

Case No. E068640

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff and Respondent,

v.

CITY OF CHINO et al.,

Defendant and Respondent,

CUCAMONGA VALLEY WATER DISTRICT, et al.,

Defendants and Appellants.

Superior Court of California, County of San Bernardino
Honorable Stanford E. Reichert, Dept. S35 (Case No. RCVRS51010)

**APPLICATION TO STAY SUPERIOR COURT PROCEEDING
REGARDING MOTION FILED BY CHINO BASIN
WATERMASTER**

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION AND BACKGROUND

A. Introduction.

This Application to Stay Superior Court Proceeding Regarding a Motion Filed by the Chino Basin Watermaster (“Application”) is filed by Appellant Monte Vista Water District (“Monte Vista”) pursuant to both Section 916(a) of the Code of Civil Procedure (“Section 916”) and this Court’s Order dated November 6, 2018 (“Limited Remand Order”), attached hereto as **Exhibit “A”**. This Application seeks Court clarification regarding superior court proceeding, ostensibly undertaken under authority of the Limited Remand Order, regarding the Chino Basin Watermaster’s Motion Regarding Amendments to Restated Judgment, Peace Agreement, Peace II Agreement, and Re-Operation Schedule (“Watermaster Motion”; the Notice of Motion and Motion, without the attached declarations and exhibits, are attached as **Exhibit “B”**).

Monte Vista requests this Court to clarify whether the superior court’s proceeding regarding the Watermaster Motion is outside the scope of this Court’s Limited Remand Order. Watermaster is neither a party to the underlying Judgment nor the appeal.

If this Court determines that the superior court’s proceeding on the Watermaster Motion is outside the scope of its Limited Remand Order, Monte Vista requests this Court to direct the superior court to stay such proceeding while the superior court’s 2017 Order is on appeal in

accordance with Section 916. Time is of the essence since the superior court has ordered a briefing schedule and hearing on Watermaster's Motion for **March 15, 2019**, and will proceed unless this Court tells it to "stop". (See Ct. Transcript, Exh. C, at 37:1-17; a certified transcript from the hearing on Monte Vista's ex parte application is Attached as **Exhibit "C"**.)

B. Procedural Background.

On April 28, 2017, the superior court issued an order regarding a Watermaster Motion to Approve the Safe Yield Reset Agreement ("2017 Order"). The 2017 Order is the subject of this appeal. On or about June 27, 2017, Monte Vista and Appellants, Cucamonga Valley Water District and the City of Pomona (collectively referred to as "Appellants"), timely filed their Notices of Appeal as to the 2017 Order. Appellants and Respondents¹ are collectively referred to as "Appeal Parties".

On January 3, 2018, this Court issued an order to stay the appeal to allow the Appeal Parties to conduct settlement negotiations. On July 16, 2018, the Appeal Parties filed with this Court a Joint Stipulation and Application for Limited Remand to the Superior Court, which is attached as **Exhibit "D"**. On November 6, 2018, this Court granted the Appeal Parties application and issued the Limited Remand Order (Exhibit "A").

On December 5, 2018, the superior court granted an ex parte application filed by the Appeal Parties' and ordered the Appeal Parties to file their Motion to Approve Amendments to Appropriative Pool Pooling Plan and Court-Approved Management Agreements ("Appeal Parties'")

¹ Respondents are the City of Ontario, City of Chino, and Jurupa Community Services District.

Motion”) by January 15, 2019 and scheduled the hearing on the Appeal Parties Motion for March 15, 2019. On December 21, 2018, this Court issued an order, attached hereto as **Exhibit “E”**, in which it, *inter alia*, acknowledged the superior court’s orders as to the Appeal Parties Motion.

On January 15, 2019, the Appeal Parties’ filed their Motion. Watermaster also filed the Watermaster Motion. Monte Vista contends the Watermaster Motion is extrajudicial, i.e. outside the scope of the Court’s Limited Remand Order.

II.

ARGUMENT

A. The Scope of the Superior Court Jurisdiction to Consider Any Matter Embraced in or Affected by the 2017 Order is Established by the Limited Remand Order.

Analysis of the scope of the Limited Remand Order must start with Section 916, which mandates: “the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from” (Code Civ. Proc. § 916(a).) Specifically, once Appellants filed their Notices of Appeal as to the 2017 Order, the superior court was divested of its jurisdiction as to the 2017 Order and “the matters embraced therein or affected thereby, including enforcement of the judgment or order” (Id.)

The superior court is reinvested with jurisdiction to conduct proceedings on matters embraced in or affected by the 2017 Order if, and only if, either the appeal is dismissed or this Court remands the case to the

superior court. The appeal has not been dismissed so the scope of the superior court jurisdiction to consider any matter embraced in or affected by the 2017 Order is established by the Limited Remand Order.

The Limited Remand Order plainly states: Pursuant to the Appeal Parties' joint stipulation and while the appeal is still pending, Superior Court Case No. RCVRS51010 is temporarily remanded to the superior court "*for the limited purpose of, and for the limited time necessary for, the consideration and decision of the [appeal] parties' motion to approve the '2018 Amendments'* to the 'Restated Judgment' and 'Court Approved Management Agreements,' to which amendments the parties have agreed as a result of the settlement negotiations ongoing since the filing of the notice of appeal." (Limited Remand Order at ¶ 2; emphasis added; citation omitted.)

B. The Superior Court Proceeding Regarding the Extrajudicial Watermaster Motion Must Be Stayed While the 2017 Order is on Appeal.

In spite of the limited scope of the limited remand, Watermaster filed a Motion. Among other relief, the Watermaster Motion moves the superior court to enforce three particular pages (pages 15-18) within the 2017 Order.

In response to the Watermaster Motion, particularly Watermaster's request for the superior court to enforce those three pages, Monte Vista filed an ex parte application asking the superior court to take Watermaster's Motion off calendar in accordance with both Section 916 and this Court's Limited Remand Order; or in the alternative, to stay the proceedings in

order to give Monte Vista time to request clarification from this Court regarding the scope of its Limited Remand Order and whether the Watermaster Motion is outside that scope.

On February 20, 2019, the superior court denied Monte Vista's application in its entirety, which is the impetus for this Application. (Attached as **Exhibit "F"** is the notice of orders and the superior court's final ruling on Monte Vista's ex parte application.) The superior court reasoned, among other reasons, that since it cannot "sever" enforcement of the three pages from Watermaster's Motion, it has subject matter jurisdiction to address and decide *all* issues in Watermaster's Motion. (Ct. Transcript, Exh. C, at 18:5 – 20:3.)

Monte Vista agrees with the superior court that Watermaster's request for the superior court to enforce three pages of an order on appeal (i.e. the 2017 Order) cannot be severed from the Watermaster Motion. However, Monte Vista reached a different conclusion, which is Watermaster's request is the poisonous pill that kills the Watermaster Motion in its entirety. If this Court finds that the superior court proceeding to enforce these three pages embedded and not severable from the Watermaster Motion is outside the scope of the Limited Remand Order, then the proceeding on the Watermaster Motion is stayed while the 2017 Order is on appeal.

III.

CONCLUSION

For the foregoing reasons, Appellant Monte Vista Water District respectfully requests this Court to grant the Application by finding the superior court's proceeding regarding the Watermaster Motion is outside the scope of this Court's Limited Remand Order. If this Court makes those findings, Monte Vista requests this Court to direct the superior court to stay the proceedings regarding the Watermaster Motion while the superior court's 2017 Order is on appeal.

Dated: February 27, 2019

KIDMAN GAGEN LAW LLP

By: /s/ Andrew B. Gagen

ARTHUR G. KIDMAN
ANDREW B. GAGEN
Attorneys for Appellant
Monte Vista Water District

[PROPOSED] ORDER FOR STAY OF SUPERIOR COURT
PROCEEDING REGARDING THE WATERMASTER MOTION

Appellant Monte Vista Water District having filed a the Application to Stay Superior Court Proceeding Regarding the Watermaster Motion, Memorandum of Points and Authorities in support thereof and the Court having been afforded the opportunity to review the merits of the Application, it is determined that the Application is granted.

It is ORDERED that:

1. The superior court's proceeding regarding the Motion filed by the Chino Basin Watermaster on January 15, 2019, is outside the scope of this Court's Limited Remand Order issued on November 6, 2018.
2. In accordance with Section 916(a) of the Code of Civil Procedure, the superior court is directed to stay the proceedings regarding the Watermaster Motion while the superior court's 2017 Order is on appeal.

Dated: _____

PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is 2030 Main Street, Suite 1300, Irvine, California 992614. On February 27, 2019 I served the following document(s):

APPLICATION TO STAY SUPERIOR COURT PROCEEDING REGARDING MOTION FILED BY CHINO BASIN WATERMASTER

- By Notice of Electronic Filing.** I certify that the participants, as indicated below, are registered TrueFiling EFS users and that service will be accomplished by the appellate EFS system.

- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
 - Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 27, 2019 at Irvine, California.

/s/ Susan Palmer

Susan Palmer

EXHIBIT A

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff,	E068640
v.	
CITY OF CHINO et al., Defendants, Objectors and Respondents;	(Super. Ct. No. RCVRS51010)
CUCAMONGA VALLEY WATER DISTRICT et al., <u>Defendants, Movants and Appellants.</u>	The County of San Bernardino

THE COURT

On the court's own motion, the appeal is ACCEPTED for this court's settlement conference program, and all other proceedings in the appeal are STAYED pending further order of the court, extending the stay ordered January 3, 2018. (Ct. App., Fourth Dist., Local Rules of Ct., rule 4(c)(3).)

Pursuant to the parties' Joint Stipulation and Application for Limited Remand to the Superior Court" (capitalization changed) filed July 16, 2018, (Joint Stipulation) and while the appeal is still pending in this court, Superior Court Case No. RCVRS51010 is TEMPORARILY REMANDED to the superior court for the limited purpose of, and for the limited time necessary for, the consideration and decision of the parties' motion to approve the "2018 Amendments" to the "Restated Judgment" and "Court Approved Management Agreements," to which amendments the parties have agreed as a result of the settlement negotiations ongoing since the filing of the notice of appeal. (Joint Stip., pp. 2-5.)

The superior court is DIRECTED to decide the parties' motion as soon as possible by a written order signed by the judge. Appellants are DIRECTED to serve and file with this court's settlement conference administrator a letter on or before 30 days after the date of this order informing this court of the superior court's progress in deciding the motion.

Upon the filing of the signed order, the superior court clerk is DIRECTED to transmit to this court's settlement conference administrator a file-stamped copy of the order. To effectuate the Joint Stipulation within a reasonable time: if the superior court grants the motion, appellants are DIRECTED to serve and file with the settlement conference administrator, on or before 20 days after the date the signed order is filed in

the superior court, a request for dismissal of the appeal; however, if the superior court denies the motion, this court through its settlement conference administrator will confer with the parties and determine how the appeal should proceed. (See Joint Stip., pp. 8-9 [“Appellants will dismiss their appeal”; “Parties will ask this court to lift the stay . . . and will proceed”]. See: *In re Amber S.* (1993) 15 Cal.App.4th 1260, 1264-1265 [constitutionally-based, inherent judicial powers entitle courts to adopt any procedure suitable to achieve justice in a particular case even though unauthorized by statute or rule]. See, e.g., *People v. Awad* (2015) 238 Cal.App.4th 215, 218 [“stay[ed] pending appeal for a short period of time to allow the trial court to conduct a Proposition 47 postconviction hearing”].)

RAMIREZ

Presiding Justice

cc: See attached list

MAILING LIST FOR CASE: E068640

Chino Basin Municipal Water District v. City of Chino et al.; Cucamonga Valley Water District et al.

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EXHIBIT B

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15 FOR THE COUNTY OF SAN BERNARDINO

16 CHINO BASIN MUNICIPAL WATER
17 DISTRICT,

18 Plaintiff,

19 v.

20 CITY OF CHINO, et al.,

21 Defendant.

22 **Case No. RCV RS51010**

23 [Assigned for All Purposes to the Honorable
24 Stanford E. Reichert]

25 **CHINO BASIN WATERMASTER NOTICE
26 OF MOTION AND MOTION REGARDING
27 AMENDMENTS TO RESTATED
28 JUDGMENT, PEACE AGREEMENT,
PEACE II AGREEMENT, AND RE-
OPERATION SCHEDULE**

Date: March 15, 2019
Time: 1:30 p.m.
Dept.: S35

[Filed concurrently herewith: Declaration of
Bradley J. Herrema; Declaration of Peter
Kavounas; Declaration of Mark Wildermuth;
[Proposed] Order]

BROWNSTEIN HYATT FARBER SCHRECK, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on March 15, 2019, at 1:30 p.m., or as soon thereafter as
3 the matter may be heard, in Department S35 of the above-entitled Court located at 247 West
4 Third Street, San Bernardino, California 92415, the Chino Basin Watermaster (“Watermaster”)
5 will and hereby does move the Court for an order:

- 6 (1) Approving Watermaster’s adoption of its Resolution 2019-03 directing
7 Watermaster to proceed in accordance with the Resolution and the documents attached thereto;
8 (2) Directing Watermaster to proceed to redetermine Safe Yield as set forth on pages
9 15-18 of the Court’s April 28, 2017 Order;
10 (3) Approving the amendment to Paragraph 10 of Exhibit “H” to the Restated
11 Judgment;
12 (4) Approving an amended schedule for access to Re-Operation water shown in
13 Exhibit “B” to Resolution 2019-03;
14 (5) Approving the amendments to Paragraphs 6, 9, and 10 of Exhibit “G” to the
15 Restated Judgment; and
16 (6) Directing Watermaster to implement the Restated Judgment and to continue to
17 comply with all commitments made in the Court Approved Management Agreements, as
18 amended.

19 This Motion is made pursuant to the Court’s continuing jurisdiction and authority to
20 enforce and carry out the Restated Judgment in this action with respect to the rights established
21 thereunder, and is based on this Notice, the Memorandum of Points and Authorities attached
22 hereto, the Declarations of Bradley J. Herrema, Peter Kavounas, and Mark Wildermuth, and the
23 exhibits attached thereto filed concurrently therewith, the pleadings and papers on file in this
24 case, and any oral argument the Court entertains on this matter.

25 ///

26 ///

1 Dated: January 15, 2019

BROWNSTEIN HYATT FARBER SCHRECK, LLP



2
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4 BY:

5 SCOTT S. SLATER
6 BRADLEY J. HERREMA
7 CHRISTOPHER R. GUILLEN
8 ATTORNEYS FOR CHINO BASIN WATERMASTER
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Hillside Memorial Park & Mortuary v. Golden State Water Co.
(2011) 205 Cal.App.4th 5347

Water Replenishment District of Southern California
(2012) 202 Cal.App.4th 10637

Other Authorities

California Constitution Article X, section 27

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 The Chino Basin Watermaster (“Watermaster”) files this motion in response to the
4 Court’s December 5, 2018 Order re Ex Parte Application to Specially Set a Hearing and Briefing
5 Schedule. On April 28, 2017, this Court entered its Orders for Watermaster’s Motion Regarding
6 2015 Safe Yield Reset Agreement, Amendment of Restated Judgement, Paragraph 6 (“April 28,
7 2017 Order”) in response to Watermaster’s request to reset the Basin’s Safe Yield pursuant to an
8 agreement among some, but not all, of the parties to the Restated Judgment. Although an appeal
9 was taken from the April 28, 2017 Order, the matter was stayed before any briefing occurred.
10 Instead, the six parties to the appeal elected to negotiate an agreement inter-se, which is
11 contingent upon amending existing court approved agreements, affecting the rights of other
12 parties, and amending the Restated Judgment, both of which require this Court’s approval. The
13 4th Appellate District has issued a limited remand to allow this Court the opportunity to consider
14 the proposed amendments.

