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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]

**MOTION TO RE-APPOINT NINE-
MEMBER WATERMASTER BOARD FOR
A FURTHER THREE-YEAR TERM**

Date: January 22, 2016
Time: 1:30 P.M.
Dept.: R-6

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 22, 2016 at 1:30 p.m., the Chino Basin Watermaster ("Watermaster") will and hereby does move for this Court to re-appoint the nine-member Watermaster Board for a further three-year term. The motion will be based on this Notice, the attached Memorandum of Points and Authorities, and any evidence presented at the hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The present five-year appointment of the nine-member Watermaster Board expires on February 10, 2016. (Order Granting Motion to Re-Appoint Nine-Member Watermaster Board for a Further 5-Year Term (Jan. 26, 2011) (“2011 Order”).) Upon recommendation and advice from the Pool Committees and the Advisory Committee, the Watermaster Board moves the Court to reappoint the nine-member Board in service as Watermaster for a further three-year term, through February 10, 2019.

II. BACKGROUND

The Court initially appointed a nine-member Board to serve as the Watermaster pursuant to the 1978 Judgment, on February 19, 1998. (See 2011 Order, at 1.) This appointment has been extended through successive reappointments since that time. On September 28, 2000, the Court re-appointed the nine-member Board for a five-year term ending on September 30, 2005. (*Ibid.*) By Order dated September 22, 2005, the Court extended the appointment to February 9, 2006. (*Ibid.*)

Watermaster subsequently filed a Motion for Re-appointment of the Nine-Member Board for a Further Five-Year Term on January 11, 2006 and on February 9, 2006, the Court again re-appointed the nine-member Board for a further five-year term ending on February 10, 2011. (*Ibid.*) Watermaster filed a Motion for Re-appointment of the Nine-Member Board for a Further 5-Year Term on December 17, 2010 and, on January 26, 2011, the Court re-appointed the nine-member Board for a further five-year term ending on February 10, 2016. (*Id.*, at 2.)

III. WATERMASTER APPOINTMENT

Watermasters are commonplace in water right adjudications and most of the adjudicated groundwater basins in Southern California. (See Blomquist, *Dividing the Waters: Governing Groundwater in Southern California* (San Francisco Institute for Contemporary Studies) (1992).) The composition and duties of each such watermaster arise from its originating judgment and the watermasters are governed by the Courts they serve. The Chino Basin Watermaster was established by the Judgment to administer and enforce the provisions of the Judgment pursuant to

1 the direction of the Court. (Restated Judgment, ¶ 16.) The Chino Basin Municipal Water
2 District, now known as the Inland Empire Utilities Agency, was initially designated as the
3 Watermaster for a five-year term, and the Judgment provided for future Watermaster
4 appointments as follows:

5 The term of appointment of Watermaster shall be for five (5) years.
6 The Court will by subsequent orders provide for successive terms
7 or for a successor Watermaster. Watermaster may be changed at
8 any time by subsequent order of the Court, on its own motion, or on
9 the motion of any party after notice and hearing. Unless there are
 compelling reasons to the contrary, the Court shall act in
 conformance with a motion requesting the Watermaster be changed
 if such motion is supported by a majority of the voting power of the
 Advisory Committee.

10 (Restated Judgment, ¶ 16.)

11 In its past orders in regard to the reappointment of the Board to subsequent terms, this
12 Court has articulated criteria by which it would evaluate whether, at the end of the approved term,
13 it would re-appoint the Board. For example, in its Order of September 28, 2000, the Court
14 articulated several criteria by which it would evaluate whether to re-appoint the nine-member
15 Board. (See September 28, 2000 Order, at 6-7.) These criteria included both express conditions
16 for re-appointment (adoption and Court approval of Rules and Regulations, filing of reports in
17 accordance with a Court-ordered schedule, and cooperation with an independent assessment by a
18 Special Referee) and “guidance” on specific elements of the OBMP that the Court would consider
19 in determining whether to re-appoint the Board (development of the Desalters).

20 In its January 11, 2006 Motion, Watermaster articulated the ways in which all of these
21 criteria had been satisfied. In its February 9, 2006 Order, the Court did not establish any further
22 criteria that it would use to determine whether to re-appoint the nine-member Board, but it did
23 describe general “concerns” regarding Watermaster’s continued progress. These concerns
24 included plans for Desalters, recharge water availability, and replenishment obligations. (See
25 February 9, 2006 Order, at 3-4.) Watermaster addressed all of the concerns raised by the Court in
26 its 2006 Order in its December 17, 2010 Motion, and the Court reappointed the nine-member
27 Board for a subsequent five-year term.
28

1 **IV. REQUEST TO RE-APPOINT NINE-MEMBER BOARD FOR A FURTHER**
2 **THREE-YEAR TERM**


3 Watermaster understands its duty to be the continued development and implementation of
4 the OBMP Implementation Plan, the Peace Agreement, and its progeny (the "Court Approved
5 Management Agreements") and the faithful administration of the decree. During the present term
6 of the nine-member Board, under the Board's oversight, Watermaster has continued to make
7 progress on implementing the OBMP. This progress includes: (i) the imminent completion of the
8 Herculean undertaking of the construction and operation of 40 MGD of Desalting capacity and
9 the achievement of hydraulic control; (ii) the completion and implementation of the 2013
10 Amendment to the 2010 Recharge Master Plan; (iii) continued groundwater monitoring and
11 production reporting; (iv) the review and processing of 58 water transfers, involving more than
12 74,000 acre-feet of water; and (v) the completion and transmittal of a proposed reset of the
13 Basin's Safe Yield to the Court for its consideration. (Declaration of Bradley J. Herrema in
14 Support of Watermaster's Motion to Re-Appoint Nine-Member Watermaster Board for a Further
15 Three-Year Term ("Herrema Decl."), at ¶ 3.)

