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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

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14 CHINO BASIN MUNICIPAL WATER  
15 DISTRICT,

15 Plaintiff,

16 vs.

17 CITY OF CHINO, ET AL.,

18 Defendants.

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Case No: RCV 51010

*Assigned for All Purposes to:  
Honorable Stanford E. Reichert*

**REQUEST BY CHINO BASIN  
DESALTER AUTHORITY MEMBER  
AGENCIES REGARDING DESALTER  
PUMPING**

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

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1 The Parties to this Request are the City of Chino, City of Chino Hills, City of Ontario,  
2 Inland Empire Utilities Agency (“IEUA”), Jurupa Community Services District, Santa Ana River  
3 Water Company, and Western Municipal Water District (collectively, the “Member Agencies”).  
4 Each of the Member Agencies is a party to the Restated Judgment herein and a member agency of  
5 the Chino Basin Desalter Authority (the “CDA”).<sup>1</sup>

6 The Member Agencies hereby respectfully request that the Court reconsider its Revised  
7 Proposed Order Re SYRA and Final Rulings and Order for Oral Argument, filed April 18, 2017  
8 (“Revised Proposed Order”) to the extent it could be interpreted to impose a 20,000 acre-foot  
9 (“AF”) cap on desalter production,<sup>2</sup> and that the Court delete references to a cap on desalter  
10 production from the Revised Proposed Order.

11 Alternatively, if the Court is inclined to issue an order with a cap on desalter production,  
12 further briefing is required to present facts that may not be apparent to the Court and all the  
13 parties to the Judgment, including the following:

- 14 1. The member agencies of the CDA, through their membership in the CDA, own,  
15 manage and operate the facilities that comprise the Chino Desalter No. 1 and Chino Desalter No.  
16 2 (collectively, the “Desalters”) which produce drinking water and remove highly saline waste  
17 from the Chino Basin water shed.
- 18 2. Desalter production at 40,000 AF/year is required under the Optimum Basin  
19 Management Program (“OBMP”), which has been approved by order of this Court.
- 20 3. Under Section 42 of the Restated Judgment, the member agencies are entitled to  
21 produce 40,000 AF/year of desalted groundwater from the Chino Basin through the CDA to meet  
22 the requirements of the OBMP and their water needs. Section 42 includes an obligation of the

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25 <sup>1</sup> IEUA is an ex-officio member. As an ex-officio member, IEUA does not have an ownership  
interest in the desalters.

26 <sup>2</sup> See Final Rulings and Orders at page 2 of 2, lines 9-11; Redline version at page 2 of 84, lines 5-  
27 6, and page 75 of 84, lines 7-8; Clean version at page 2 of 75, lines 5-6, and page 66 of 75, lines  
28 18-19.

1 certain of the parties to the Restated Judgment to pay assessments to the Chino Basin  
2 Watermaster (“Watermaster”) to replenish this production as required.

3 4. As required by the Judgment, replenishment of desalter production is fully  
4 provided for by the Peace Agreements and the OBMP, including the hierarchy for certain parties  
5 to provide replenishment water established by paragraph 7.5 of the Peace Agreement and  
6 paragraphs 6.1 and 6.2 of Peace 2.

7 5. The member agencies of the CDA, through their membership in the CDA, have  
8 contributed millions of dollars in the development of desalters to provide groundwater treatment  
9 and other benefits to the region, including total capital costs in excess of \$300 million, and have  
10 obtained about \$76 million in grant funding and commitments from federal, state, and regional  
11 government agencies.

12 6. The viability of the financing for these Desalters, including outstanding bonds in  
13 the total amount of about \$76 million, depends upon their ongoing production of water at 40,000  
14 AF/year.

15 7. Desalter production on an ongoing basis is essential to meet the requirements of  
16 the Regional Water Quality Control Board (“RWQCB’s”) Water Quality Control Plan (“Plan”)  
17 for the Santa Ana River Basin as well as the goals of the OBMP.

18 a. In 2004, RWQCB amended its Plan for the Santa Ana River Basin, thereby  
19 adopting the “maximum benefit” concept of groundwater quality management, and accordingly  
20 raising the TDS and nitrate-nitrogen objectives for Chino Basin groundwater.<sup>3</sup>

21 b. The “maximum benefit” concept and the higher limits for TDS and  
22 nitrogen-nitrate are essential to allow for wastewater reuse (recycled water) within the Chino  
23 Basin, because recycled water tends to increase salt concentrations in groundwater, and the Chino  
24 Basin already suffers from a long-term accumulation of salts that degrade groundwater quality.