15 Following its review of the proposed amendments, the resulting administrative directives
16 and the physical consequences, and after receipt of advice and counsel from the Pool Committees,
17 Advisory Committee, and the parties, Watermaster adopted Resolution 2019-03 urging this
18 Court’s approval of the proposed amendments as provided therein. Provided that this Court
19 concurrently confirms and directs Watermaster to reset Safe Yield in accordance with pages 15-
20 18 of its April 28, 2017 Order, there is no known opposition to the amendments.

21 **II. BACKGROUND**

22 **A. The Matters Relating to the April 28, 2017 Order Have Been Temporarily**
23 **Remanded to the Court for Consideration of the 2018 Proposed Changes**

24 The April 28, 2017 Order, among other things, reset the Safe Yield of the Basin to
25 135,000 AFY and denied Watermaster’s motion for approval of the 2015 Safe Yield Reset
26 Agreement. The Cucamonga Valley Water District, Monte Vista Water District, and the City of
27 Pomona (collectively “Appellants”) each timely filed a notice of appeal of the April 28, 2017
28 Order. (Cucamonga Valley Water District’s Notice of Appeal filed June 23, 2017; City of

1 Pomona’s Notice of Appeal filed June 26, 2017; Monte Vista Water District’s Notice of Appeal
2 filed June 27, 2017.) The appeal is presently pending as 4th Appellate District Division 2 Case
3 E068640. The Jurupa Community Services District, the City of Chino, and the City of Ontario
4 have appeared as respondents to the appeal (collectively “Respondents,” and together Appellants
5 and Respondents are hereinafter referred to as “Appeal Parties”). (See Ex Parte Application to
6 Specially Set a Hearing and Briefing Schedule; Memorandum of Points and Authorities filed
7 November 28, 2018.)

8 On July 16, 2018, the Appeal Parties requested that the Court of Appeal temporarily
9 remand the matter to this Court for the purpose of considering a motion as to certain proposed
10 amendments to the Restated Judgment and Court Approved Management Agreements (CAMA),
11 necessary to effectuate a proposed settlement among the Appeal Parties that would result in their
12 voluntary dismissal of the Appeal. (See Declaration of Sarah Christopher Foley In Support of Ex
13 Parte Application to Specially Set a Hearing and Briefing Schedule filed on November 28, 2018,
14 at ¶ 4, Ex. A.) On November 6, 2018, the Court of Appeal issued an order temporarily remanding
15 the matter to this Court for the limited purpose of reviewing the Appeal Parties’ anticipated
16 motion regarding proposed Restated Judgment and CAMA amendments. (*Id.*) On December 5,
17 2018, the Appeal Parties appeared *ex parte* before this Court to set a hearing and briefing
18 schedule on their planned motion regarding proposed Restated Judgment and CAMA
19 amendments. Thereafter, on December 28, 2018, the Court entered its Order re Ex Parte
20 Application to Specially Set a Hearing and Briefing Schedule, setting the briefing schedule for
21 consideration of the proposed Restated Judgment and CAMA amendments.

22 **B. Consideration of the 2018 Proposed Changes**

23 The Appeal Parties’ proposed Restated Judgment and CAMA amendments do not request
24 modifications to the Court’s April 28, 2017 Order. Instead, the Appeal Parties have reached
25 agreement on amendments to the Restated Judgment, the Peace Agreement, the Peace II
26 Agreement, and the Re-Operation schedule (collectively, “2018 Proposed Changes”) that would
27 comprehensively resolve their dispute and provide for the dismissal of the Appeal. The 2018
28 Proposed Changes collectively consist of:

- 1 a. Amendments to Paragraph 10 of Exhibit “H” to the Restated Judgment regarding
2 the allocation of the portion of the share of the Safe Yield allocated to the
3 Overlying (Agricultural) Pool that is not produced in a particular year
4 (“Unproduced Agricultural Pool Water”);
- 5 b. Amendments to Section 1.1(o) and Section 5.3(g) of the Peace Agreement
6 regarding the Early Transfer of Unproduced Agricultural Pool Water following
7 satisfaction of land use conversion claims;
- 8 c. Deletion of Section 7.1 and amendment of Section 6.2(b) of the Peace II
9 Agreement regarding Desalter Replenishment;
- 10 d. The amendment of the current Court-approved schedule accounting for access to
11 Re-Operation water, consistent with Exhibit “B” hereto; and
- 12 e. Amendment of section 9.2(a) of the Peace II Agreement to correct a previous
13 drafting error.

14 (Declaration of Bradley J. Herrema (“Herrema Decl.”), at ¶ 15, Ex. J.) In order for the 2018
15 Proposed Changes to be effectuated, the Court must either approve or order Watermaster to
16 proceed in accordance with each of them.

17 In June 2018, the Appeal Parties transmitted a June 6, 2018 draft of the 2018 Proposed
18 Changes to Watermaster for inclusion in the Pool Committee, Advisory Committee and Board
19 agendas for that month. (Herrema Decl., at ¶ 3.) On July 19, 2018, the Overlying (Agricultural)
20 Pool (“Ag Pool”) Committee approved the then-current version of the 2018 Proposed Changes on
21 the condition that it be merged into certain other documents and include suggested edits, one of
22 which was to “clarify that the safe yield process that was part of the [April 18, 2017 Order]
23 including peer review and the reset process remains in effect.”¹ (Herrema Decl., at ¶ 4, Ex. A.) In
24 short summary, the Ag Pool Committee sought confirmation that the 2018 Proposed Changes
25 were not intended to modify the Court’s April 28, 2017 Order approving the mechanism
26 governing future Safe Yield Resets. Apparently not satisfied that others believed this was true, on
27 August 9, 2018, the Ag Pool Committee moved to moot and nullify its prior approval of the 2018
28 Proposed Changes due to revisions to the agreement and the “apparent rejection” of its requested
29 edits to the agreement. (*Id.* at ¶ 6, Ex. B.)

¹ The Overlying (Non-Agricultural) Pool (“Non-Ag Pool”) Committee and Appropriative Pool Committee took no action on the 2018 Proposed Changes during their July 19, 2018 meetings. (Herrema Decl., at ¶ 5.)

1 At their September 13, 2018 meetings, the Ag Pool Committee, the Non-Ag Pool
2 Committee and the Appropriative Pool Committee considered a revised version of the 2018
3 Proposed Changes, dated September 11, 2018. The Appropriative Pool Committee approved the
4 agreement on certain conditions. (Herrema Decl., at ¶ 7, Ex. C.) The Non-Ag Pool Committee
5 also supported the agreement with certain revisions to the 2018 Proposed Changes. (*Id.*) The Ag
6 Pool Committee did not approve the agreement and reiterated the requested changes it made on
7 July 19, 2018. (*Id.*)

8 On October 18, 2018, the Appropriative Pool requested that the Watermaster Board direct
9 staff and counsel to review the substantive terms of the September 11, 2018 version of the 2018
10 Proposed Changes. Specifically, the Appropriative Pool requested “confirmation from
11 Watermaster that the agreements provide sufficient clarity for Watermaster to implement them
12 without ambiguity.” (Herrema Decl. at ¶ 8, Ex. D.) The Watermaster Board subsequently
13 directed staff and counsel to proceed with the requested review. (*Id.*) Watermaster staff and
14 counsel’s review of the September 11, 2018 version of the 2018 Proposed Changes was included
15 in the agenda package for each of the Pool Committees’ regular November meetings. (*Id.*)
16 Watermaster staff and counsel’s review suggested and requested certain clarifications, and
17 indicated that, if the 2018 Proposed Changes were to incorporate the language of pages 15-18 of
18 the Court’s April 28, 2017 Order, they could be implemented by Watermaster.

19 At its November 27, 2018 special meeting, the Appropriative Pool Committee approved
20 the 2018 Proposed Changes on the condition that they be subsequently approved by each of the
21 Appropriative Pool members’ governing bodies², and further directed its counsel to join in the
22 motion to approve the 2018 Proposed Changes. (Herrema Decl., at ¶ 10, Ex. F.) On December
23 13, 2018, in a special meeting, the Ag Pool discussed the 2018 Proposed Changes and determined
24 to withhold its approval of the 2018 Proposed Changes, and proposed modifications such that the
25 2018 Proposed Changes would include the language on pages 15-18 of the Court’s April 28, 2017
26 Order regarding the reset of the Safe Yield and reset methodology process. (*Id.* at ¶ 11, Ex. G.) In

27 _____
28 ² At this time, Watermaster is unaware of the status of approvals of the 2018 Proposed Changes
by the governing bodies of the members of the Appropriative Pool.

1 a December 20, 2018 special meeting, the Non-Ag Pool Committee, in reliance on an earlier
2 Appropriative Pool Committee action resolving not to oppose October 4, 2018 Motion Regarding
3 Amendment of the Pooling Plan for the Non-Agricultural Pool, Attached to the Judgment as
4 Exhibit G (“Non-Ag Pool Motion”), adopted a resolution of non-opposition to the 2018 Proposed
5 Changes. (*Id.* at 12, Ex. H.)

6 On January 11, 2019, the Advisory Committee convened a special meeting to consider the
7 2018 Proposed Changes. (Herrema Decl., at ¶ 14.) At that meeting, the Advisory Committee
8 approved the following motion:

9 The Advisory Committee supports (if an Appropriative Party this
10 support includes the intent to sign the agreement following any
11 necessary governing body approvals) the “2018 Agreement to
12 Appropriative Pool Pooling Plan and CAMA Amendments” and
13 hereby forwards it to the Watermaster Board for their support.

14 (*Id.*) The motion was approved by a volume vote of 80%, with the Ag Pool representative voting
15 against the motion based on the Ag Pool’s position that the 2018 Proposed Changes should also
16 clarify that pages 15-18 of the Court’s April 28, 2017 Order govern the reset of the Safe Yield
17 and reset methodology process. (*Id.*)

18 Following the calling of the special Advisory Committee meeting, consideration of the
19 2018 Proposed Changes was added to the agenda of a Watermaster Board meeting that had
20 previously been scheduled for January 11, 2019. (Herrema Decl., at ¶ 15.) At its meeting, the
21 Watermaster Board discussed the 2018 Proposed Changes with its staff, counsel, and hydrologic
22 consultant in which they testified that the 2018 Proposed Changes were implementable and would
23 not cause Material Physical Injury. (Declaration of Peter Kavounas (“Kavounas Decl.”), at ¶¶ 6-
24 7.) The Watermaster Board adopted Resolution No. 2019-03 (entitled “Resolution of the Chino
25 Basin Watermaster Regarding 2018 Appropriative Pool Pooling Plan and CAMA Amendments”),
26 resolving that the 2018 Proposed Changes “can be implemented and Watermaster endorsing” the
27 2018 Proposed Changes “so long as the Court instructs Watermaster to follow the provisions of
28 pages 15-18 of the Court’s April 28, 2017 order.” (Herrema Decl., at ¶ 15, Ex. J.) Watermaster
also found that the condition of the Ag Pool’s support was satisfied by this reference. (*Id.*)

1 **C. Proposed Amendments to the Non-Ag Pool Pooling Plan**

2 The Non-Ag Pool Motion proposes amendments to Paragraphs 6, 9, and 10 of the Non-
3 Agricultural Pool Pooling Plan, which is Exhibit “G” to the Restated Judgment. The purpose of
4 each of those proposed changes is described in detail in the Non-Ag Pool Motion. (See Non-Ag
5 Pool Motion, at pp. 2-3.)

6 The Non-Ag Pool Motion additionally describes the process through which the members
7 of the Ag Pool and the Appropriative Pool were given an opportunity to provide input as to the
8 Non-Ag Pool’s proposed amendments to the Non-Ag Pool Pooling Plan. (Non-Ag Pool Motion,
9 at pp. 1-2.) Since the time that the Non-Ag Pool Motion was filed, at its November 13, 2018
10 regular meeting, the Ag Pool Committee approved the Non-Ag Pool Motion’s contemplated
11 Restated Judgment amendments. (Herrema Decl., at ¶ 9, Ex. E.) At a December 20, 2018 special
12 meeting, the Appropriative Pool Committee adopted a resolution whereby it, and the members
13 voting on behalf of the resolution, resolved and affirmed that they do not and shall not oppose the
14 Non-Ag Pool Motion or entry of the proposed order submitted by the Non-Ag Pool Committee
15 thereon.³ (*Id.* at ¶ 13, Ex. I.) By its January 11, 2019 adoption of Resolution 2019-03, the
16 Watermaster Board recommended the Court’s approval of the amendments to Non-Ag Pool
17 Pooling Plan as described in the Non-Ag Pool Motion. (*Id.*, at ¶ 15, Ex. J.)

18 **III. STANDARDS FOR THE COURT’S CONSIDERATION**

19 Pursuant to this motion, the Court is being requested to approve certain amendments to the
20 Restated Judgment, access to Re-Operation water in accordance with Exhibit I 2(e)(i), the Peace
21 and Peace II Agreements, and to order Watermaster’s compliance.

22 The Restated Judgment does not specify the standards that should be used by the Court in
23 evaluating proposed Restated Judgment amendments under Paragraph 15, or Watermaster
24 discretionary actions under Paragraph 31. In its review of the original Peace Agreement, the

25 _____
26 ³ This action was contingent upon, and to be effective and irrevocable upon adoption by the Non-
27 Ag Pool Committee, for itself and each of its members voting in favor of the resolution, of a
28 resolution that the Non-Ag Pool Committee will not oppose (or otherwise file or offer to the
Court any negative comments about) either the 2018 Proposed Changes or entry of an order
approving the same. (Herrema Decl., at ¶ 13, Ex. I.) The Non-Ag Pool Committee adopted such
a resolution at its December 20, 2018 special meeting. (*Id.* at ¶ 12, Ex. H.)

1 Court analyzed whether the measures were consistent with and promoted the physical solution
2 under the Judgment, and whether they were consistent with Article X, section 2 of the California
3 Constitution. This standard is analogous to the trial court review of post judgment amendments
4 in other adjudications. (See *Hillside Memorial Park & Mortuary v. Golden State Water Co.*
5 (2011) 205 Cal.App.4th 534, 541-545, 549; *Water Replenishment District of Southern California*
6 (2012) 202 Cal.App.4th 1063, 1070-1072.)

7 The Court may amend the schedule for Re-Operation pursuant to a request from
8 Watermaster. Under Section 7.2(e)(i) of the Peace II Agreement, an initial schedule was
9 developed to apportion controlled overdraft and Basin Re-Operation and submitted to the Court
10 concurrent with Watermaster Resolution 07-05. Further, Watermaster has authority to “approve
11 and request Court approval of revisions to the initial schedule if Watermaster’s approval and
12 request are supported by a technical report demonstrating the continued need for access to
13 controlled overdraft, subject to the limitations set forth in amended Exhibit “I” to the Judgment
14 and the justification for the amendment.” (Peace II Agreement, §7.2(e)(ii).)

