decisions, or

- 1 rules of Watermaster” (Restated Judgment ¶ 31), Fontana’s motion
2 requests the court to make a prospective policy determination regarding
3 Section 5 of the RMPU. The court determines that this prospective policy
4 determination is not an action, decision, or rule of Watermaster.
- 5 ii) There is no present controversy as to the allocation of credit for any
6 specific quantity of recharge stormwater, even assuming Fontana were
7 entitled to such.
- 8 iii) Contingencies exist concerning project financing, credits, allocation, as well
9 as any financial incentives.
- 10 b) Fontana holds no water rights which would allow it to divert, capture, and use
11 surface water for groundwater recharge or otherwise. Any such use could be
12 contrary to the judgment and the CAM agreements, and could violate state
13 law, and could constitute a trespass.
- 14 i) Fontana’s argument concerning salvaged/developed water has no
15 application to the instant case because of the unique circumstances and law
16 governing allocation of water rights in the Chino Valley through the
17 Restated Judgment and CAM agreements.
- 18 ii) Fontana claims that granting of its motion will provide reasonably priced
19 water to the Fontana Water Company. The court finds this argument lacks
20 credibility because the Fontana Union Water Company and the Fontana
21 Water Company oppose the city’s motion. If Fontana’s argument had
22 credibility, the court would expect support for the motion from that the
23 companies actually providing water to citizens.
- 24 iii) The possible consequences listed above (could be violations, etc.) show the
25 premature and speculative nature of Fontana’s requested ruling.
- 26 c) Fontana seeks to confuse a flood control project on the one hand with water
27 rights and a stormwater recharge project on the other.
- 28 i) Fontana’s Flood Protection Project is a flood control project. \$9.5 million

1 of funding for the Flood Protection Project is from the Stormwater Flood
2 Management Grant Program of Proposition 1E entitled the Disaster
3 Preparedness and Flood Prevention Bond Act of 2006.

4 ii) Fontana's Flood Protection Project would divert surface stormwater flows
5 for retention in an improved open pit that was created largely as a result of
6 a former sand and gravel mine. Fontana's motion seeks an individual right
7 that stormwater be directed into captured by Fontana's proposed "Vulcan
8 Pit Flood Control and Aquifer Recharge Project" (Flood Protection
9 Project). Fontana holds no such right, and the court refuses to declare
10 such a right as a matter of policy.

11 iii) Fontana's Flood Protection Project has both a flood protection component
12 and a groundwater recharge component. However, Fontana proceeds to
13 characterize the MS4 construction only as stormwater recharge projects,
14 and from that characterization then asks the court to incentivize Fontana's
15 MS4 construction as a stormwater recharge project through court ordered
16 policy language in Section 5 of the 2013 RMPU. This is a policy
17 determination outside of the judgment and not required from the court on
18 any other legal basis.

19 d) Fontana has requested a determination as to whether and how incentives
20 would be offered the parties for the developed stormwater capture facilities
21 that would enhance the overall supply available. These are all prospective
22 unknown economic determinations into which the court refuses to venture.

23 i) Fontana's motion requires the court to evaluate speculative contingencies
24 and finance arrangements which are incapable of determination by the
25 court at this time.

26 ii) It is not for the court to engage in speculative prospective economic policy
27 decisions about what municipalities will find to be financial incentives to
28 construct stormwater flow projects.

- 1 iii) The court notes that Fontana has not received any determination on an
2 application for recharge, although it does have a pending application for
3 recharge credit associated with the flood control project.
- 4 iv) Fontana has not challenged a monitoring, reporting, and accounting
5 practices included in Section 5.
- 6 v) There is no basis upon which the court must order any carry forward for
7 any language from the 2010 RPMU. The court has never made such an
8 order or direction.
- 9 vi) The 2013 Amendment is sufficient to comply with any previous court
10 order. It is compliance with court orders that provides a legal basis for
11 court review.
- 12 (1) Court also does not find persuasive Fontana's arguments concerning
13 groundwater elevations, the parties' accusations or counter accusations
14 about self-interest regarding operating safe yield, poaching water, or the
15 citation to *Central and West Basin Water Replenishment District v. Southern*
16 *California Water Co.* (2003) 109 Cal.App.4th 891.
- 17 vii) The court does not find any evidence or argument in Fontana's motion
18 which would show that Watermaster is failing to fulfill its Basin recharge
19 obligations.

20

21 4) ORDER

- 22 a) Section 5 of the 2013 Amendment to the 2010 Recharge Master Plan Update
23 is responsive to the Court's October 8, 2010 order. Specifically, the court
24 finds that Watermaster has satisfied the Court's order to convene the
25 committee described in Item 3 of Section 7.1 of the 2010 updated Recharge
26 Master Plan to develop the monitoring, reporting, and accounting practices
27 required to estimate local project stormwater recharge and new yield. The
28 monitoring, reporting and accounting practices selected in Section 5 fairly

1 balance the accuracy of the resulting recharge and new yield estimates with the
2 efficiencies and cost effectiveness of the approach.

- 3 b) On this basis, the court Approves Watermaster proceeding with the 2013
4 Amendment as the effective Recharge Master Plan, including Section 5, as
5 updated.

