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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO
10

11 CHINO BASIN MUNICIPAL WATER)
DISTRICT,)

12)
13 Plaintiff,)

14 v.)

15 CITY OF CHINO, et al.,)

16 Defendants.)
17)
18)
19)

CASE NUMBER: RCV 51010
[Assigned for All Purposes to Honorable
Stanford E. Reichert, Dept. S35]

**CITY OF CHINO'S RESPONSE TO
ISSUE IN SECTION II OF JUDGE
REICHERT'S REVISED PROPOSED
ORDER RE SYRA**

Date: April 28, 2017
Time: 1:30 p.m.
Dept.: S35

(FEE- EXEMPT PURSUANT TO GOVERNMENT
CODE § 6103)

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21 TO: JUDGE REICHERT, THE CHINO BASIN WATERMASTER, PARTIES TO
22 THE JUDGMENT AND PEACE AGREEMENT AND OTHER INTERESTED PARTIES.
23

24 The City of Chino submits this response to the Court's request for further briefing on
25 the issue identified in the Court's February 22, 2017 order entitled "Revised Order Re SYRA
26 and Response to Questions; Issue for Further Briefing."
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1 I.

2 INTRODUCTION

3 As a result of the partial hearing held on September 23, 2016 on the Court's "ORDERS
4 for Watermaster's Motion Regarding the 2015 Safe Yield Reset Agreement, Amendment of
5 Restated Judgment, Paragraph 6" and the requests of some Parties, the Court directed
6 Counsel for the Parties "to submit to the Court a list of questions for clarification" to the
7 Court's tentative orders on the above described Watermaster Motion.

8 During the hearing, Watermaster Counsel Scott Slater made a lengthy presentation by
9 which he implored the Court to approve the "revised schedule" by which Watermaster would
10 account for the water produced from the basin. The "revised schedule" is "Attachment 2" to
11 the Watermaster Motion entitled "Safe Yield Reset Implementation Desalter Replenishment
12 Accounting Illustration (Per Peace II Agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015
13 Key Principles)."

14 Chino City Attorney Jimmy Gutierrez indicated opposition to the *revised schedule* but
15 did not have the opportunity to present a rebuttal to the proposed *revised schedule* and its
16 purpose at the hearing. However, the Court agreed that Chino could defer its presentation
17 including its rebuttal to the *revised schedule* at the continued hearing.

18 It is in the context of Watermaster's request for an order approving the *revised*
19 *schedule* that the City of Chino proposed three questions on October 7, 2016. The questions
20 focus on the fact that Column G of the *revised schedule* propose to reduce the Parties'
21 replenishment obligation by 310,250 acre feet of basin water. The questions ask Watermaster
22 to identify the source of this water for replenishment of the desalter production. Did
23 Watermaster propose to take the water from the Safe Yield? If so, it would do what the Court
24 had ruled it could not do – that water cannot be taken from the Safe Yield to satisfy the
25 replenishment obligation.

26 In the event Watermaster answered "No" to the prior question, Watermaster was asked
27 whether it proposed to take the water from unallocated basin water (storage).

28 In short, Chino's questions were asked in the context of Watermaster's Motion that

1 requested the Court to order Watermaster to comply with the 2015 Safe Yield Reset
2 Agreement (Watermaster Motion, page 32, lines 11-14) and to order the approval of the
3 *revised schedule* (Watermaster Motion, page 32, lines 18-20).

4 Although the Court had ruled that the safe yield was not available for desalter
5 replenishment under the SYRA, Watermaster Counsel appears to have sought that same result
6 via the *revised schedule*. This then was the focus of Chino's questions.

7
8 **II.**

9 **FURTHER BRIEFING IS NOT NECESSARY**

10 The Court's "Revised Order Re SYRA and Response to Questions; Issue for Further
11 Briefing" make clear that it is denying the Watermaster Motion in its entirety. However, the
12 Court is resetting the safe yield based upon grounds independent of the SYRA.

13 The Court's order denies both the SYRA and the *revised schedule*. The Court's order
14 also makes clear that safe yield is not available for desalter replenishment.

15 Given these rulings, there is no need to brief these questions.

16 This is also true about the Agricultural Pool's question. It asks whether the reset safe
17 yield amount of 135,000 acre feet includes a hypothetical desalter induced recharge (DIR)
18 amount of 20,000 acre feet. The question is hypothetical because there is no evidence that a
19 DIR amount of 20,000 exists in any identified year. The question also ignores the substance
20 of the Court's ruling.

21 Finally, it is important to note that there is no other matter before the Court. The sole
22 matter is Watermaster's Motion seeking approval and implementation of the SYRA and the
23 *revised schedule*.

24 Although questions have been posed, they are advisory in nature given the absence of a
25 controversy properly before the Court. As the Court has observed, Watermaster or the parties
26 may file motions on specific consequences of the Court's order if they so desire.

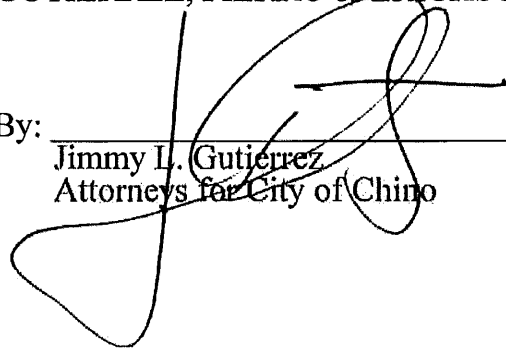
27 For these reasons, nothing remains for the Court to decide.

28 ///

1 Respectfully submitted.

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3 Dated: March 10, 2017

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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 March 10, 2017 I served the following:

1. CITY OF CHINO'S RESPONSE TO ISSUE IN SECTION II OF JUDGE REICHERT'S REVISED PROPOSED ORDER RE SYA

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 March 10, 2017 in Rancho Cucamonga, California.



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