15 As for modifications to the Peace Agreement, binding upon all parties thereto, Section
16 10.14 governs amendments. It provides as follows:

- 17 (a) Any amendments and/or changes to this Agreement must be
18 in writing, signed by a duly authorized representative of the
19 Parties hereto, and must expressly state the mutual intent of
20 the Parties to amend this Agreement as set forth herein. The
21 Parties to this Agreement recognize that the terms and
22 conditions of this Agreement, which are set forth herein in
23 the Sections preceding this Section have been arrived at
24 through the collective negotiations by the Parties.
- 25 (b) The Parties hereby agree that **no amendments and/or**
26 **changes may be made to this Agreement without the**
27 **express written approval of each Party to this Agreement,**
28 provided that upon request, no such approval shall be
unreasonably withheld. (emphasis added)

(Peace Agreement, § 10.14.)

1 **IV. AS REQUESTED BY THE PARTIES TO THE APPEAL, THE COURT SHOULD**
2 **AMEND THE RESTATED JUDGMENT AND RE-OPERATION SCHEDULE,**
3 **AND ORDER WATERMASTER TO COMPLY WITH THE PEACE AND PEACE**
4 **II AGREEMENTS, AS AMENDED**

5 **A. Watermaster Can Implement the 2018 Proposed Changes Provided That It**
6 **Can Proceed in Accordance with Pages 15-18 of the Court's April 28, 2017**
7 **Order**

8 The Appeal Parties have resolved their dispute premised on the implementation of the
9 2018 Proposed Changes. (Herrema Decl., at ¶15, Ex. J.) Whether the 2018 Proposed Changes are
10 appropriate and the Restated Judgment and Re-Operation schedule should be amended and
11 Watermaster be ordered to comply with the Peace and Peace II Agreements as amended is a
12 matter on which Watermaster may appropriately advise the Court, given its duty to administer
13 and enforce the Restated Judgment and the subsequent instructions and orders of this Court.
14 (Restated Judgment, ¶ 16.)

15 Watermaster has determined that the 2018 Proposed Changes will not cause Material
16 Physical Injury and are “implementable, provided that Watermaster can proceed to recalculate
17 Safe Yield in the manner expressly approved by the Court on pages 15-18 of the Court’s April 28,
18 2017 Order.” (Herrema Decl., at ¶ 15, Ex. J.) Pages 15-18 of the Court’s April 28, 2017 Order
19 comprise sections 4.1-4.8, which, among other things, address the Safe Yield reset effective July
20 1, 2020, and the timing and methodology of the next Safe Yield reset, including the manner in
21 which the Reset Technical Memorandum’s methodology may be supplemented to incorporate
22 future advances in best management practices and hydrologic science as they evolve over the
23 course of Safe Yield reset processes. Watermaster has already begun the process of the next Safe
24 Yield reset in order to ensure that the Safe Yield, as reset, may be approved by the court no later
25 than June 30, 2020 (Kavounas Decl., at 5) and the Court’s confirmation that Watermaster should
26 proceed in compliance with pages 15-18 of the Court’s April 28, 2017 Order will provide clarity
27 and certainty for that process.

28 As explained further below, Watermaster has recommended that the Court approve the
2018 Proposed Changes, approve the amendments to the Overlying (Non-Agricultural) Pool
Pooling Plan described in the Non-Ag Pool Motion, and direct Watermaster to reset Safe Yield as

1 provided on pages 15-18 of the Court's April 28, 2017 Order and to proceed in accordance with
2 the Court Approved Management Agreements as amended. (Herrema Decl., at ¶ 15, Ex. J.)

3 **B. The Amendments to Exhibits "G" and "H" of the Restated Judgment are**
4 **Unopposed**

5 The Non-Ag Pool Motion requests amendments to Paragraphs 6, 9, and 10 of the Exhibit
6 "G" to the Restated Judgment. These amendments, respectively, pertain to accounting for water
7 produced by a member of the Appropriative Pool for the benefit of and pursuant to the rights of a
8 member of the Non-Ag Pool, the manner in which the price per acre-foot will be set for water
9 transferred from members of the Non-Ag Pool to Watermaster and thence to members of the
10 Appropriative Pool⁴, and introduce a new paragraph that describes in greater detail the manner in
11 which members of the Non-Ag Pool may dedicate water to Watermaster for the purposes of
12 Desalter Replenishment as provided for in paragraph 5.3(e) of the Peace Agreement. The 2018
13 Proposed Changes include proposed amendments to Paragraph 10 of Exhibit "H" to the Restated
14 Judgment regarding the allocation of Unproduced Agricultural Pool Water, which are consistent
15 with the Court's April 28, 2017 Order as to the priority of Land Use Conversion claims and the
16 Early Transfer. (April 28, 2017 Order, at pp. 58-60.)

17 At this time, as described above, the amendments to Exhibit "G" have been approved by
18 the members of the Non-Ag Pool and the Ag Pool and are unopposed by the members of the
19 Appropriative Pool. The Amendments to Exhibit "H" have been approved by the Appropriative
20 Pool Committee on the condition that they be subsequently approved by each of the
21 Appropriative Pool members' governing bodies, supported by the Advisory Committee, and the
22 Non-Ag Pool has agreed not to oppose these amendments.

23 ⁴ The mechanism for setting this price that is currently in Paragraph 9 of the Non-Ag Pool
24 Pooling Plan no longer functions as the Metropolitan Water District of Southern California
25 ("MWD") no longer publishes the rate that was the marker from which the price was agreed to be
26 calculated. (Watermaster Motion for Court to: (1) Re-Appoint Nine-Member Watermaster Board
27 for a Further Five-Year Term; (2) Approve Temporary Substitute Rate for Physical Solution
28 Report of the Ground-Level Monitoring Committee filed November 28, 2018, at p. 6.) The Court
has approved temporary substitute rates for many years since the MWD discontinued its
Replenishment Rate (December 28, 2018 Order on Temporary Substitute Rate, etc.), and the
proposed amendment to Paragraph 9 of Exhibit "G" will obviate the need for these annual
approvals.

1 The formally adopted position of the Ag Pool is that its opposition was limited and
2 directly linked to the fact the 2018 Proposed Changes did not include its requested clarification
3 that the process and methodology set forth in the Court’s April 28, 2017 Order on pages 15-18
4 controlled the Safe Yield reset process. Pursuant to its Resolution 2019-03, Watermaster has
5 found that if the Court provided this confirmation in its order approving the 2018 Proposed
6 Changes, the basis for obtaining Ag Pool consent will have been achieved. Watermaster is
7 further informed and believes that, should the Court enter the Proposed Findings and Order
8 Regarding Amendments to Restated Judgment, Peace Agreement, Peace II Agreement, And Re-
9 Operation Schedule (“Proposed Order”) attached hereto, the Ag Pool will further expressly
10 consent to these amendments.

11 Watermaster has found that collectively these amendments will not result in any injury to
12 the Basin and recommends that: (i) the Court approve them, as part of the 2018 Proposed
13 Changes; (ii) approve the amendments to the Overlying (Non-Agricultural) Pool Pooling Plan;
14 (iii) further order that Watermaster be directed to reset Safe Yield as provided on pages 15-18 of
15 the Court’s April 28, 2017 Order; and (iv) to proceed in accordance with the Court Approved
16 Management Agreements as amended.

17 **C. The Requested Amendment of the Re-Operation Schedule Complies with the**
18 **Peace II Agreement and the Court’s Prior Orders**

19 The 2018 Proposed Changes include the proposed amendment of the Court-approved
20 schedule for access to Re-Operation water.⁵ (Herrema Decl. at ¶ 15, Ex. J.) As defined in the
21 Peace II Agreement, Re-Operation is the controlled overdraft of the Basin by the managed
22 withdrawal of groundwater Production for the Desalters and the potential increase in the
23 cumulative un-replenished Production from 200,000 acre-feet authorized by paragraph 3 of the
24 Engineering Appendix (Exhibit “I” to the Judgment), to 600,000 acre feet for the express purpose
25 of securing and maintaining Hydraulic Control as a component of the Physical Solution. (Peace
26 II Agreement, 1.1(d).)

27 As part of the Peace II Measures, the Restated Judgment’s Engineering Appendix was

28 ⁵ The proposed amended schedule is attached to Resolution 2019-03 as Exhibit “B.”

1 amended to specify that the additional 400,000 acre-feet of controlled overdraft will be dedicated
2 exclusively for the purpose of Desalter replenishment. (Restated Judgment, at Ex. I, § 2.(b)[3].)
3 Pursuant to paragraph 7.2 of the Peace II Agreement, and as a condition subsequent to the Court's
4 approval of the Peace II Agreement (Order Concerning Motion for Approval of Peace II
5 Documents filed Dec. 21, 2007, at p. 8:16-20), Watermaster, Western Municipal Water District
6 (WMWD) and the members of the Appropriative Pool were to determine how to allocate the
7 controlled overdraft among the Desalters, and according to what schedule it would be used. To
8 the extent that the groundwater wells for the new Desalters (aka "Future Desalters") pump at least
9 50 percent of their water from the "Southern End" of the Basin as defined graphically on Exhibit
10 "3" to the Peace II Agreement, those Future Desalters would have first priority to the controlled
11 overdraft water.⁶

12 Watermaster, on behalf of the Parties, submitted a proposed corrected⁷ initial schedule for
13 the access to the Re-Operation water to the Court on February 1, 2008 as part of its compliance
14 with Condition Subsequent 2 to the Court's approval of the Peace II Measures, and the Court
15 approved this schedule. (Watermaster Compliance with December 21, 2007 Order Conditions
16 One and Two.) In compliance with Condition Subsequent 7 to the Court's approval of the Peace
17 II Measures, on December 23, 2008, Watermaster submitted to the Court a revised schedule to
18 replace the initial schedule.⁸ The Court approved this revised schedule on February 2, 2009, and
19 the schedule for access to the Re-Operation water has not been amended since that time.

20 The 2018 Proposed Changes' proposed revised schedule would reallocate, among the
21 original Desalters and the Desalter Expansion, the availability of Re-Operation water, to ensure
22 that, consistent with the expectations of the Desalter Parties at the time of the Peace II

23 _____
24 ⁶ In this way, the allocation of the controlled overdraft water made available through Basin Re-
operation would facilitate the ability of the parties to implement the final, and perhaps most
difficult, increment of desalting capacity for the Basin.

25 ⁷ A corrected schedule was necessary because modeling showed that the initial schedule was too
26 aggressive in assumptions regarding the timeframe over which New Yield would be realized as a
result of Re-Operation. (See Watermaster Compliance with December 21, 2007 Order
Conditions One and Two, at pp. 17-18.)

27 ⁸ Revision to the schedule was necessary to reconcile New Yield and stormwater estimates for
28 2000/01 through 2006/07, and address how Watermaster would account for unreplenished
overproduction for that period.

1 Agreement, the total quantity of Re-Operation water will be utilized during the term of the Peace
2 II Agreement (by 2030). In 2007, WMWD proposed to assume the obligation of pursuing the
3 Future Desalters and they were subsequently joined by the Jurupa Community Services District
4 and the City of Ontario. (Declaration of Mark Wildermuth (“Wildermuth Decl.”), at ¶ 5.) This
5 initial group comprised less than the complete CDA membership – that had constructed and was
6 operating the then-existing Desalters. (*Id.*) The proposed allocation of Re-Operation water was
7 apportioned among the then-existing and the planned future Desalters, to ensure the completion
8 of the additional 10 MGD of desalting capacity by WMWD and to reflect its capital
9 commitments.

10 Since that time, WMWD has joined the CDA and the entirety of the Desalter pumping
11 contemplated under the OBMP Implementation Plan is consolidated within CDA. Accordingly,
12 the differential allocation of access to Re-Operation water among the groups of Desalters is no
13 longer necessary and allowing access to the Re-Operation water for any Desalter pumping will
14 ensure that the intent of the Peace II Agreement – that this water be utilized during its term – and
15 the corresponding Maximum Benefit benefits are realized. Consequently, there is no remaining
16 purpose for segregating the Re-Operation water and the schedule can be modified as supported by
17 the Appropriative Pool Committee and Advisory Committee, unopposed by the Non-Ag Pool
18 Committee, and conditionally supported by the Ag Pool Committee.

19 Further, as the Watermaster is in substantial compliance with the Recharge Master Plan as
20 required by Restated Judgment, Exhibit “I”, paragraph 2(b)(6)⁹ and the requested amendment of
21 the current Court-approved schedule accounting for access to Re-Operation water will not cause
22 Material Physical Injury (Herrema Decl., at ¶ 15, Ex. J; Wildermuth Decl., at ¶ 6), the Court
23 should approve this amendment to the schedule for access to Re-Operation water, as its goals are

24 ⁹ Resolution 2018-04 of the Chino Basin Watermaster Regarding the Adoption of the 2018
25 Recharge Master Plan (see Declaration of Bradley J. Herrema in Support of Motion for Court
26 Approval of 2018 Recharge Master Plan Updated filed October 9, 2018, at ¶ 9, Ex. C) found that
27 “There exists sufficient recharge capacity to meet future replenishment obligations identified in
28 the 2013 RMPU. If Basin Re-Operation were terminated prior to 2030, Watermaster would be
able to increase its replenishment activity in order to maintain hydrologic balance within the
Basin, in compliance with the Recharge Master Plan.” The Court approved the 2018 RMPU on
December 28, 2018. (Order Approving Watermaster’s 2018 Recharge Master Plan Update,
entered December 28, 2018.)

1 appropriate and in furtherance of the Restated Judgment, and the prior agreements and Court
2 orders, and will ensure that the purpose of the Re-Operation water will be served and allows the
3 parties, to fulfill their Desalter Replenishment obligations with certainty for their water supply
4 planning purposes.

5 **D. With Consent of All Signatories to the Peace Agreement, the Court Can**
6 **Order Watermaster's Compliance with the Amendment to the Peace and**
7 **Peace II Agreements**

8 As described above, Section 10.14 requires that an amendment of the Peace Agreement is
9 subject to the written approval of each Party to that Agreement. The 2018 Proposed Changes
10 include amendments to Section 1.1(o) and Section 5.3(g) of the Peace Agreement regarding the
11 Early Transfer of Unproduced Agricultural Pool Water following satisfaction of land use
12 conversion claims, the deletion of Section 7.1 and amendment of Section 6.2(b) of the Peace II
13 Agreement regarding Desalter Replenishment, and the amendment of Section 9.2(a) of the Peace
14 II Agreement to correct a previous drafting error.

15 The Appropriate Pool has acted to approve the amendments. Each of its members is
16 being offered the opportunity to execute a formal approval. Acting in a representative capacity
17 the Non-Ag Pool¹⁰ has consented by the quid pro quo of mutual non-opposition with the
18 Appropriate Pool Committee. In short, the Non-Ag Pool agreed not to oppose the 2018
19 Proposed Changes if the Appropriate Pool agreed not to oppose the Non-Ag Pool Pooling Plan
20 amendments.

21 Acting in a representative capacity¹¹, the Ag Pool has stated that it does not oppose the
22 2018 Proposed Changes if the Court will clarify and confirm that pages 15-18 of the Court's
23 April 28, 2017 Order govern the process for Watermaster resetting Safe Yield. The Ag Pool has
24 previously issued a request for assurance from other parties to the Peace Agreement and no
25 assurance has been forthcoming. In a good faith effort to achieve compliance with Section 10.14
26 of the Peace Agreement, Watermaster's Resolution expressly incorporates the Ag Pool's request

26 ¹⁰ With the exception of Kaiser Ventures, Inc., which signed for itself, the Non-Ag Pool signed
27 the Peace Agreement on behalf of its members. (See Peace Agreement.) Kaiser no longer owns
28 any water rights in the Basin and is not active in the Non-Ag Pool.

