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8	SUPERIOR COURT OF THE STATE OF CALIFORNIA				
9	FOR THE COUNTY OF SAN BERNARDINO				
10					
12	CHINO BASIN MUNICIPAL WATER DISTRICT,	Case No.	RCV RS51010		
13	Plaintiff,	[Assigned Stanford]	I for All Purposes to the Honorable E. Reichert]		
14	V.	NOTICE HEARIN	OF ORDERS FOLLOWING		
15	CITY OF CHINO, et al.,	Date:	February 20, 2019		
16	Defendant.	Time: Dept.:	1:30 p.m. S35		
17					
18	TO ALL PARTIES AND THEIR A	ATTORNEYS	S OF RECORD:		
19	PLEASE TAKE NOTICE that on February 20, 2019, at 1:30 p.m. in Department S35 of				
20	the Superior Court of California for the County of San Bernardino, Monte Vista Water District's				
21	Ex Parte Application for an Order to: (A) Take Watermaster's Motion Off Calendar; or, in the				
22	Alternative, (B) Stay the Briefing Schedule and Hearing on the Appeal Parties' Motion ("MVWD				
23	Application") came on for hearing before the Honorable Stanford E. Reichert. The Court issues				
24	the Ruling on Ex Parte Application of Monte Vista Water District attached hereto as Exhibit A.				
25	Counsel appeared as shown in the minutes of the hearing.				
2627	The Court set the following briefing schedule on the October 4, 2018 Motion Regarding				
28	Amendment of Pooling Plan for the Non-Ag	ricultural Pool	, Attached to the Judgment as Exhibit		
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G, as follows:

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SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT

FEB 2 0 2019

MELISSA WHITE, DEPLITY

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

CHINO BASIN MUNICIPAL WATER)
DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, et al.,

Defendants

CASE NO. RCV 51010

RULING ON EX PARTE APPLICATION OF ' MONTE VISTA WATER DISTRICT

Date: February 20, 2019

Time: 1:30 PM Department: S 35

DOCUMENTS REVIEWED

- 1. Filed January 31, 2019, Monte Vista Water District (MVWD) ex parte application to: (A) take Watermaster's motion off calendar; or in the alternative (B) stay the briefing schedule and hearing on appeal parties motion.
- 2. Filed January 31, 2019, Watermaster's opposition to MVWD's ex parte application for an order to (A) take Watermaster's motion off calendar; or, in the alternative, stay the briefing schedule and hearing on the appeal parties' motion.
- 3. Filed February 1, 2019, notice of lodging of court of appeal order dated December 21, 2018 in case #E068640.
- 4. Filed February 1, 2019, Overlying (Agricultural) Pool (AgPool)'s opposition to MVWD' ex parte application for an order to take Watermaster's motion off calendar,

or, in the alternative, stay the briefing schedule and hearing on appeal parties motion.

- 5. Filed February 7, 2019, MVWD's reply to AgPool's opposition to MVWD's exparte application.
- 6. Filed February 7, 2019, response of City of Pomona, Jurupa Community Services District, and Cucamonga Valley Water District ("settling parties") to ex parte application.

RULING

For the following reasons the court denies the ex parte application of Monte Vista Water District (MVWD) to take Watermaster's motion off calendar, or in the alternative, stay the briefing schedule and hearing on the appeal parties motion.

- 1. The ex parte application is contrary to the stipulation underlying the remand.
- a. Attached as Exhibit A to the AgPool's opposition, filed February 1, 2019, is the joint stipulation and application for limite d remand to the Superior Court. On page 5, the following recital is set forth: "whereas, review of the 2018 Amendments by the Trial Court would allow for the parties to the Judgment that are not parties to this appeal to participate in the process of amending the Judgment and CAMA."
- b. Exhibit A contains the agreement that "1. The Parties will and hereby do respectfully request that this court remand this case to the Trial Court for the limited purpose of considering a motion to approve the 2018 Amendments. 2. The Parties will and hereby do respectfully request that this court continue the stay of this appeal pending resolution of the motion to approve the 2018 Amendments."
- c. To interpret the stipulation agreement with respect to "a motion" or "the motion" to allow only for one motion by Cucamonga Valley Water District is to misinterpret the purpose of the stipulation and remand.
 - d. The recital in the agreement clarifies that the purpose of the remand is for all

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the parties to the judgment to participate in the process of amending the Judgment and CAMA.

