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6
7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF SAN BERNARDINO

9 CHINO BASIN MUNICIPAL WATER DISTRICT,
10 Plaintiff

11 v.

12 CITY OF CHINO, et al.,
13 Defendants

CASE NO. RCV 51010

Assigned for all purposes to the
Honorable Stanford E. Reichert

**JURUPA COMMUNITY SERVICES
DISTRICT'S LIMITED REPLY TO
CITY OF CHINO'S RESPONSE TO
CHINO BASIN WATERMASTER'S
RESPONSE TO FEBRUARY 22, 2017
ORDER, DATED MARCH 24, 2017**

DATE: April 28, 2017
TIME: 1:30 p.m.
DEPT.: S35

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18 The Jurupa Community Services District (JCSD) believes that the positions of the Parties
19 and Watermaster on the narrow question before the court have been fully addressed in prior
20 briefings on the Court's February 22, 2017 Order. JCSD will not restate its positions here.
21 JCSD provides this limited Reply to a single issue raised in the *City of Chino's Response to*
22 *Chino Basin Watermaster's Response to February 22, 2017 Order*, dated March 24, 2017 (Chino
23 Response). Specifically, the Chino Response raises the concern that Watermaster's current
24 interpretation of the relationship between Desalter-Induced Recharge and Safe Yield will harm
25 Conversion Claim rights under the Judgment, Exhibit H, Paragraph 10. While JCSD certainly
26 shares Chino's concern that Conversion Claim rights not be negatively impacted by
27 Watermaster's implementation of the Court's February 22, 2017 Tentative Order (Tentative
28 Order), JCSD believes that the Court's Tentative Order is abundantly clear about how

1 Watermaster must reallocate unproduced Agricultural Pool water under the Judgment and Court
2 Approved Management Agreements (CAMAs), and on that basis does not believe that
3 Conversion Claims will be negatively impacted by Watermaster accounting for Desalter Induced
4 Recharge in the future.

5 The reason Conversion Claims will not (and cannot) be impacted by Watermaster's
6 proposed Desalter Induced Recharge accounting is simple: the Court expressly rejected as
7 inconsistent with Judgment the same concept when it was proposed Paragraph 5.2(b) of the Safe
8 Yield Reset Agreement (SYRA). Paragraph 5.2(b) proposed to allocate unproduced Ag Pool
9 water to backfill Desalter Induced Recharge and the water allocated to the Desalters under the
10 CAMAs, which the Court rejected. (Tentative Order, p. 51, ll. 9-17; p. 55, ll. 3-5; p. 55, ll. 11-
11 14.) The Tentative Order states very clearly and consistently that Desalter Induced Recharge
12 cannot, consistent with the Judgment, Exhibit H, paragraph 10, be backfilled with unproduced
13 Agricultural Pool water. (Tentative Order, p. 56, ll. 13-25.) "There is no basis in the Judgment
14 or any of the Court Approved Management Agreements to reallocate Ag Pool water to Safe
15 Yield to make up for the Safe Yield reallocated to the Desalters." (Tentative Order, p. 57, ll. 5-7,
16 emphasis added; see also, p. 57, ll. 25-28: "The court concludes and finds that this attempt [to
17 source half of the Desalter production from the Appropriative Pool through unproduced Ag Pool
18 water] is not justified because it can interfere with the priority of claims on unproduced Ag Pool
19 water set forth in the judgment and Court-Approved Management Agreements.")

20 JCSD believes that the concern raised in the Chino Response, at page 5, is premised on
21 the possibility that Watermaster might ignore these clear statements in Court's Tentative Order
22 regarding accounting for Desalter Induced Recharge. While Chino's anxiety about how
23 Watermaster will implement the Tentative Order is understandable, given the manner in which
24 the SYRA was "approved" and presented to the Court, Watermaster has now accepted in its
25 recent filings that it must faithfully and transparently comply with the Judgment and CAMAs as
26 directed by the Court's Tentative Order. In particular, footnote 5 of Watermaster's March 10th
27 Response explains how Watermaster will allocate any unproduced remainder of the 82,800 acre
28 feet of Agricultural Pool water as directed in the Tentative Order: "Any unproduced Agricultural

1 Pool water will be apportioned to members of the Appropriative Pool to supplement the decline
2 in Safe Yield, to satisfy Land Use Conversion Claims, and to satisfy Early Transfer claims,
3 consistent with paragraph 10 of Exhibit "H" to the Restated Judgment, and the Court's Proposed
4 Order." (Watermaster March 10, 2017 *Response to February 22, 2017 Order*, p. 5, fn. 5.) JCSD
5 interprets Watermaster to say that the 82,800 AFY allocation fixed under the Judgment to the Ag
6 Pool will be allocated as follows:¹

7	Ag Pool Allocation:	82,800 AFY
8	Ag Pool Production:	-27,800 AFY (estimated Ag production)
9	Unproduced Ag Water	55,000 AFY (volume to be reallocated per Ex. H, ¶ 10)
10	OSY Decline Supplement	-5,000 AFY (to Appropriative Pool to compensate for reduction in SY)
11	Land Use Conversion Claims	<u>-26,800 AFY</u> (estimated volume allocated to conversion claims)
12		
13	Early Transfer/OSY	23,200 AFY (volume transferred to supplement OSY, without regard to SY reductions)
14		

15 Both the Tentative Order and recent Watermaster briefing therefore confirm that Desalter
16 Induced Recharge allocated to the Desalters will not be backfilled from unproduced Ag Pool
17 water allocated under Exhibit H, Paragraph 10 of the Judgment. For this reason JCSD does not
18 share Chino's concern that Watermaster's proposed accounting for Desalter Induced Recharge
19 will harm Conversion Claims or upset the priorities to unproduced Ag Pool water specified in
20 Exhibit H, Paragraph 10 of the Judgment.

21 Dated: April 7, 2017

Respectfully submitted,

22 ELLISON SCHNEIDER HARRIS & DONLAN LLP

23 By Robert E. Donlan

24 Robert E. Donlan
25 Attorneys for Defendant
26 Jurupa Community Services District

27 _____
28 ¹ The volumes in this table are approximations from recent assessment documents, and are used for illustrative purposes only.

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 7, 2017 I served the following:

1. JURUPA COMMUNITY SERVICES DISTRICT'S LIMITED REPLY TO CITY OF CHINO'S RESPONSE TO CHINO BASIN WATERMASTER'S RESPONSE TO FEBRUARY 22, 2017 ORDER, DATED MARCH 24, 2017

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

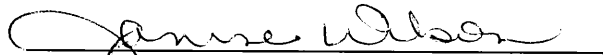
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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 April 7, 2017 in Rancho Cucamonga, California.



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