¹¹ With the exception of the State of California, which signed for itself, the Ag Pool signed the
Peace Agreement on behalf of its members. (See Peace Agreement.)

1 for clarification on this point as a further request from the Court. If this clarification by the Court
2 is forthcoming, there is no opposition to the 2018 Proposed Changes.

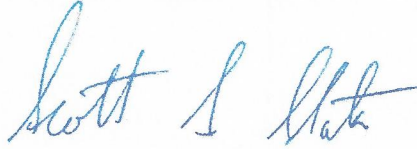
3 There are additional signatories to the Peace Agreement that are not members of any of
4 the Pools¹², and if necessary, consent and any required signatures from Parties to the Peace
5 Agreement can be secured by March 15, 2019, or by a later date established by the Court.

6 **V. CONCLUSION**

7 The 2018 Proposed Changes have been negotiated among the parties to the appeal and
8 affects the rights of other parties to the Judgment and Court approved agreements. Watermaster
9 unanimously approved Resolution 2019-03 concluding that the 2018 Proposed Changes are
10 implementable and will not cause Material Physical Injury. It also establishes the factual
11 foundation for the Court to find express and implied consent by all parties in satisfaction of
12 Section 10.14 of the Peace Agreement and the Court's approval will further the public interest in
13 the settlement of such disputes. This Court's order will remove the cloud of the pending appeal
14 and facilitate the continued efficient administration of sustainable management of groundwater in
15 the Chino Basin. Watermaster respectfully urges the Court's approval.

16 Dated: January 15, 2019

BROWNSTEIN HYATT FARBER SCHRECK, LLP



17
18
19 BY: _____

SCOTT S. SLATER
BRADLEY J. HERREMA
CHRISTOPHER R. GUILLEN
ATTORNEYS FOR CHINO BASIN WATERMASTER

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21
22
23
24 18600221

25
26
27 ¹² These include the Chino Basin Water Conservation District, the Inland Empire Utilities
28 Agency, the Three Valleys Municipal Water District, and the Western Municipal Water District.
(See Peace Agreement.)

EXHIBIT C

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SUPERIOR COURT OF 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. RCVRS51010

Pages 1 through 37

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

BEFORE HON. STANFORD E. REICHERT, JUDGE

DEPARTMENT S35

SAN BERNARDINO, CALIFORNIA

WEDNESDAY, FEBRUARY 21, 2019

APPEARANCES:

FOR MONTE VISTA:

KIDMAN GAGEN LAW
BY: ARTHUR G. KIDMAN
BY: ANDREW GAGEN
Attorney at Law

FOR WATERMASTER:

BROWNSTEIN HYATT FARBER SCHRECK
BY: SCOTT SLATER
BY: BRADLEY HERREMA
Attorneys at Law

FOR THE NON-AGRICULTURAL POOL:

LOEB & LOEB, LLP
BY: ALLEN W. HUBSCH
Attorney at Law

FOR THE THREE VALLEYS
MUNICIPAL WATER DIST.:

BRUNICK, McELHANEY & KENNEDY
BY: STEVEN M. KENNEDY
Attorney at Law

FOR CITY OF ONTARIO:

NOSSAMAN, LLP
BY: FREDERIC A. FUDACZ
Attorney at Law

1 APPEARANCES CONT.

2 FOR THE AGRICULTURAL POOL:

EGOSCUE LAW GROUP, INC.
BY: TRACY J. EGOSCUE
Attorney at Law

4 FOR INLAND EMPIRE
UTILITIES AGENCY:

JC LAW FIRM
BY: MARTIN CIHIGOYENETCHE
Attorney at Law

6 FOR THE CITY OF POMONA:

LAGERLOG, SENEAL, GOSNEY &
KRUSE, LLP
BY: THOMAS S. BUNN
Attorney at Law

9 FOR CUCAMONGA VALLEY
WATER DISTRICT:

BEST, BEST & KRIEGER, LLP
BY: SARAH C. FOLEY
Attorney at Law

11 FOR CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
12 REHABILITATION:

CALIFORNIA DEPARTMENT OF JUSTICE
BY: MARILYN LEVIN
Attorney at Law

13 FOR CITY OF CHINO:

JIMMY L. GUTIERREZ, APEC
BY: JIMMY L. GUTIERREZ
Attorney at Law

15 FOR JURUPA COMMUNITY SERVICES:

ELLISON, SCHNEIDER, HARRIS &
DONLAN
BY: SHAWNDA GRADY
Attorney at Law

25 REPORTED BY:

REBECCA M. ALLEN
Official Court Reporter
CSR No. 13689

1 SAN BERNARDINO, CALIFORNIA; WEDNESDAY, FEBRUARY 21, 2019

2 P.M. SESSION

3 DEPARTMENT S35

HON. STANFORD E. REICHERT, JUDGE

4 APPEARANCES:

5 ARTHUR KIDMAN and ANDREW GAGEN, Attorneys at
6 Law, representing MONTE VISTA; SCOTT SLATER and
7 BRADLEY HERREMA, Attorneys at Law, representing
8 CHINO BASIN WATERMASTER; ALLEN HUBSCH, Attorney
9 at Law, representing NON-AGRICULTURAL POOL;
10 STEVEN M. KENNEDY, Attorney at Law, representing
11 THREE VALLEYS MUNICIPAL WATER DISTRICT; FREDERIC
12 A. FUDACZ, Attorney at Law, representing CITY OF
13 ONTARIO; TRACY J. EGOSCUE, Attorney at Law,
14 representing AGRICULTURAL POOL; MARTIN
15 CIHIGOYENETCHE, Attorney at Law, representing
16 IEUA; THOMAS S. BUNN, Attorney at Law,
17 representing CITY OF POMONA; SARAH FOLEY,
18 Attorney at Law, appearing via CourtCall,
19 representing CUCAMONGA VALLEY WATER DISTRICT;
20 MARILYN LEVIN, Attorney at Law, appearing via
21 CourtCall, representing CDCR; JIMMY GUTIERREZ,
22 Attorney at Law, appearing via CourtCall,
23 representing CITY OF CHINO; SHAWNDA GRADY,
24 Attorney at Law, appearing via CourtCall,
25 representing JURUPA COMMUNITY SERVICES.

26 (Rebecca M. Allen, Official Court Reporter, CSR No. 13689.)

1 THE COURT: Let me go on the record for just a moment.
2 I'm not taking appearances yet. I did hand out a tentative
3 ruling. I want to make sure you all got a chance to get it and
4 read it. Since I saw some of you conferring as I walked in, why
5 don't I start the court appearance with a 10-minute recess, and
6 we'll pick it up at 1:40. Okay? I'll be back out at 1:40.

7 **(At which time recess was taken.)**

8 THE COURT: Let's go on the record in our Watermaster
9 case, case number RCVRS51010. And let's start appearances.

10 Mr. Kidman, perhaps. Go ahead, please.

11 MR. KIDMAN: Good afternoon, your Honor, Arthur Kidman
12 for the applicant, Monte Vista Water District.

13 MR. GAGEN: Andrew Gagen, also, on behalf of
14 Monte Vista, the applicant.

15 THE COURT: Okay.

16 MR. BUNN: Thomas Bunn for the City of Pomona.

17 THE COURT: Okay. And.

18 MR. SLATER: Good afternoon, your Honor, Scott Slater,
19 S-l-a-t-e-r, on behalf of Watermaster.

20 THE COURT: And Mr. Herrema.

21 MR. HERREMA: Good afternoon, your Honor,
22 Bradley Herrema, H-e-r-r-e-m-a, on behalf of Chino Basin
23 Watermaster.

24 THE COURT: Okay. And Ms. Egoscue.

25 MS. EGOSCUE: Good afternoon, your Honor, Tracy Egoscue
26 on behalf of the Ag Pool.

1 THE COURT: Okay. And?

2 MR. FUDACZ: Good afternoon, your Honor, Fred Fudacz,
3 F-u-d-a-c-z, on behalf of Ontario.

4 THE COURT: Okay. And?

5 MR. CIHIGOYENETCHE: Good afternoon, your Honor,
6 Marty Cihigoyenette. I will spell that for you if you need me
7 to.

8 THE COURT: Usual spelling for "Cihigoyenette"?

9 MR. CIHIGOYENETCHE: On behalf of IUEA.

10 THE COURT: Okay. You better spell it for my court
11 reporter though. Go ahead, please.

12 MR. CIHIGOYENETCHE: It is C-i-h-i-g-o-y-e-n-e-t-c-h-e.

13 THE COURT: Got all that? Okay. Thanks.

14 And Mr. Cihigoyenette, for whom are you appearing?

15 MR. CIHIGOYENETCHE: Inland Empire Utilities Agency.

16 THE COURT: Okay. And?

17 MR. HUBSCH: Good afternoon, your Honor, Allen Hubsch,
18 H-u-b-s-c-h, on behalf of the Non-Agricultural Pool Committee.

19 THE COURT: Mr. Hubsch, welcome back.

20 MR. KENNEDY: Good afternoon, your Honor, Steve Kennedy
21 on behalf of Three Valleys Municipal Valley District.

22 THE COURT: Okay. And so that takes care of everybody
23 in the courtroom. I got some people making appearances by
24 CourtCall. And I've got a list, so let me work through this
25 just from the top to the bottom.

26 Do I have Ms. Sarah Foley here on CourtCall?

1 MS. FOLEY: Yes, good afternoon, your Honor, Sarah Foley
2 for Cucamonga Valley Water District.

3 THE COURT: Shawnda Grady here on behalf of Jurupa
4 Community Services District?

5 MS. GRADY: Yes, your Honor, this is Shawnda Grady.

6 THE COURT: And do I have Mr. Gutierrez on behalf of the
7 City of chino?

8 MR. GUTIERREZ: Yes, your Honor, here I am.

9 THE COURT: Anybody else on CourtCall, just to clear the
10 decks? Wait a minute one more. Here we go. Marilyn Levin. Go
11 ahead, please.

12 MS. LEVIN: Yes, good afternoon, your Honor,
13 Marilyn Levin for the California Department of Corrections and
14 Rehabilitation State of California. I'm a member of the
15 Agricultural Pool.

16 THE COURT: All right. Here in the courtroom I've
17 handed out a tentative ruling which is to deny the ex parte
18 application for a number of reasons set forth therein. And so
19 the way that the Court will approach this is to turn to
20 Mr. Kidman because the tentative is against you. If there is
21 anything you want to add, please request that you not repeat
22 what's in your paperwork because I read everything pretty
23 carefully -- or Mr. Gagen, whoever wants to speak -- I read it
24 quite carefully and the usual -- as experience lawyers I think
25 you probably know if it wasn't persuasive in writing, it's even
26 less likely to be persuasive here in the courtroom.

1 You can give it a try, I'm not cutting you off. If
2 there is something new you would like to point out, please, do
3 so.

4 Go ahead, whoever wants to speak.

5 Mr. Gagen.

6 MR. GAGEN: Thank you.

7 THE COURT: And speak into the microphone that's why
8 they're on vocal stands and flexible. Thank you. Go ahead,
9 please.

10 MR. GAGEN: Starting with the 1A in the Court's
11 tentative -- first of all, your Honor, thank you for taking the
12 time to put this together. I will be mindful of the Court's
13 admonition to not repeat myself -- what I already stated in the
14 papers.

15 Starting with -- the Court seems to place a fair amount
16 of stock in the recital, particularly the recital indicating
17 that the non-appealing parties are to have the opportunity to
18 participate in the process of amending the judgment and CAMA.

19 THE COURT: Right.

20 MR. GAGEN: And the parties have done so. The pools
21 have done so. Watermaster has done so. And all that is
22 reflected, your Honor, in the numerous resolutions that each
23 pool and Watermaster and their respective boards have reviewed
24 and considered and adopted by the respective boards. So it
25 seems that the Court is concerned about having somehow
26 foreclosed Watermaster or anyone else for that matter from

1 submitting a motion which Watermaster did, but somehow preclude
2 that participation to take place. That recital says that we all
3 agree that the pools and the parties should participate. And
4 what I'm communicating to the Court is we've done so. What we
5 don't need, your Honor, is a Watermaster motion, moving the
6 Court to do something above and beyond what the resolutions have
7 already accomplished at the pool levels and at the Watermaster
8 Board itself.

9 THE COURT: Okay. Got that.

10 MR. GAGEN: So the problem with the Watermaster's motion
11 is that -- those three occasions, your Honor. I will try to
12 avoid repeating myself.

13 THE COURT: Okay.

14 MR. GAGEN: But those three pages, they don't just try
15 to reaffirm something that the Court has done. They're asking
16 the Court to enforce three particular pages out of 75, if
17 they're cherry picked, it's three pages. Nonetheless, could
18 have been 10 pages, could have been one page, could have been a
19 paragraph. This Court doesn't have subject matter jurisdiction
20 to enforce any part of that 2017 order.

21 This Court in its tentative ruling seems to have focused
22 on the parties. The appeal parties, you know, the Court seems
23 to indicate in the tentative that the appeal parties cannot tell
24 Watermaster or others what they can or can't do in regards to
25 the 2017 order. And that's not what was trying to be
26 communicated in the application. What we were trying to

1 communicate in the application is that this Court doesn't have
2 subject matter jurisdiction. It can't hear or consider any
3 efforts to enforce any portion, including those three pages
4 within the 2017 order. And that's not just based on the Court
5 of Appeal's limited remand order which I understand this Court
6 feels as if Monte Vista has misinterpreted that order.

7 But more importantly, your Honor, it's reliance on Code
8 of Civil Procedure 916, subdivision (a). That expressly states
9 that the trial court is divested of its subject matters
10 jurisdiction from hearing, enforcing, any matter within an order
11 that is on appeal.

12 And again, the reason for that, your Honor, is to not
13 undermine the Court of Appeal's jurisdiction; to allow that
14 appeal to go forward unaffected, unappealed by any action taken
15 by the trial court, including, in this case, the efforts by the
16 Watermaster to invite this Court to commit err, to violate the
17 subject matter jurisdiction that's reserved at the Court of
18 Appeal and enforce those three particular pages.

19 THE COURT: Okay. Got that part.

20 MR. GAGEN: Okay. I will move down your tentative, your
21 Honor. In Paragraph F, as in Frank, it states --

22 THE COURT: Hang on, hang on, because -- which F?

23 MR. GAGEN: Page 3.

24 THE COURT: Hang on a sec. Starting at "Watermaster is
25 not only a party"?

26 MR. GAGEN: Correct. "Is not only a party to the

1 judgment." That's actually incorrect. Watermaster is not a
2 party to the judgment. Watermaster as the Court accurately
3 states in Paragraph F, in the second half of Paragraph F,
4 Watermaster is a administrative arm of this court. Watermaster
5 is not a party, it doesn't have -- well, Watermaster is not a
6 party to the judgement, your Honor.

7 THE COURT: Okay. Got that part.

8 MR. GAGEN: Moving down to F3, the Court's tentative
9 states that Monte Vista is judicially estopped from asserting
10 other party's lack standing to brief this court.

11 And I'm not sure where that judicial estoppel is derived
12 from. There was a brief mention of that in the Ag Pool's
13 petition, but I don't know where -- what Monte Vista has done or
14 asserted that would judicially estop it from enforcing
15 essentially Code of Civil Procedure 916 which, your Honor, is
16 just simply blackletter law that this Court is divested of that
17 subject matter jurisdiction. Monte Vista hasn't taken any
18 position contrary to that position which, again, this Court
19 doesn't have subject matter jurisdiction.