- e. To define "parties" in the remand order to mean only the Appeal Parties is to take the word "parties" out of the context of the stipulation. Such a definition would defeat the meaning of the recital. Such a definition is too narrow a reading of the remand order.
- f. Watermaster is not only a party to the judgment but also a administrative arm of the court with respect to its enforcement, and an important source of information for this court to evaluate the settlement, i.e., the 2018 Proposed Changes.
 - 1) To state the obvious, and was contemplated in the recital, the 2018 Amendments affect all the parties to the judgment and due process requires all parties have an opportunity to be heard.
 - 2) To deny Watermaster, or any other party, an opportunity to advise the court with respect to the effect of the 2018 Amendments would be completely contrary to due process.
 - 3) The court finds that MVWD is judicially estopped from asserting other parties' lack standing to brief this court on the settlement pursuant to the remand.
 - There is nothing in the remand order that prohibits Watermaster's motion.
- h. The court finds no prejudice to MVWD in the filing of Watermaster's motion. The motion is consistent with the stipulation and the remand.
- 2. Code of Civil Procedure §916 does not apply to Watermaster's motion for the following reasons:
 - a. The stipulation itself provides that other parties may be involved.
- b. MVWD's ex parte application misinterprets the order of the Court of Appeal and any ruling this court might have made.
 - c. This ex parte application has nothing to do with any of the court's previous

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orders with respect to the AgPool's petition.

- d. This court cannot sever its subject matter jurisdiction to address and approve a settlement that involves only a part of its April 28, 2017 order. This court concludes that to do so would be contrary to the Court of Appeal's remand order.
- 3. The court accepts Watermaster's argument that the vehicle appellants chose to dispose of their appeal is not an agreement inter-se. Instead they chose a global resolution of matters requiring amendment of the restated judgment, existing agreements, and prior court approvals all of which affect the rights of all parties to the restated judgment." (Page 1, lines 12-15.)
- a. The court's consideration of amendments to the restated judgment may be undertaken pursuant only to a noticed motion. (Restated judgment, \P 15.) The amendment of the provisions of Peace I agreement is subject to the unanimous agreement of the parties thereto (Peace I agreement \S 10.14), and the re-operation schedule may only be amended through approval of Watermaster (Peace II agreement, \S 7.2(C)(ii).) (Page 4, line 27 to page 5, line 2.)
- b. The Watermaster motion contains the 2018 amendments as well as proposed amendments to the non-agricultural pooling plan and requests the court to instruct Watermaster to implement the safe yield reset and new reset methodology of the safe yield reset order all of which are matters contained in the judgment. (Page 5, lines 3-7.)
- 4. Watermaster's motion is not in violation of the Court of Appeals November 6, 2018 remand order or December 28, ex parte order.
- a. The irreparable harm must be something outside of the denial of the motion itself, but it is the denial of the motion which the MVWD claims as irreparable harm. (Page iii lines 19-26.)
 - b. If there is a requirement about advising the Court of Appeal about the court

denying this application, it was not set forth in any order this court saw.

- 1) On the contrary, the ex parte application violates the basis of the Court of Appeal remand as set forth herein.
- c. This court's December 28, 2018 order dealt strictly with the motion by the parties on appeal. It does not prohibit any other motions from being filed.
 - d. There is no good cause to take Watermaster's motion off calendar.
- e. MVWD has s failed to submit an affirmative showing of irreparable harm, immediate danger, or any other statutory basis for granting relief.

Dated: February 20, 2019

Stanford E. Reichert, Judge

CHINO BASIN WATERMASTER

Case No. RCVRS 51010

Chino Basin Municipal Water District v. City of Chino, et al.

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 February 20, 2019 served the following:

	1. NOTICE OF ORDERS FOLLOWING HEARING	
/ <u>X</u> /	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	ı
//	BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addresse	∋е.
<i></i> /	BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the number(s) indicated. The transmission was reported as complete on the transmission report which was properly issued by the transmitting fax machine.	
<u>/ X _</u> /	BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by elect transmission to the email address indicated. The transmission was reported as complete or 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 February 20, 2019 in Rancho Cucamonga, California.

Chino Basin Watermaster

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