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

10 CHINO BASIN MUNICIPAL WATER)
11 DISTRICT)
12) Plaintiff,
13 vs.)
14 CITY OF CHINO, et al.,)
15) Defendants.
16)
17)
18)

Case No. RCV 51010
Assigned For All Purposes to:
Hon. Stanford E. Reichert
**COURT AUTHORIZED FURTHER
BRIEFING RE REVISED
TENTATIVE ORDER RE
WATERMASTER'S MOTION RE
2015 SAFE YIELD RESET
AGREEMENT**
Hearing on Motion:
Date: April 28, 2017
Time: 1:30 p.m.
Department: S35

19 I.

20 INTRODUCTION

21 The following court-authorized further briefing is submitted on behalf of the following
22 members of the Appropriative Pool (collectively referred to as "Responding AP Members"):

- 23 1. Monte Vista Water District;
- 24 2. Cucamonga Valley Water District;
- 25 3. City of Pomona; and

1 Ana River, which includes 20,000 AFY of Desalter-induced New Yield. [2013 Chino Basin
2 Groundwater Model Update and Recalculation of Safe Yield, Sections 7.3.1.1, Table 7-6,
3 7.1.3.3, 7.2.4.1, and 7.2.5, Table 7-8 and Figure 7.2, attached as Exhibit “1” to Wildermuth
4 Dec. in Support of Watermaster’s Motion re SYRA.] In other words, the technical data, which
5 the Court has accepted, includes Desalter induced “New Yield” as a component of the 135,000
6 AFY Safe Yield.
7

8 III.

9 THE INCLUSION OF THE DESALTER-INDUCED RECHARGE IN SAFE YIELD
10 IS INCONSISTENT WITH THE COURT’S PROPOSED ORDER

11 The Court’s Revised Proposed Order clearly states: **(i) 20,000 AFY of “Desalter-**
12 **induced recharge is New Yield; (ii) Peace II , 7.1 prevents Safe Yield recalculation to**
13 **incorporate New Yield (from the Desalters); (iii) Therefore, Desalter-induced recharge**
14 **has no relationship to Safe Yield, at least for the term of the Peace agreements.”** [Ct.
15

16 Order at p. 9 of 10, ll. 10-15; p.55, ll. 22-25; p.56, ll. 8-9; p.59, ll. 10-11; and p.59, ll. 17-19.]

17 The Court further explains that including the 20,000 AFY of Desalter-induced New Yield in
18 Safe Yield, as was done in WEI’s technical analysis, is inconsistent with Peace II, Section 7.1.

19 [See Ct. Order at pp. 55-56.] Thus, the only conclusion that the Court can reach, consistent
20 with the Revised Proposed Order, is that Safe Yield should be reset to 115,000 AFY.
21

22 IV.

23 THE 135,000 AFY SAFE YIELD RESET AUTHORIZES A 20,000 AFY UNCONTROLLED
24 OVERDRAFT OF THE BASIN

25 The effect of setting Safe Yield is that the Court will authorize production from the
26 basin at 155,000 AFY [135,000 recalculated Safe Yield + 20,000 AFY of Desalter-induced
27 New Yield.] Under Peace II, Section 7.1, Desalter-induced New Yield is dedicated to partially
28

1 offset Desalter Replenishment obligations. The Judgment and CAMA, however, allow for
2 production of only 135,000 AFY [115,000 recalculated Safe Yield + 20,000 AFY of Desalter-
3 induced New Yield.] The technical reports show that the Basin can safely sustain only 135,000
4 AFY, not 155,000 AFY. This conclusion is supported by the Judgment's definition of Safe
5 Yield, which excludes replenishment [Restated Judgment, sec. 4(x) at p. 4.], and the Desalter-
6 induced recharge is Replenishment Water for the Desalters. [Peace II, Art. VI and sec. 7.1;
7 Proposed Judgment at pp. 7-9.]

9 V.

10 THE COURT SHOULD RESET SAFE YIELD AT 115,000 AFY

11 Consistent with the Court's proposed rulings on how Desalter-induced New Yield
12 relates to Safe Yield, including both Peace II, Section 7.1 and the remainder of the Court's
13 proposed order, the Court should reset Safe Yield at 115,000 AFY for the term of the Peace
14 agreements or until the next reset, whichever occurs first. This way, the Court will avoid
15 uncontrolled overdraft, accept the technical data, and enforce the Judgment and CAMA.

17 VI.

18 THE PHYSICAL CONSEQUENCES AND PRACTICAL EFFECTS OF THE COURT'S
19 PROPOSED RULINGS ARE APPROPRIATE FOR COURT REFERENCE TO A
20 SPECIAL REFEREE

21 As suggested in the Court's Revised Proposed Order [Ct. Order at p.3 of 10, ll. 20-25;
22 p.4 of 10, ll. 18-23; p.5 of 10, ll. 4-7.], the Responding AP Members request that the Court
23 appoint a special referee pursuant to Code of Civil Procedure §639. The "law of the case"
24 under the Court's continuing jurisdiction, consisting, *inter alia*, of the Judgment, the CAMA,
25 and the post- Judgment Orders, is complex and affects the public interest, the rights of the
26 parties, and their investment-backed expectations. The Physical Solution under the Judgment
27
28

1 requires maximum flexibility and adaptability so Watermaster and the Court may use existing
2 and future technological, social, institutional and economic options to maximize the beneficial
3 use of the Basin. [Restated Judgment, sec. 40 at p. 19.] Responding AP Members believe it is
4 appropriate, and respectfully request, that a special referee be appointed to assist the Court,
5 Watermaster, and the parties in the determination of facts and application of the “law of the
6 case” in this matter.
7

8 Dated: March 10, 2017

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9
10 By: 

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14 MONTE VISTA WATER DISTRICT
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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. COURT AUTHORIZED FURTHER BRIEFING RE REVISED TENTATIVE ORDER RE WATERMASTER'S MOTION RE 2015 SAFE YIELD RESET AGREEMENT

/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

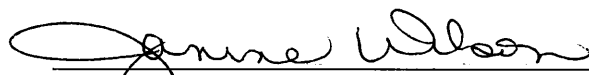
/___/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/___/ 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 March 10, 2017 in Rancho Cucamonga, California.


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Chino Basin Watermaster

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