20 THE COURT: Okay. I got that part.

21 MR. GAGEN: Okay. So moving down section two, your
22 Honor, still on page 3 of 5.

23 THE COURT: Okay.

24 MR. GAGEN: It states, "Section 916 does not apply to
25 Watermaster's motion." Again, your Honor, with those three
26 pages we're asking the Court to enforce an order that's on

1 appeal. I would argue that, your Honor, 916 firmly applies to
2 any efforts by Watermaster or any party or pool attempt to
3 enforce any pages within the 2017 order while it's on appeal.

4 THE COURT: Okay. I got that part.

5 MR. GAGEN: Thank you. And then, okay, flipping to
6 page 4, your Honor, section three, this Court correctly
7 summarizes that the parties chose a global resolution. And
8 proposing 2018 amendments affects the right of all parties.

9 And, again, your Honor, the parties's rights have been
10 preserved, protected, and adopted by the respective board via
11 their resolutions. My concern is that this Court feels as if
12 without the Watermaster's motion, how can we do something that
13 affects the rights of these other parties.

14 And the answer is by the resolutions that have been
15 adopted by the various boards including Watermaster's board.
16 The Court doesn't need Watermaster's motion. It has -- we have
17 the resolution of the governing bodies. There is nothing that
18 requires this Court, respectfully, to approve of what's being
19 asserted in Watermaster's motion.

20 THE COURT: Okay. I got that part.

21 MR. GAGEN: That includes, your Honor, that includes the
22 reop water, the section that's cited by the Watermaster.
23 It's -- it states that the Watermaster may go to court and
24 that's section -- it's Section E, as in echo, little Roman two.
25 I think it was erroneously cited in the Watermaster's motion in
26 subsection (c), as in cat, but it's actually "e" as in echo.

1 And then moving down to three, subsection (a), your
2 Honor, still on page 4.

3 THE COURT: Uh-huh.

4 MR. GAGEN: So this was misrepresented a couple
5 different times in the papers. I'm pretty sure it was done by
6 Ag. I'm not sure if it was erroneously asserted by Watermaster,
7 but it's true Peace I requires each party to a Peace I agreement
8 to consent to any amendments. There is a really big proviso
9 that comes after that same sentence which is no party can
10 unreasonably withhold that consent. So that's -- that is only
11 as to Peace I. It is wrong, your Honor, respectfully, in the
12 Court's tentative to say that Peace II is also subject to this
13 unanimous agreement of the parties. Peace II does not have that
14 same requirement. That was sort of inflated in some of the
15 papers that was put before the Court. Only Peace I requires
16 each party to consent to any amendments to that agreement, not
17 Peace II.

18 And again, even Peace I states that consent cannot be
19 unreasonably withheld. It's not just a blanket unanimous
20 consent that's required. That's a misrepresentation of
21 Paragraph 10.14 within Peace I.

22 THE COURT: Got it.

23 MR. GAGEN: Moving down to four, your Honor -- still on
24 page 4, section four.

25 THE COURT: Uh-huh.

26 MR. GAGEN: Speaking as to the irreparable harm to the

1 district. It's actually -- if Watermaster's motion is granted,
2 not denied as indicated here in the tentative, that will cause
3 irreparable harm to Monte Vista. What is the irreparable harm?
4 The irreparable harm is if the Court grants the Watermaster's
5 motion and those three pages are somehow enforced, the -- that
6 is an additional term, your Honor that is being introduced to
7 the settlement agreement that is set before the Court via the
8 appeal party's motion.

9 It would be, potentially, Monte Vista's position that
10 such an additional material term to the settlement agreement
11 would not bind Monte Vista to that settlement agreement.

12 THE COURT: Okay. I got that.

13 MR. GAGEN: Also, and the additional harm which was
14 stated in the papers, your Honor, is what Watermaster's already
15 stated in its papers moving forward with the 2020 reset.

16 Again, putting Monte Vista in a position where the 2017
17 order is being enforced by Watermaster before it's even final.
18 And that's in violation of paragraph 31 within the judgment
19 which any order taken up on appeal is not final until the appeal
20 is final.

21 Moving down to subsection (b) of section four, if there
22 is a requirement about advising the Court of Appeal about the
23 Court, and this in the tentative states, "denying this
24 application," that's actually not what we're asserting in our
25 papers, your Honor. If the requirement of advising the Court of
26 Appeal of the Watermaster's motion and Monte Vista's position

1 that this trial court doesn't have subject matter jurisdiction
2 to here it, you're right, it's not stated anywhere in the order
3 that please come tell me if someone violate my order, but
4 certainly that's the job of any officer of the court, including
5 the parties on the appeal, to advise the appellate court that if
6 we believe there is a violation occurring, to advise the
7 appellate court. If the appellate court disagrees, your Honor,
8 it's certainly their decision to make and their prerogative, but
9 it's certainly incumbent upon officers of the court to advise
10 the appellate court that we believe, your Honor, that there is a
11 violation of your limited remand order.

12 And, your Honor, we would request the Court of Appeal
13 to, then, direct this Court to not allow that to happen, to take
14 the motion off calendar. I understand that this Court's
15 tentative ruling is that -- that's not taking place, that this
16 Court does have subject matter jurisdiction. I understand
17 that's the Court's tentative ruling.

18 THE COURT: Right.

19 MR. GAGEN: In the very least, your Honor, we would
20 request time, as a party on appeal, to advise the Court of
21 Appeal that we believe there is a violation of its order and for
22 this Court to give the Court of Appeal time to respond.

23 THE COURT: I understand. That -- I'll address that
24 later if necessary. I understand exactly what you told me.
25 Thanks.

26 MR. GAGEN: Okay. Last comment, your Honor, is on the

1 fifth page, subsection (c), as in cat.

2 THE COURT: Uh-huh.

3 MR. GAGEN: This Court's December 20th, 2018, order
4 dealt strictly with the motion by the parties on appeal. It
5 does not prohibit any other motion from being filed. So I
6 understand that this Court has interpreted its order that it did
7 not prohibit any other party from submitting a motion. But,
8 again, our position is that section 916 of the Code of Civil
9 Procedure, subdivision (a) does.

10 THE COURT: I got -- I understood that.

11 MR. GAGEN: Very good, your Honor. No other comments.
12 Thank you for the opportunity.

13 THE COURT: Okay. Who wants to speak next?

14 Mr. Slater, I see you rising. Mr. Slater, go ahead,
15 please.

16 MR. SLATER: Yes, your Honor. Again, good afternoon.
17 Thank you for your time. I think for the most part we're
18 prepared to submit on the tentative.

19 THE COURT: Okay.

20 MR. SLATER: I did want to clarify for the record. In
21 the moving party's initial papers, on page 8, lines seven
22 through 12, there is a description of what's the intended
23 process. Again, this is the moving party's papers in support of
24 the proposed amendments. And I want to read to you the last
25 sentence, lines 10 through 12, regarding what is anticipated to
26 follow from Watermaster. This, again, by the moving parties.

1 THE COURT: Got it.

2 MR. SLATER: Says accordingly, "Watermaster will file
3 its own motion of support of the appropriate pool pooling plan
4 and CAMA amendments along with the settling parties' present
5 motion."

6 There is nothing in these papers indicating that such an
7 expectation was not shared. It's signed by all the moving
8 parties. Again, Watermaster's resolution is a complete and
9 total support of these proposed changes as described in
10 Watermaster's resolution.

11 THE COURT: Just a second. I want to make sure I note
12 which motion we're talking about. You're talking about the
13 underlying motion?

14 MR. SLATER: Correct, your Honor.

15 THE COURT: Okay. Thanks. Because that -- I want to
16 make sure I was following you. Give me just a moment. Yes,
17 that is in the motion filed January 15th by Mr. Tonaca, on
18 behalf of -- and Mr. Anderson on behalf of Cucamonga Water
19 Valley District, just so it's clear on the record where that
20 came from.

21 MR. SLATER: Yes, your Honor. And, again, to be clear,
22 that motion is on behalf of the moving parties.

23 THE COURT: Right. Okay. Thank you.

24 MR. SLATER: And the sentence again is lines 10 through
25 12, accordingly, "Watermaster will file its own motion of
26 support."

1 THE COURT: Got it.

2 MR. SLATER: Okay.

3 THE COURT: I see that.

4 MR. SLATER: No question of surprise and prejudice.

5 THE COURT: Right.

6 MR. SLATER: Other than that, we have done our best to
7 go through your tentative, and for convenience of the Court, we
8 have located or identified some typographical errors. I am
9 prepared, if I may approach --

10 THE COURT: Off the record.

11 **(Off the record.)**

12 THE COURT: Please, go ahead, Mr. Slater.

13 MR. SLATER: If your Honor would like, I would be happy
14 to approach and provide a copy of these changes for your
15 consideration.

16 THE COURT: That would be excellent, thank you.

17 MR. SLATER: If the parties would like, we would
18 distribute a copy to them or read them into the record.

19 THE COURT: Let me take a quick look and see how
20 extensive they are.

21 They're not extensive. They are -- oh, my gosh. This
22 is what I get for hurrying. There were no substantive changes,
23 I can let everyone know. It deletes, for example, on line 28 of
24 page 1, the extreme, the word "extreme." I don't know how that
25 got in there. It changes some verb tenses.

26 And on page 2 of 5, line 23, it gets rid of a whole

1 bunch of words that don't have any meaning on this. It's hard
2 to admit that I read this over and over again and never saw
3 these. Starts with "ap labor" and ends with the word "prove"
4 and put the word approve. I don't know where any of those words
5 came from.

6 On page two, it -- on page 3 on the first line of
7 section two, it gets rid of the word -- it's section 916, not
8 1916. And on page 4, there are quite a few, but nothing
9 substantive. For example, line 11 corrects the word "narrows"
10 to "a noticed motion." On line 17, it changes the word
11 "inspect" to "instant."

12 MR. SLATER: "Instruct," your Honor.

13 THE COURT: "Instruct." Thank you, I'm glad I went over
14 these. Instruct. Thank you. And puts the correct date for the
15 December 28th order and changes the date to February, not March.
16 Thank you for those corrections. I greatly appreciate it.
17 Thank you.

18 MR. SLATER: You're welcome, your Honor.

19 THE COURT: Any additional argument, Mr. Slater?

20 MR. SLATER: No, your Honor.

21 THE COURT: Let me turn to anybody else. You will get a
22 chance, Mr. Gagen, believe me.

23 I see you Ms. Egoscue, shaking your head no. You're
24 more than welcome to chime in.

25 MS. EGOSCUE: Nothing at this time, your Honor, we will
26 also rest on the tentative.

1 THE COURT: Okay. Thank you. Anybody else in the
2 courtroom?

3 No one else in the courtroom.

4 How about on the phone? Anybody on the phone?

5 Nobody on the phone.

6 Mr. Gagen, did you want to respond?

7 MR. GAGEN: Yes, your Honor, just to respond to
8 counsel's reliance on that one particular sentence within the
9 appeal party's motion. That was as the Court can imagine, that
10 was submitted by six different appropriate pool members,
11 including Monte Vista Water District, your Honor. That was a
12 joint effort to come to an agreement on language that six
13 different attorneys could agree to. The agreement that went
14 into the sentence was simply acknowledging that Watermaster
15 intended to do what it did, which was file its -- well, file its
16 motion.

17 It was -- Monte Vista's position has been clear all
18 along, including separate e-mail provided to counsel for
19 Watermaster, it intended to object to and oppose Watermaster's
20 efforts to submit a moving document with this Court, based on
21 the reasons provided for in its application. We suggested along
22 the lines Watermaster may consider simply filing a joinder to
23 our motion and attaching any declarations they felt were
24 required or necessary to support the 2018 amendments.

25 But they went above and beyond that, your Honor. They
26 are actually trying to move this Court to do something, which is

1 not just moving this Court -- they are asking this Court to
2 enforce pages of an order that are on appeal.

3 THE COURT: Right. Okay.

4 MR. GAGEN: Thank you, your Honor.

5 THE COURT: That's just the problem in my view. Let me
6 address your arguments one at a time.

7 Starting with the resolutions, the Court concludes that
8 really the only way I can get the resolutions, all of them in
9 front of me, is through Watermaster's motion. It was resolution
10 2019-3 that I thought was the most significant resolution. I
11 see Mr. Herrema and Mr. Slater nodding their heads. The
12 Watermaster motion was really the vehicle that presented that to
13 me and that's really the only way I can -- in my view, I can
14 proceed.

15 I believe I do have subject matter jurisdiction. I
16 cannot sever the agreement from -- the agreement in a way that
17 you want me to sever my subject matter jurisdiction. Either the
18 order is enforceable or it's subject to appeal. I can't cut out
19 your settlement. This was a problem I had with SYRA to a
20 certain extent. I couldn't sever it. I can't sever your
21 settlement agreement from the balance of my motion, my order,
22 and then start making agreements because it doesn't include all
23 of the issues that the Court addressed in its order back in
24 April of 2016 -- April 27, 2016 (SIC), --

25 MR. SLATER: Seventeen, your Honor.

26 THE COURT: April 17, 2016 (SIC). I can't approve a

1 settlement of some of the issues and not all of the issues and
2 you're asking me to do that. And so for that reason I think I
3 have subject matter jurisdiction to address all of the issues
4 that were raised in Watermaster's motion.

5 Although, Watermaster technically not being a party, it
6 has acted like a party. It files motions with the court. It
7 represents the views in filing motions of various parties to
8 this judgment. And I've always, even though it is an
9 administrative arm of the court, treated Watermaster like a
10 party and in terms of its procedural facilitation of the Court's
11 rulings and presentation of motions and issues to the court.

12 I mean, we have Watermaster's motion for the court to
13 accept the forty-first plan -- I can't remember the actual title
14 of the motion now. The forty-first --

15 MR. SLATER: The annual report.

16 THE COURT: The annual report Watermaster's make, that
17 means that's the forty-first motion Watermaster's made. Nobody
18 has complained they're not a party. And I've treated them that
19 way in terms of facilitating the enforcement of the motion.

20 And so when I evaluate the entire status of the order
21 that I made, and the remand from the Court of Appeal, which
22 asked me to approve the settlement, asked me to consider
23 approving the settlement, I can't -- to summarize -- sever out
24 certain aspects of the order as you requested. And I don't
25 think, and I still don't think, that was the intent of the Court
26 of Appeal.

1 And so, having said that, I will -- the tentative ruling
2 will become the filing ruling of the Court with the corrections
3 Mr. Slater suggested -- thank you, again.

4 And I need to reset a briefing schedule and allow time,
5 emphasizing the "and," to take this back to the Court of Appeal.
6 I concluded from your remarks -- and I say this without a hint
7 of reproach. That's what you think you need to do, and I think
8 that's perfectly proper.

9 MR. GAGEN: Yes, your Honor. Thank you.

10 THE COURT: You're welcome. So here is what I would
11 suggest. Oh, man. Setting the briefing, I'm sorry -- strike
12 that oh, man part -- setting the briefing on the motions, both
13 motions, until about a month has gone by, because in my view, if
14 this goes up to the Court of Appeal, it would go up on a writ,
15 and usually the Court of Appeal is pretty fast on those. From
16 today's order, which I will sign and file today, about a month
17 later, we should have something from the Court of Appeal whether
18 they thought I came to the right conclusion or not, and then
19 pick up a briefing schedule.