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7
8 Dated: April 25, 2014



Stanford E. Reichert

Stanford E. Reichert, Judge

STANFORD E. REICHERT

EXHIBIT B

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

APR 25 2014

BY Virginia M. Kipch
DEPUTY

**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
STANFORD E REICHERT]

~~PROPOSED~~ ORDER APPROVING
SECTION 5 OF WATERMASTER'S 2013
AMENDMENT TO 2010 RECHARGE
MASTER PLAN UPDATE

Date April ²⁵ 4, 2014
Time 1 30 p m
Dept R-6

Having read, reviewed and considered all pleadings filed in support and in response, if any,
including the testimony presented at the April 4, 2014 hearing, and good cause appearing therefore,
the Court finds as follows

I Incorporation of Findings in December 13, 2013 Order

The Court hereby incorporates its findings and orders set forth in its December 13, 2013
*Order Approving Watermaster's 2013 Amendment to 2010 Update to Recharge Master Plan and
Intervention of TAMCO*

**II Development of Section 5 of the 2013 Amendment to the 2010 Recharge Master
Plan**

The Court's *Order Approving Watermaster Compliance with Condition Subsequent Number*

1 *Eight and Approving Procedures to be Used to Allocate Surplus Agricultural Pool Water in the*
2 *Event of a Decline in Safe Yield, dated October 8, 2010* (“October 8, 2010 Order”), required
3 Watermaster to convene the committee described in item 3 of section 7.1 of the 2010 RMPU “to
4 develop the monitoring, reporting, and accounting practices that will be required to estimate local
5 project stormwater recharge and new yield” (October 8, 2010 Order, at 4.19-14).

6 In preparing the 2013 Amendment to the 2010 Recharge Master Plan Update (“2013
7 Amendment”), Watermaster convened a Steering Committee to undertake the necessary work to
8 amend the 2010 Recharge Master Plan Update in conformation with the Court’s October 8, 2010
9 Order. In June 2012, the Steering Committee began its investigation as to the nature and occurrence
10 of Municipal Separate Storm Sewer System (“MS4”) projects. A subcommittee of the Steering
11 Committee was formed to review the formal process used by the MS4 permittees to review and
12 approve MS4 projects.

13 The Steering Committee developed the monitoring, reporting, and accounting practices
14 required to estimate stormwater recharge and any resultant New Yield associated with compliance
15 with the requirements of the Regional Water Quality Control Board’s permit for MS4s. As part of
16 this process, the Steering Committee considered three alternatives for these practices, including the
17 annual estimation of recharge and New Yield for specific projects with a “true up” at the time of a
18 later Safe Yield recalculation, an indirect estimation as part of periodic Safe Yield recalculations,
19 and a hybrid approach. As to each of these alternatives, the Steering Committee considered
20 timeliness of estimates, the relative cost of each, and the expected relative accuracy of the estimates
21 generated through each alternative. The Steering Committee recommended, and Section 5 of the
22 2013 Amendment includes, the hybrid approach based on the efficiencies and cost effectiveness of
23 the approach, combined with the accuracy of the resulting estimates.

24 **III Approval of Section 5 of the 2013 Amendment**

25 In addition to the final consideration of the entirety of the 2013 Amendment, Section 5 was
26 presented to the Pool Committees, Advisory Committee and Watermaster Board for their review
27 and intermediate approval. The Advisory Committee and Board approved Section 5 in June 2013.

1 Via Resolution 2013-06, the Watermaster Board approved the 2013 Amendment in its entirety, and
2 resolved that the 2013 Amendment, including Section 5, is based on sound technical analysis and
3 adequately amends the 2010 Recharge Master Plan Update in light of changed economic,
4 legislative, and hydrologic conditions within the State of California. The Board further resolved that
5 the 2013 Amendment to the 2010 Recharge Master Plan Update is responsive to the Court's order
6 to develop the monitoring, reporting, and accounting practices that will be required to estimate local
7 project stormwater recharge and new yield. At its October 16, 2013 regular Board meeting, the
8 IEUA Board of Directors adopted Resolution 2013-10-1, approving the 2013 Amendment in its
9 entirety.

10 At the June 27, 2013 Watermaster Board meeting, representatives of the City of Fontana
11 opposed the approval of Section 5, based on its position that additional language regarding the
12 allocation of credit for recharged stormwater should be included in the Section. Fontana did not
13 challenge the monitoring, reporting and accounting practices contained in Section 5. The
14 Watermaster Board considered Fontana's concerns, deliberated and commented on its requests, and,
15 approved Section 5, based on the recommendation that the issue of how to incentivize conduct and
16 provide credits in the allocation of recharged water was premature and that Fontana's request, along
17 with the positions of all other stakeholders, would most appropriately be addressed through
18 processes proposed take place this year and next and be concluded in 2014.

19 **IV Order**


20 The Court hereby Orders as follows:

21 1) Section 5 of the 2013 Amendment to the 2010 Recharge Master Plan Update is
22 responsive to the Court's October 8, 2010 Order. Specifically, the Court finds that Watermaster has
23 satisfied the Court's order to convene the committee described in item 3 of section 7.1 of the
24 updated Recharge Master Plan to develop the monitoring, reporting, and accounting practices
25 required to estimate local project stormwater recharge and new yield. The monitoring, reporting
26 and accounting practices selected in Section 5 fairly balance the accuracy of the resulting recharge
27 and new yield estimates with the efficiencies and cost effectiveness of the approach.

1 2) On this basis, the Court approves Watermaster proceeding with the 2013 Amendment as
2 the effective Recharge Master Plan, including Section 5, as updated
3

4 April 24 2014
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The Honorable Stanford E. Reichert
STANFORD E. REICHERT

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EXHIBIT C

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT
APR 25 2014

BY Virginia Rodriguez
DEPUTY

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

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 _____;

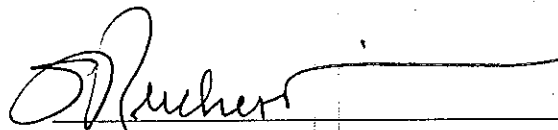
5. Watermaster's reply to oppositions to the Safe Yield Reset Motion, if any, shall be
filed and served on or before _____ p.m. on _____; and,

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: _____

4-25-14



JUDGE OF THE SUPERIOR COURT
STANFORD E. REICHERT

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