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26 <sup>3</sup> “Maximum benefit” is a water quality management approach that supports maximum beneficial  
27 uses of water resources, and it serves as an alternative to the more restrictive “antidegradation”  
28 policy that seeks to limit water pollution to no more than historic ambient levels.

1 c. RWQCB's Plan identifies projects and requirements (the maximum benefit  
2 commitments) that must be implemented in order to demonstrate that water quality consistent  
3 with "maximum benefit" will be maintained. Watermaster and IEUA are obligated to implement  
4 nine specific maximum benefit commitments identified in the Plan.

5 d. The maximum benefit commitments include expansion of the production  
6 capacity of the Desalters to support pumping 40,000 AF/year.

7 e. The maximum benefit commitments also include achievement and  
8 maintenance of hydraulic control to protect the water quality of the lower Santa Ana River and the  
9 Orange County Groundwater Management Zone. Desalter production of 40,000 AF/year  
10 provides for hydraulic control.

11 f. In 2010, Watermaster and IEUA agreed to pay a fine to RWQCB to settle  
12 alleged violations of the Plan, including failure to maintain hydraulic control, and failure to  
13 proceed fast enough with the scheduled expansion of the Desalter production capacity to support  
14 pumping 40,000 AF/year.

15 For the reasons set forth herein, the Member Agencies respectfully request that the Court  
16 reconsider its Revised Proposed Order to the extent it would impose a cap on desalter production,  
17 and that the Court delete references to a cap on desalter production from the Revised Proposed  
18 Order.

19 Alternatively, the Member Agencies respectfully request that the Court allow further  
20 briefing on the single issue of the proposed cap on desalter production before finalizing any Order  
21 that imposes such a cap, because this specific element of the Revised Proposed Order was not  
22 anticipated by the parties to the Judgement and has not been briefed.

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[SIGNATURES ON FOLLOWING PAGES]

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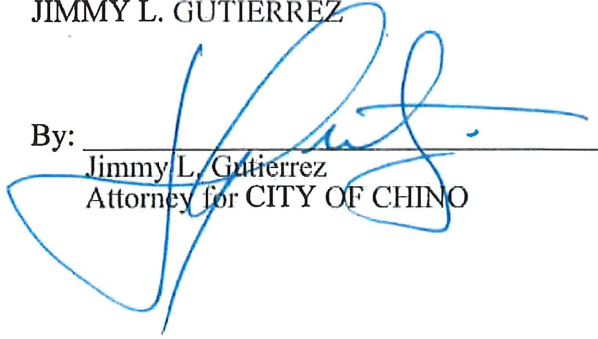
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Dated: April 27, 2017

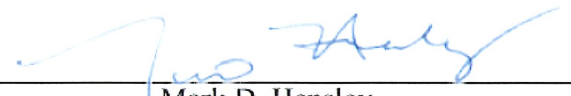
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Dated: April 26, 2017

CITY OF CHINO HILLS


By:   
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Its: City Attorney



1 Dated: April 27, 2017

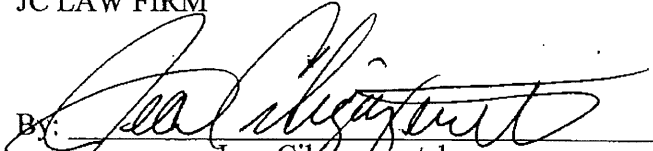
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SIGNATURES TO REQUEST BY CHINO BASIN DESALTER AUTHORITY MEMBER AGENCIES  
REGARDING DESALTER PUMPING

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Dated: April 27, 2017

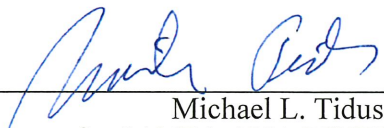
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Dated: April 27, 2017

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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 27, 2017 I served the following:

1. REQUEST BY CHINO BASIN DESALTER AUTHORITY MEMBER AGENCIES REGARDING DESALTER PUMPING

/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 April 27, 2017 in Rancho Cucamonga, California.



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