20 And you can all appear by CourtCall on that because that
21 will be a procedural setting, depending up on what the Court of
22 Appeal tells me. Because if the Court of Appeal says, You're
23 right, we go with the briefing schedule. If the Court of Appeal
24 says, You're wrong, I go a different direction, if that makes
25 sense. And I am always willing to hear other peoples comments
26 because we have a roof full here. That's what I thought I would

1 do.

2 Any other comments, suggestions, insight?

3 Mr. Hubsch is coming up, I see.

4 Good afternoon, again, Mr. Hubsch, what would you like
5 to add?

6 MR. HUBSCH: Your Honor, you said both motions would be
7 continued.

8 THE COURT: Yes.

9 MR. HUBSCH: The Non-Agricultural Pool Committee filed
10 the motion in October --

11 THE COURT: That's the motion to stay? Which motion is
12 that? I've lost track.

13 MR. HUBSCH: That is for an amendment for the
14 Non-Agricultural Pool's plan -- pooling plan --

15 THE COURT: Okay.

16 MR. HUBSCH: You had in December set a deadline for
17 oppositions to that motion of January 15th.

18 THE COURT: Yes, I do remember that, yes.

19 MR. HUBSCH: There were no oppositions filed to that
20 motion, and so we would respectfully request that the hearing
21 either be kept for March 15th or that the motion be granted on
22 the basis of there are no oppositions.

23 THE COURT: Okay. Thank you. I'll come to you
24 Mr. Gagen.

25 Mr. Slater, next.

26 MR. SLATER: Your Honor, again, perhaps if you can give

1 us five minutes. We walk out and see if we can come to a
2 unified recommendation. If we can't, we can't, and here we are.

3 THE COURT: Take more than five minutes. Take
4 60 minutes. Take as much time as you need.

5 MR. SLATER: I have a feeling it's either happening in
6 five or not.

7 THE COURT: Okay. I understand that too. I'll give you
8 10.

9 MR. SLATER: Okay. Ten, perfect.

10 THE COURT: Court is in recess for 10 minutes. Thanks.

11 **(At which time recess was taken.)**

12 THE COURT: Back on the record. Before we do anything
13 else. I made modifications to my tentative order. First I made
14 all the typo corrections. But second -- Mr. Daniel, let me put
15 this up on the screen. Because I want to add something I
16 addressed on oral argument from Mr. Gagen. What I've done --
17 you can read this on the side screens as well. It should be up
18 in just a moment. Feel free to walk up and take a look. Feel
19 free to move around the courtroom.

20 It's Paragraph 2D. Which reads, "The Court cannot sever
21 its subject matter jurisdiction to address and approve a
22 settlement that involves only part of its April 28, 2017, order.
23 The Court concludes that to do so would be contrary to the Court
24 of Appeal's remand order."

25 And I think that's consistent of what I said on the
26 record, but I thought it should be part of the order. Unless

1 someone thinks I got it wrong -- obviously, Mr. Gagen thinks I
2 got it wrong because I'm wrong on the law, but if that's a
3 misstatement of what I said in open court, let me know and I'll
4 correct it.

5 Mr. Gagen?

6 MR. GAGEN: No, that's an accurate statement of the
7 Court's prior.

8 THE COURT: Mr. Slater, did I summarize that correctly?

9 MR. SLATER: You did, your Honor.

10 THE COURT: Okay. And there was one other change I
11 thought I might make and that is in section three,
12 subsection (a), where I pointed out that the amendment of the
13 provision of Peace I and Peace II is subject to the unanimous
14 agreement of the parties. And I only quoted Peace I, and I
15 think Mr. Gagen was correct that was not part of Peace II. So I
16 thought I would delete --

17 MS. GRADY: Your Honor, I apologize for interrupting.

18 THE COURT: Sorry. We're back on the record, and I
19 forgot to use the microphone. I am so sorry.

20 MS. GRADY: I was going to say, I cannot hear.

21 THE COURT: Thanks for letting me know. What I did is
22 add an additional paragraph to my tentative, which reads, "This
23 Court cannot sever its subject matter jurisdiction to address
24 and approve a settlement that involves only part of its
25 April 28, 2017, order. This Court concludes that to do so would
26 be contrary to the Court of Appeal's remand order."

1 And I made -- I'm going to make that change. And I was
2 also going to take out some words regarding Peace II agreement,
3 requiring unanimous agreement to amendment.

4 And if that is -- I think that's correct. It was only
5 Peace I, and I prefer to make that correction now, than have
6 someone worry about that on a writ or an appeal if I got it
7 wrong the first time.

8 Anyone object to my removing those words, the words "and
9 Peace II agreement"?

10 MR. SLATER: No objection, your Honor.

11 MS. LEVIN: Your Honor, this is Marilyn Levin. I don't
12 have both of those agreements in front of me, but I think what
13 the attorneys said was that the second agreement didn't require
14 separate parties to sign the agreement, but I don't know if it
15 also says there doesn't have to be an unanimous agreement of the
16 pool. So I don't have the language in front of me. I'm sorry,
17 this is Marilyn Levin for CBCR.

18 THE COURT: Mr. Slater thinks it's correct and would be
19 correct to remove "and Peace II" as requiring unanimous
20 agreement.

21 MR. SLATER: And for the benefit of Ms. Levin, I think
22 the judgment's amendment is simply that it would be silent as to
23 what was required for the Peace II agreement. It is a true
24 statement to say the unanimous provision in Peace I applies. It
25 need not go into what is required by Peace II to fulfill the
26 intent of this paragraph.

1 THE COURT: Okay. Thank you. So I made that deletion
2 and just so everybody knows what I did was I put the tentative
3 ruling up on the screen for the lawyers in the courtroom to see
4 me actually, in real time, make these changes to my tentative.

5 So, with that said and done, the -- my current plan,
6 again, is still to sign and file the order today, and then we
7 need to address what to do next. And the what to do next
8 part -- and I see Mr. Hubsch coming up -- is what to do with
9 Mr. Hubsch's motion which I have not forgotten about, and what
10 to do with Watermaster's motion and the settling parties'
11 motion, in case there is a writ.

12 And so, any progress?

13 MR. SLATER: Unfortunately, no, your Honor.

14 THE COURT: Okay.

15 MR. SLATER: There is limited progress. I think for
16 many reasons that pertain to what you're going to hear from
17 Mr. Hubsch, the Non-Agricultural --

18 THE COURT: Okay.

19 MR. SLATER: -- - Pool. There was a hope or aspiration
20 to have these motions heard concurrently on the same date.
21 There was a hope and an aspiration by many of the parties that
22 that would happen concurrently.

23 THE COURT: Okay.

24 MR. SLATER: There is also the underlying aspirational
25 goal that your Honor has heard from us many times is to speed
26 our process along to do the good work we're trying to

1 accomplish.

2 THE COURT: Yes.

3 MR. SLATER: And there is a strong feeling among all
4 parties with the exception of Monte Vista that we could try to
5 keep the March 15th briefing schedule, and I think that, our
6 effort was unsuccessful because, I think, Monte Vista supports
7 the Court's view of wanting to allow the Court of Appeal ample
8 time to rule.

9 So we were unable to solve that scheduling, even though
10 we think the rest of us could do that.

11 THE COURT: Okay.

12 MR. SLATER: Unfortunately then, this is going to bring
13 to you now a question about what to do with the overlying on the
14 Agricultural Pool motion. And I think --

15 THE COURT: Mr. Hubsch, the plan on that, actually since
16 there has been no opposition and the schedule is for the
17 March 15th date is to keep that on calendar.

18 Yes, Mr. Gagen.

19 MR. GAGEN: I'm sorry, your Honor, the two things. One,
20 I understand Mr. Hubsch believes opposition were due on the
21 15th. It was our understanding they were due on the same day as
22 all other oppositions which was February 13th which this court
23 vacated.

24 THE COURT: Okay. There is confusion now. My plan --
25 sorry to interrupt you -- Mr. Hubsch, is to keep that 15th date
26 for your motion. We're going to get something done. And the

1 something would be your motion. We will confirm a briefing
2 schedule on that because today is the 20th. That's plenty of
3 time to get something filed and to be heard on the 15th of
4 March, I think.

5 MR. HUBSCH: So, your Honor --

6 THE COURT: Yes.

7 MR. HUBSCH: -- Allen Hubsch. Our motion was filed in
8 October.

9 THE COURT: Right.

10 MR. HUBSCH: In December you entered on order, Mr. Gagen
11 was present --

12 THE COURT: Okay.

13 MR. HUBSCH: -- at that hearing --

14 THE COURT: Right.

15 MR. HUBSCH: -- and he was present when you verbally
16 ordered, and it is in the notice of ruling that was circulated
17 afterwards --

18 THE COURT: Right.

19 MR. HUBSCH: -- any opposition papers shall be served
20 through Watermaster's and filed by noon on January 15, 2015.

21 THE COURT: Okay.

22 MR. HUBSCH: We asked for that, as you may recall,
23 specifically because our motion had been filed in October --

24 THE COURT: Yes, I remember this part.

25 MR. HUBSCH: -- and I remember being asked to continue
26 and so we said we would like to at least have our oppositions

1 due the same time other people's motion are due.

2 THE COURT: Right. I do remember this.

3 MR. HUBSCH: That was a discussion in open court. It
4 couldn't have been forgotten -- easily forgotten.

5 THE COURT: Okay.

6 MR. HUBSCH: And the oppositions were due. There were
7 no oppositions filed.

8 THE COURT: Well, do you intend to file an opposition?

9 MR. KIDMAN: Your Honor.

10 THE COURT: Mr. Kidman speaking.

11 MR. KIDMAN: There is a relationship between the main
12 motion for the 2018 amendments that are part of the settlement
13 and a Non-Ag motion. Our client, Monte Vista, very strongly
14 believes that the Non-Ag motion cannot go first. And that has
15 been something that we have announced everywhere. I'm
16 unfamiliar with this January 15th order. I wasn't here that
17 day.

18 THE COURT: Oh.

19 MR. KIDMAN: But I can tell you that it has been a
20 fundamental preset that we would oppose a Non-Ag motion if it is
21 heard first.

22 THE COURT: All right. Ms. Egoscue has approached the
23 microphone.

24 Ms. Egoscue.

25 MS. EGOSCUE: If I may your Honor, and with all due
26 respect to everyone present, we have been waiting a long time to

1 have resolution on these matters. And the different pools have
2 been patiently waiting to be heard, including the Non-Ag Pool.

3 THE COURT: Right.

4 MS. EGOSCUE: And the Ag Pool of which I represent. So
5 I renew my urging of this Court that Mr. Slater briefly
6 represented to you, that we keep the briefing schedule on
7 calendar for the 15th and that we actually come and appear
8 before you and hear all of the motions that are currently
9 scheduled. And if I may just briefly say to you that the Ag
10 Pool will agree to file their opposition and their joinder which
11 has been referenced in papers before this Court by Friday and
12 then, if you require any replies by the -- is it the fourth? Or
13 even the first, that provides the Court with two weeks, in
14 advance of the March 15th hearing. Then we could come and hear
15 this.

16 Now going to the Court of Appeal, if Monte Vista files a
17 writ, they will have timely response from the Court of Appeal as
18 to whether or not you are making an error which obviously the Ag
19 Pool does not believe you are. So that is what we are urging
20 you to just consider. Let us file our papers, let Monte Vista
21 seek their relief, and then we don't have this fraction of
22 everything that we're, right now, starting to experience. Thank
23 you, your Honor.

24 THE COURT: Thank you. I see Mr. Bunn approaching.

25 Mr. Bunn, come up, please.

26 MR. BUNN: Thank you, your Honor. I represent the city

1 of Pomona which is one of the settling parties and I want to
2 express my support for what Mrs. Egoscue just suggested. We are
3 anxious to get this done and move on with the Watermaster
4 administration.

5 And I can represent to the Court that we can get our
6 reply in by March 1st if the Court orders that.

7 THE COURT: Mr. Gagen.

8 MR. GAGEN: Sure. Your Honor, how can the Court proceed
9 with these proceedings if -- if, if -- the Court of Appeal feels
10 as if it doesn't have subject matter jurisdiction. If the Court
11 of Appeal feels the trial court is violating this order. To
12 proceed with these matters, your Honor, is in our view,
13 trampling over the Court of Appeal's jurisdiction. You got to
14 at least give them opportunity to respond.

15 THE COURT: I will. Because the hearing -- I am going
16 to keep the hearing date on the 15th. That's -- that is -- hang
17 on just a second while I count some days -- one, two, three and
18 a half weeks from now. And I don't think I'm trampling over
19 anyone's jurisdiction. I made my ruling today. That's why I
20 want to do a tentative and final ruling today so we can all go
21 forward. You have something definite in writing today, not a
22 month from today, not the day after tomorrow, today. I will
23 sign the order today and file it today.

24 And we are going to keep the hearing date on the 15th.
25 So if you approach the Court of Appeal, make sure you ask for a
26 stay or something to tell me what I'm supposed to be doing,

1 since the countervailing request of the Court of Appeal is that
2 I handle this expeditiously. So I have competing interests
3 expressed reasonably and professionally by all sides, but the
4 competing interests that I would -- that I'm going to follow
5 today because of the request of the Court of Appeal that I
6 handle this expeditiously is do it expeditiously.

7 So the oppositions to either the settlement parties
8 motion or the Watermaster motion need to be served and filed
9 by -- can everybody who is going to do that, do that by one week
10 from today? And anything from Mr. Hubsch's motion too, any
11 oppositions to Mr. Hubsch's motion, despite of my previous
12 ruling, since there was a problem, and I don't want someone to
13 claim they didn't understand my order -- even though I think it
14 was clear -- and be prejudice said. So --

15 MS. EGOSCUE: Your Honor, we can file by Friday.

16 THE COURT: Okay. I feel like an auctioneer here.
17 Anybody who can't file by Friday?

18 Mr. Gagen.

19 MR. GAGEN: A little more time than Friday.

20 THE COURT: Okay. Well, that's reasonable.

21 MR. HUBSCH: Your Honor?

22 THE COURT: Yes, Mr. Hubsch.

23 MR. HUBSCH: Yes, Allen Hubsch speaking. One of the
24 things and the reasons I expressed for wanting to have
25 oppositions due by the time other people's motions were due, is
26 because there have been a lot of representations made that there

1 would not be any oppositions to our motion. If there is going
2 to be an opposition to our motion, for example, from
3 Monte Vista, then we need to have an opportunity to express what
4 we think about Monte Vista and about others.

5 THE COURT: Correct. Right.

6 MR. HUBSCH: We were trying to -- because our motion had
7 been filed in October -- to get ahead of the curve, so if we had
8 to react, we could react. So we need to have -- if we're going
9 to have a reopening of the opposition, it again needs to be
10 earlier than our deadline to oppose their motion.

11 THE COURT: Okay.

12 MR. HUBSCH: It really should, in fairness, because our
13 motion has been outstanding since October.

14 THE COURT: I got that part. I really did.

15 MR. GAGEN: Your Honor, if this helps, the course of
16 Monte Vista's opposition would be if Non-Ag's motion is not
17 heard concurrently with the appealing parties' motion.

18 THE COURT: Okay. It's all going to be heard on the
19 same day. What I'm going to do is bounce it one week. I'm
20 going -- no, no, I'm not -- I take that back -- strike that.

21 It's still going to be the 15th of March. We're going
22 to keep that date because I really want to move forward. So
23 Mr. Hubsch, for your motion, for the Non-Agricultural Pool,
24 oppositions to that -- sorry, everybody -- need to be served and
25 filed, next Tuesday. Next Tuesday.