16 At its November 19, 2015 meeting, the Advisory Committee acted to request that the
17 Watermaster Board move the Court for the re-appointment of the nine-member Board for a
18 further three-year term as Watermaster. (Herrema Decl., at ¶ 5.) At its meeting that same day,
19 the Watermaster Board approved proceeding consistent with the Advisory Committee's action
20 and directed legal counsel to file this motion seeking re-appointment. (Herrema Decl., at ¶ 6.)

21 On this basis, Watermaster respectfully requests that the Court re-appoint the nine-
22 member Board for a further three-year term.

23 Dated: December 18, 2015

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

24
25 By: 
26 SCOTT S. SLATER
27 BRADLEY J. HERREMA
28 CHINO BASIN WATERMASTER

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Case No. RCV 51010

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

**DECLARATION OF BRADLEY J.
HERREMA IN SUPPORT OF MOTION TO
RE-APPOINT NINE-MEMBER
WATERMASTER BOARD FOR A
FURTHER THREE-YEAR TERM**

Date: January 22, 2016

Time: 1:30 p.m.

Dept: R-6

I, Bradley J. Herrema, declare:

1. I am an attorney duly admitted to practice before all of the courts of this State, and am a shareholder in the law firm of Brownstein Hyatt Farber Schreck, LLP, counsel of record for Chino Basin Watermaster ("Watermaster"). 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. I make this declaration in support of the above-referenced status report.

2. As legal counsel for Watermaster, I am familiar with Watermaster's practices and

1 procedures, as well as actions taken by the Pool Committees, Advisory Committee and Board.

2 3. During the present term of the nine-member Board, under the oversight of the
3 nine-member Board, Watermaster has continued to make progress on implementing the OBMP.
4 This progress includes: (i) the imminent completion of the construction and operation of 40 MGD
5 of Desalting capacity and the achievement of Hydraulic Control; (ii) the completion and
6 implementation of the 2013 Amendment to the 2010 Recharge Master Plan; (iii) continued
7 groundwater monitoring and production reporting; (iv) the review and processing of 58 water
8 transfers, representing more than 74,000 acre-feet of water; and (v) the completion and transmittal
9 of a proposed reset of the Basin's Safe Yield to the Court for its consideration.

10 4. At their November 12, 2015 meetings, the Overlying (Non-Agricultural) Pool
11 Committee and the Overlying (Agricultural) Pool Committee, and, at its November 17, 2015
12 meeting, the Appropriative Pool Committee, provided advice to the Advisory Committee
13 regarding the appointment of Watermaster following the February 20, 2015 expiration of the
14 present term of the nine-member Board.

15 5. At its November 19, 2015 meeting, the Advisory Committee approved a motion to
16 re-appoint the Watermaster Nine-Member Board for a three-year term.

17 6 At its November 19, 2015 meeting, the Watermaster Board approved a motion
18 supporting the Advisory Committee's motion requesting that the Court re-appoint the Board for a
19 further term of three years and directed legal counsel to file a motion seeking the Court's
20 approval of the same.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct. Dated this 18th day of December, 2015, at Los Angeles, CA.

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26 Bradley J. Herrema

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
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CHINO BASIN MUNICIPAL WATER
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 Plaintiff,

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Case No. RCV 51010

Assigned for All Purposes to the
Honorable Stanford E. Reichert

**[PROPOSED] ORDER RE-APPOINTING
NINE-MEMBER WATERMASTER
BOARD FOR A FURTHER THREE-YEAR
TERM**

The Court having read, reviewed, and considered all pleadings filed in support and in response, if any, including the testimony presented at the January 22, 2016 hearing, and good cause appearing therefore, Watermaster’s Motion to Re-Appoint Nine-Member Watermaster Board for a Further Three-Year Term, expiring February 10, 2019, is hereby GRANTED.

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 December 18, 2015 I served the following:

1. **MOTION TO RE-APPOINT NINE-MEMBER WATERMASTER BOARD FOR A FURTHER THREE-YEAR TERM**
2. **DECLARATION OF BRADLEY J. HERREMA IN SUPPORT OF MOTION TO RE-APPOINT NINE-MEMBER WATERMASTER BOARD FOR A FURTHER THREE-YEAR TERM**
3. **[PROPOSED] ORDER RE-APPOINTING NINE-MEMBER WATERMASTER BOARD FOR A FURTHER THREE-YEAR TERM**

/ 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 December 18, 2015 in Rancho Cucamonga, California.



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