26 Will that work, Mr. Hubsch? I'm looking at you because

1 I had a little trouble following what you were telling me about
2 the timing of the motions.

3 MR. HUBSCH: So we think the time for opposition is
4 expired. But --

5 MS. LEVIN: Your Honor, this is Marilyn Levin. Again,
6 I'm sorry to jump in.

7 THE COURT: Yes.

8 MS. LEVIN: I think Monte Vista said -- Monte Vista said
9 they were not going to file an opposition if it was heard at the
10 same time.

11 THE COURT: That's not --

12 MS. LEVIN: And the Non-Ag attorney -- and I think
13 that's what he said. And the Non-Ag attorney said he was
14 counting on all oppositions being filed to that in January. So
15 I think they both agree. And I think you can go forward unless
16 I misunderstood both Mr. Gagen and Mr. Kidman.

17 THE COURT: I think you did and here is what we're going
18 to do. Oppositions to Mr. Hubsch's motion, anything, I mean you
19 name it, for any reason, for due process reasons are going to
20 be -- I will give you more time. If anybody opposes, then that
21 opposition needs to be served and filed. I will give you one
22 week from today.

23 MR. SLATER: Twenty-seventh, your Honor?

24 THE COURT: Yes, February 27, 4:00 p.m. Any reply,
25 needs to be served and filed by 4:00 p.m., March 6th. That's
26 only for Mr. Hubsch's motion. That's strictly for your motion,

1 Mr. Hubsch.

2 MR. HUBSCH: Thank you, your Honor.

3 THE COURT: You're welcome. And I'm keeping the 15th
4 date. Is that clear?

5 MR. SLATER: Yes, your Honor.

6 THE COURT: Any questions about that because I'm also
7 telling you if you're a minute late with an opposition now, with
8 the date I set for one week from today, 4:00 p.m.,
9 February 27th, it will be rejected and not considered by the
10 Court, period. That's it. No further continuances, nothing,
11 zippo, this is -- sorry, no further continuances, nothing, if
12 Court will not consider any late filings, period. Okay.

13 Next, on the Watermaster motion and the settling
14 parties' motion oppositions, Ms. Egoscue said she can have hers
15 on file by Friday. Anyone else need more time than Friday?
16 Mr. Gagen. Okay.

17 Mr. Gagen, I will give you a week from Friday then.
18 It's going to be a busy week, but this is the way the law works
19 sometimes.

20 MR. GAGEN: That will be Friday March 1st, your Honor?

21 THE COURT: That will be Friday, March 1st.

22 MR. GAGEN: Is there a reason why we need to jam it up
23 so hard, your Honor?

24 THE COURT: Yes, because it's been pending for six
25 months and the Court of Appeal told me to do this expeditiously,
26 and if I wait -- if I keep continuing these motions, this is the

1 time where I choose the option that it has been pending so long,
2 we need to get it done immediately, and the Court of Appeal has
3 told me to do it immediately, and so that's what I'm doing.

4 So oppositions need to be served and filed -- what did I
5 say.

6 MR. SLATER: Friday, March 1st your Honor.

7 THE COURT: And any replies need to be served and filed
8 by Thursday, so I can have an extra day, Thursday, March 7th,
9 4:00 p.m. And I'll be ready to go on March 15th. It's going to
10 be a long weekend for me too. So is that clear -- is that
11 briefing schedule clear to everybody?

12 MR. SLATER: Your Honor, for the avoidance of doubt --

13 THE COURT: Yes.

14 MR. SLATER: -- may I repeat back to you what I believe
15 the dates are that you said?

16 THE COURT: Please.

17 MR. SLATER: So the Court is clear, it's keeping the
18 hearing date on March 15th?

19 THE COURT: Correct.

20 MR. SLATER: And on that date, it will handle the moving
21 parties --

22 THE COURT: Yes.

23 MR. SLATER: -- it will handle Watermaster's, it will
24 handle the Non-Ag Pool motions.

25 THE COURT: Correct.

26 MR. SLATER: All on that same day.

1 THE COURT: Three motions.

2 MR. SLATER: With regard to the opposition to the Non-Ag
3 Pool, that must be filed by February 27th, Wednesday.

4 THE COURT: 4:00 p.m.

5 MR. SLATER: 4:00 p.m. All dates are by 4:00 p.m.,
6 correct?

7 THE COURT: Yes, because that's when our clerk's office
8 closes.

9 MR. SLATER: And any reply due to the Non-Ag -- on
10 behalf of the Non-Ag to the opposition will be due March 6th.

11 THE COURT: 4:00 p.m., correct.

12 MR. SLATER: 4:00 p.m. Then with regard to the
13 opposition to the moving parties, and Watermaster on the
14 proposed changes, those oppositions will be due on March 1st, at
15 4:00 p.m.

16 THE COURT: Right.

17 MR. SLATER: And any replies thereto on March 7th, at
18 4:00 p.m.

19 THE COURT: Correct.

20 MR. SLATER: Thank you, your Honor. I think that
21 articulates what you instructed.

22 THE COURT: It did. Thank you.

23 Mr. Kidman, I see you approaching the microphone
24 perhaps.

25 MR. KIDMAN: Thank you, your Honor. All contingent on
26 what the Court of Appeal does?

1 THE COURT: Goes without saying, but never hurts to
2 clarify that. If something happens to stop me by the Court of
3 Appeal, I say that without a hint of reproach or rebuke or
4 anything, other than that's just the way the legal procedure --
5 that's the course we'll take.

6 MR. GAGEN: And, your Honor --

7 THE COURT: That's what we do.

8 MR. GAGEN: -- if we haven't heard from the Court of
9 Appeal by March 15th?

10 THE COURT: We just keep going.

11 MR. GAGEN: The Court will rule on the motions?

12 THE COURT: Yes, yes, oh, yes. If the Court of Appeal
13 wants to stay the schedule that I just announced and Mr. Slater
14 just repeated, I need a specific order from the Court of Appeal,
15 telling me I need to stop.

16 MR. GAGEN: Before March 15th?

17 THE COURT: Before March 15th. Yes. So I hope that's
18 clear to everybody and is workable, as it can be under the
19 circumstances, given the competing interests, and wish us all
20 luck -- counsel, court, everybody, the parties, everybody -- and
21 that should complete the hearing for today.

22 I appreciate everyone's insight, professionalism,
23 patience, arguments, and I'll talk to you further on the 15th of
24 March, unless something happens.

25 (Proceedings adjourned.)
26

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER)
DISTRICT,)

Plaintiff,)

-vs.-)

CITY OF CHINO, et al.,)

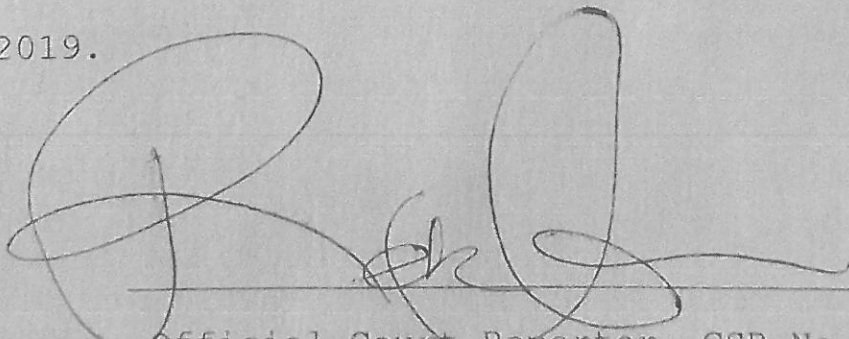
Defendants.)

Case No. RCVRS51010

REPORTER'S
CERTIFICATE

I, Rebecca M. Allen, CSR, Official Reporter of the above-entitled court, do hereby certify: That I am a Certified Shorthand Reporter of the State of California, duly licensed to practice; that I did report in Stenotype oral proceedings had upon hearing of the aforementioned cause at the time and place hereinbefore set forth; that the foregoing pages, numbered 1 through 37, constitute to the best of my knowledge and belief a full, true, and correct computer-aided transcription from my said shorthand notes so taken for the date of Thursday, February 20, 2019.

Dated at San Bernardino, California, this 21st day of February, 2019.



CSR

Official Court Reporter, CSR No. 13689

EXHIBIT D

Case No. E068640

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff and Respondent,

v.

CITY OF CHINO et al.,

Defendant and Respondent,

CUCAMONGA VALLEY WATER DISTRICT, et al.,

Defendants and Appellants.

Superior Court of California, County of San Bernardino
Honorable Stanford E. Reichert, Dept. S35 (Case No. RCVRS51010)

**JOINT STIPULATION AND APPLICATION FOR LIMITED
REMAND TO THE SUPERIOR COURT**

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Attorneys for Appellant
Cucamonga Valley Water District

WHEREAS, the underlying action is an adjudication of water rights in the Chino Groundwater Basin (“Basin”), one of the largest groundwater basins in Southern California and a water source for more than one million residents of the Inland Empire.

WHEREAS, the Superior Court of the State of California for the County of San Bernardino (“Trial Court”) entered judgment in 1978 and has since amended and issued a Restated Judgment (“Judgment”), adjudicating groundwater rights and rights to storage space and imposing a physical solution.

WHEREAS, the purpose of the physical solution is “to establish the legal and practical means for making the maximum reasonable beneficial use of the waters of Chino Basin by providing the optimum economic, long-term, conjunctive utilization of surface waters, ground waters and supplemental water, to meet the requirements of water users having rights in or dependent upon Chino Basin.”

WHEREAS, the Judgment set an initial safe yield of authorized pumping from the Basin.

WHEREAS, the Judgment quantified the rights of the parties and established three pools of holders of water rights in the Basin: (1) the Overlying Non-Agricultural Pool; (2) the Overlying Agricultural Pool; and (3) the Appropriative Pool.

WHEREAS, the Trial Court retained continuing jurisdiction “for interpretation, enforcement or carrying out of [the] Judgment, and to

modify, amend or amplify any of the provisions of [the] Judgment,” subject to certain exceptions not at issue here.

WHEREAS, the Judgment established a Watermaster to administer and implement the Judgment.

WHEREAS, the Judgment recognized a need for flexibility and adaptability for the physical solution so that the Watermaster and the Trial Court “may be free to use existing and future technological, social, institutional and economic options, in order to maximize beneficial use of the waters of Chino Basin.”

WHEREAS, pursuant to the flexibility and adaptability of the physical solution, since the entry of the Judgment, the Trial Court has approved and the Watermaster and the parties to the Judgment have operated pursuant to several “Court Approved Management Agreements” or “CAMA.”

WHEREAS, in 2015, the Watermaster filed a motion to approve a Safe Yield Reset Agreement (“SYRA”), including a request to change the safe yield from 140,000 acre-feet per year to 135,000. Some, but not all, parties approved the SYRA after significant negotiations, and some parties opposed the SYRA and the Watermaster’s motion.

WHEREAS, throughout 2016 and 2017, the Trial Court requested, authorized, and considered voluminous additional briefs, objections, declarations, questions, and answers regarding the Watermaster’s 2015 motion to approve the SYRA.

WHEREAS, on April 28, 2017, the Trial Court issued an order regarding the Watermaster's 2015 motion to approve the SYRA ("Trial Court Order"), changing the safe yield but denying all other provisions of the SYRA and making additional rulings regarding the interpretation of the Judgment and the CAMA.

WHEREAS, Cucamonga Valley Water District, Monte Vista Water District, and the City of Pomona (collectively "Appellants"), which are all members of the Appropriative Pool, appealed the Trial Court Order.

WHEREAS, the Respondents to the appeal, the City of Chino, Jurupa Community Services District, and the City of Ontario ("Respondents" and collectively with Appellants, the "Parties") are also members of the Appropriative Pool.

WHEREAS, the Parties have engaged in extensive settlement negotiations since the filing of the notices of appeal.

WHEREAS, the Parties reached a settlement in principle in late 2017.

WHEREAS, efforts to finalize the settlement are challenging due, among other reasons, to: (1) the complex nature of the underlying case; (2) the Trial Court's continuing jurisdiction over the case, including Trial Court-approved CAMA; (3) the relationship between the proposed settlement of this appeal and the Judgment and CAMA; and (4) the Appellants' concerns regarding potential jurisdictional issues stemming from the obligation to obtain Trial Court approval of certain matters

embraced in the anticipated settlement without abandoning the pending appeal.

WHEREAS, on January 3, 2018, this Court stayed this appeal to allow the Parties to continue their settlement negotiations and on April 17, 2018, ordered that the stay continue in full force and effect.

WHEREAS, the Parties have since reached a proposed settlement agreement premised upon court approval, with the participation and support of the Overlying Non-Agricultural Pool, the Overlying Agricultural Pool, and members of the Appropriative Pool that are parties to the Judgment and CAMA but not Parties to this appeal, of certain substantive amendments to the Judgment and existing CAMA (“2018 Amendments”).

WHEREAS, court approval of the 2018 Amendments is necessary to effectuate the proposed settlement and voluntary dismissal of this appeal.

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.

WHEREAS, in order to allow the Trial Court opportunity to review and rule upon the proposed 2018 Amendments, the Parties have agreed to bring this joint request to remand this case to the Trial Court for the limited purpose of considering a motion to approve the 2018 Amendments.

WHEREAS, the Parties agree that such an action would be consistent with Code of Civil Procedure section 43 and would serve judicial

economy as described in the attached memorandum of points and authorities.

THEREFORE, the Parties agree as follows:

1. The Parties will and hereby do respectfully request that this Court remand this case to 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.
3. Granting the Parties' present application and remanding this action to the Trial Court for the limited purpose of considering a motion to approve the 2018 Amendments would serve the interests of justice and judicial economy as discussed in the attached memorandum of points and authorities.

Dated: July 16, 2018

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION AND BACKGROUND

The Parties to this appeal seek a limited remand to allow the Trial Court to review the 2018 Amendments, approval of which is necessary to effect settlement and dismiss the pending appeal. Although the Parties reached a conceptual settlement in late 2017, the complexity of this matter made completing that settlement challenging. The Parties have spent almost a year negotiating not only the substantive terms of the proposed settlement, but also the procedural mechanism to effect settlement to allow for the dismissal of this appeal. The Parties have agreed to amend the Judgment and the CAMA, as outlined in their proposed 2018 Amendments but, as a result of the Trial Court's continuing jurisdiction, must obtain court approval of the 2018 Amendments in order to complete the settlement and dismiss this appeal.

As court approval of the 2018 Amendments is a condition precedent to Appellants' dismissal of their appeal, the Parties are concerned with how to obtain the necessary court approval. As the Trial Court's Order that is the subject of the appeal amends and interprets certain provisions of the Judgment and CAMA, the Appellants are concerned that the Trial Court lacks jurisdiction to review the 2018 Amendments. The Parties are also concerned that this Court may lack jurisdiction over issues contained in the 2018 Amendments that are ancillary to the appeal and unaffected by the Trial Court Order. To resolve this conundrum, the Parties have agreed to bring this request for a limited remand of this matter to allow the Trial Court to review and rule upon a motion to approve the proposed 2018

Amendments. Should the Trial Court grant that motion, the Parties would consider their settlement effective, and Appellants would dismiss their appeal, having protected their interests. A motion before the Trial Court would also allow the Overlying Non-Agricultural Pool, the Overlying Agricultural Pool, and the Appropriative Pool members that are parties to the Judgment but not Parties to this appeal to participate in and support the motion to amend the Judgment and CAMA.

Accordingly, the Parties jointly request that this Court, pursuant to its broad authority in the disposition of appeals, remand this case to the Trial Court for the limited purpose of hearing a motion to approve the 2018 Amendments. If the Trial Court approves the motion to approve the 2018 Amendments, Appellants will dismiss their appeal. If the Trial Court denies the motion, the Parties will ask this Court to lift the stay of the appeal and will proceed therewith. In either instance, justice and judicial economy will be served.

II.

ARGUMENT

A. Jurisdiction to Review and Approve the 2018 Amendments is Unclear.

The Parties have agreed to settle the appeal of the Trial Court Order through the 2018 Amendments to the Judgment and the CAMA. However, Amendments to the Judgment and CAMA require Trial Court approval, under its continuing jurisdiction, to become effective. If the Trial Court were to grant a motion to approve the 2018 Amendments, all of the issues raised on appeal, which are numerous and complex, will be moot because

the approval of the 2018 Amendments would effect settlement, and the Appellants would dismiss their appeal. However, final settlement cannot be reached, and Appellants will not dismiss their appeal, unless and until the court approval of the 2018 Amendments is obtained. As the 2018 Amendments concern several Basin management issues, only some of which are embraced or affected by the Trial Court Order on appeal, it is not clear whether this Court or the Trial Court has jurisdiction to hear a motion to approve the 2018 Amendments.

Because the Trial Court Order modifies certain provisions of the Judgment and CAMA, the Appellants are concerned that the Trial Court may consider a motion to approve the 2018 Amendments a proceeding upon matters embraced and affected by the Trial Court Order on appeal and find that it lacks jurisdiction to hear such a motion.¹ Code of Civil Procedure, section 916(a) provides that the “perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.” The purpose of this provision is “to protect the appellate court’s jurisdiction by preserving the status quo until the appeal is decided.” (Varian Medical Systems, Inc. v. Delfino (2005) 35 Cal.4th 180, 189 (citation omitted).)

¹ Appellants’ concern is, in part, the subject of Appellants’ motion to confirm stay, which is pending before the Trial Court, but has been continued to provide the Parties time to attempt to reach settlement. In bringing this Joint Application, Respondent Jurupa Community Services District (“JCSD”) does not waive, and hereby expressly preserves, any defense it may have to the motion to confirm stay pending before the Trial Court should settlement not be effectuated.

Appellants are concerned that because the 2018 Amendments include amendments to certain provisions of the Judgment and CAMA embraced and affected by the Trial Court Order on appeal, the Trial Court may lack jurisdiction to hear a motion to approve the 2018 Amendments. However, because the 2018 Amendments also modify certain provisions of the Judgment and CAMA that are not embraced or affected by the Trial Court order on appeal, and which affect parties to the Judgment and CAMA that are not parties to this appeal, the Parties are concerned that this Court lacks jurisdiction to hear a motion to approve the 2018 Amendments.

B. This Court is Empowered to Remand this Case to the Trial Court on a Limited Basis.

To resolve the jurisdictional conundrum, this Court may exercise its discretion to remand the matter to the Trial Court for the limited purpose of addressing the motion to approve the 2018 Amendments.

The courts of appeal have broad powers in the disposition of appeals, including the authority to “direct ... further proceedings to be had” in the trial court. (Code Civ. Proc., § 43; Ducoing Management Inc. v. Superior Court of Orange County (2015) 234 Cal.App.4th 306, 313.) “[J]urisdiction is not necessarily unidirectional.” (People v. Awad (2015) 238 Cal.App.4th 215, 222 (“Awad”).) In remanding a case, the court of appeal defines the scope of the jurisdiction of the court to which the matter is returned. (Griset v. Fair Political Practices Com’n (2001) 25 Cal.4th 688, 701.)

A limited remand to the trial court is appropriate “for the exercise of any discretion that is vested by law in the trial court.” (Awad, 238

Cal.App.4th at 222; see also People v. Braxton (2004) 34 Cal.4th 798, 819 (“Braxton”).) Although Awad and Braxton are both criminal cases that cite Penal Code section 1260 in setting forth the appellate court’s power to order a limited remand, the Penal Code language mirrors Code of Civil Procedure section 43. (Compare Pen. Code, § 1260 [court may “remand the cause to the trial court for such further proceedings as may be just under the circumstances”] with Code Civ. Proc., § 43 [appellate court has the authority to “direct ... further proceedings to be had” in the trial court].)

The concept of a limited remand arises not only from statutory language, but from the inherent power of the court that “arises from necessity where, in the absence of any previously established procedural rule, rights would be lost.” (Awad, 238 Cal.App.4th at p. 222 citing In re Amber S. (1993) 15 Cal.App.4th 1260, 1264.) There are several examples in the criminal and civil contexts where appellate courts may order limited remands to the trial court during the pendency of an appeal. (See, e.g., Cal. Rules of Court, rule 8.155(c)(2) [reviewing court may order trial court to settle disputes about omissions or errors in the record]; Cal. Rules of Court, rule 8.244(d) [reviewing court may order trial court to hold a hearing regarding approval of minor’s compromise of pending appeal]; Cal. Rules of Court, rule 8.252(c) [reviewing court may take evidence on appeal by specifying special master or referee].)

Here, the Trial Court has reserved continuing jurisdiction “to make such further or supplemental orders or directions as may be necessary or appropriate for interpretation, enforcement or carrying out of [the] Judgment, and to modify, amend or amplify any of the provisions of [the] Judgment.” (Judgment, ¶ 15 at p. 10.) It has exercised that continuing jurisdiction in amending the Judgment and approving various CAMA. A

limited remand to the Trial Court to consider the 2018 Amendments is thus appropriate.

A limited remand will not alter the Trial Court Order on appeal or endanger this Court's jurisdiction, but it will promote justice and judicial economy by allowing the Parties to settle their appeal without giving up their rights on appeal. Absent a limited remand and continued stay of the appeal, Appellants are concerned that if the Trial Court does not have jurisdiction to hear the motion to approve the 2018 Amendments, Appellants would be forced to choose between dismissing their appeal before the Trial Court could hear a motion to approve the 2018 Amendments – and risk losing their right to appeal if the Trial Court ultimately denied the motion – and abandoning the proposed settlement to proceed with their appeal. A limited remand, on the other hand, would not require the Trial Court to decide any issues that this Court must determine in conjunction with the final disposition of the appeal. The Trial Court would only have to determine whether or not to approve the proposed amendments to the Judgment and CAMA. If the Trial Court grants the motion to approve the 2018 Amendments, Appellants will dismiss their appeal; if the Trial Court denies the motion, the Parties will ask this Court to lift the stay and proceed with the appeal. (See Awad, 238 Cal.App.4th at p. 223.)

The Parties bring this Application in the interest of justice and judicial economy, as the requested limited remand will either facilitate settlement among the Parties or encourage them to proceed with the appeal expeditiously. (See Union Bank of California v. Braille Institute of America (2001) 92 Cal.App.4th 1324 [“public trust in the courts is ... enhanced by settlements of pending appeals and related litigation,” and

efforts should be made, where possible, to settle disputes in a fashion that protects the respective parties' interests].) The Parties to this action have found common ground and are prepared to settle their appeal, but need the Trial Court's review and approval of the proposed amendments to the Judgment and CAMA to effect their proposed settlement.

III.

CONCLUSION

For the foregoing reasons, the Parties respectfully request that the Court grant this joint Application and remand this matter to the Trial Court for the limited purpose of considering a motion to approve the 2018 Amendments. The Parties further request that the stay of the appeal remain in full force and effect pending resolution of the proposed motion to approve the 2018 Amendments.

Dated: July 16, 2018

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By: /s/ Sarah Christopher Foley

GENE TANAKA

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Attorneys for Appellant

Cucamonga Valley Water District

Dated: July 16, 2018

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[PROPOSED] ORDER FOR LIMITED REMAND TO THE SUPERIOR COURT

The parties hereto having filed a Joint Stipulation and Application for Limited Remand to the Superior Court, Memorandum of Points and Authorities in support thereof and the Court having been afforded the opportunity to review the merits of the Application, it is determined that the Stipulation is accepted and approved and Application is granted.

It is ORDERED that:

1. The matter is remanded to the Trial Court for the limited purpose of considering a motion to approve the 2018 Amendments.
2. The stay of the appeal ordered by this Court otherwise shall remain in full force and effect pending resolution of the motion to approve the 2018 Amendments.

Dated: _____

EXHIBIT E

COURT OF APPEAL -- STATE OF CALIFORNIA

FOURTH DISTRICT
DIVISION TWO

ORDER

CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff,	E068640
v.	(Super. Ct. No. RCVRS51010)
CITY OF CHINO et al., Defendants, Objectors and Respondents;	The County of San Bernardino
CUCAMONGA VALLEY WATER DISTRICT et al., Defendants, Movants and Appellants.	

THE COURT

Pursuant to order filed November 6, 2018, Appellants Cucamonga Valley Water District, Monte Vista Water District, and the City of Pomona (collectively, “Appellants”) submitted a letter advising the court of the status of this matter; specifically, with regard to the superior court’s progress in deciding a motion that, if granted, will allow the Appellants to dismiss their appeal.

Appellants and Respondents City of Chino, Jurupa Community Services District, and City of Ontario (collectively “Parties”) sought ex parte relief in the superior court on December 5, 2018, for the superior court to specially set a hearing and briefing schedule on a Motion to Approve Amendments to Appropriative Pool Pooling Plan and Court-Approved Management Agreements (“Motion”).

The superior court granted the Parties’ requested relief and specially set a hearing for the Motion on March 15, 2019, at 1:30 p.m., in Department S35 of the San Bernardino County Superior Court, and further ordered a briefing schedule for the Motion.

As a result of the aforementioned events, Appellants are DIRECTED as follows: to effectuate the Joint Stipulation within a reasonable time, if the superior court grants the motion, Appellants are DIRECTED to serve and file with the settlement conference administrator, on or before 20 days after the date of the signed order is filed in the superior court, a request for dismissal of the appeal. However, if the superior court denies the motion, this court through its settlement conference administrator will confer with the parties and determine how the appeal should proceed.

Upon the filing of the signed order, the superior court clerk is DIRECTED to transmit to this court's settlement conference administrator a file-stamped copy of the order.

The stay of the appeal filed April 17, 2018, and extended to January 3, 2019, shall REMAIN in full force and effect until further order of this court.

RAMIREZ

Presiding Justice

cc: See attached list

MAILING LIST FOR CASE: E068640

Chino Basin Municipal Water District v. City of Chino et al.; Cucamonga Valley Water District et al.

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7 Attorneys for

CHINO BASIN WATERMASTER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN BERNARDINO

11 CHINO BASIN MUNICIPAL WATER
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendant.

Case No. RCV RS51010

[Assigned for All Purposes to the Honorable
Stanford E. Reichert]

**NOTICE OF ORDERS FOLLOWING
HEARING**

Date: February 20, 2019

Time: 1:30 p.m.

Dept.: S35

18 **TO ALL PARTIES AND THEIR ATTORNEYS 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.

26 The Court set the following briefing schedule on the October 4, 2018 Motion Regarding
27 Amendment of Pooling Plan for the Non-Agricultural Pool, Attached to the Judgment as Exhibit
28

1 G, as follows:

2 A. Oppositions, if any, shall be served and filed through Watermaster, with a courtesy
3 copy filed directly with the Court's chambers, no later than 4:00 p.m. on February
4 27, 2019.

5 B. Reply papers, if any, shall be served and filed through Watermaster, with a
6 courtesy copy filed directly with the Court's chambers, no later than 4 p.m. on
7 March 6, 2019.

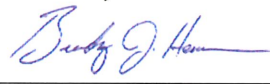
8 The Court set the following briefing schedule on the January 15, 2019 Chino Basin
9 Watermaster Motion Regarding Amendments to Restated Judgment, Peace Agreement, Peace II
10 Agreement, and Re-Operation Schedule and the appeal parties' January 15, 2019 Motion to
11 Approve Amendments to Appropriative Pool Pooling plan and Court-Approved Management
12 Agreements as follows:

13 A. Oppositions, if any, shall be served and filed through Watermaster, with a courtesy
14 copy filed directly with the Court's chambers, no later than 4:00 p.m. on March 1,
15 2019.

16 B. Reply papers, if any, shall be served and filed through Watermaster, with a
17 courtesy copy filed directly with the Court's chambers, no later than 4 p.m. on
18 March 7, 2019.

19
20 Dated: February 20, 2019

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

SCOTT S. SLATER
BRADLEY J. HERREMA
CHRISTOPHER R. GUILLEN
ATTORNEYS FOR
CHINO BASIN WATERMASTER

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 20 2019

BY Melissa White
MELISSA WHITE, DEPUTY

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

~~Final~~
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,

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

2 5. Filed February 7, 2019, MVWD's reply to AgPool's opposition to MVWD's ex
3 parte application.

4 6. Filed February 7, 2019, response of City of Pomona, Jurupa Community Services
5 District, and Cucamonga Valley Water District ("settling parties") to ex parte
6 application.

7
8
9 RULING

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

13
14 1. The ex parte application is contrary to the stipulation underlying the remand.

15 a. Attached as Exhibit A to the AgPool's opposition, filed February 1, 2019, is
16 the joint stipulation and application for limited remand to the Superior Court. On
17 page 5, the following recital is set forth: "whereas, review of the 2018 Amendments
18 by the Trial Court would allow for the parties to the Judgment that are not parties to
19 this appeal to participate in the process of amending the Judgment and CAMA."

20 b. Exhibit A contains the agreement that "1. The Parties will and hereby do
21 respectfully request that this court remand this case to the Trial Court for the limited
22 purpose of considering a motion to approve the 2018 Amendments. 2. The Parties
23 will and hereby do respectfully request that this court continue the stay of this appeal
24 pending resolution of the motion to approve the 2018 Amendments."

25 c. To interpret the stipulation agreement with respect to "a motion" or "the
26 motion" to allow only for one motion by Cucamonga Valley Water District is to
27 misinterpret the purpose of the stipulation and remand.

28 d. The recital in the agreement clarifies that the purpose of the remand is for all

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

3 e. To define “parties” in the remand order to mean only the Appeal Parties is to
4 take the word “parties” out of the context of the stipulation. Such a definition would
5 defeat the meaning of the recital. Such a definition is too narrow a reading of the
6 remand order.

7 f. Watermaster is not only a party to the judgment but also a administrative arm
8 of the court with respect to its enforcement, and an important source of information
9 for this court to evaluate the settlement, *i.e.*, the 2018 Proposed Changes.

- 10 1) To state the obvious, and was contemplated in the recital, the 2018
11 Amendments affect all the parties to the judgment and due process
12 requires all parties have an opportunity to be heard.
- 13 2) To deny Watermaster, or any other party, an opportunity to advise the
14 court with respect to the effect of the 2018 Amendments would be
15 completely contrary to due process.
- 16 3) The court finds that MVWD is judicially estopped from asserting other
17 parties’ lack standing to brief this court on the settlement pursuant to the
18 remand.

19 g. There is nothing in the remand order that prohibits Watermaster’s motion.

20 h. The court finds no prejudice to MVWD in the filing of Watermaster's motion.

21 The motion is consistent with the stipulation and the remand.

22
23 2. Code of Civil Procedure §916 does not apply to Watermaster’s motion for the
24 following reasons:

25 a. The stipulation itself provides that other parties may be involved.

26 b. MVWD’s ex parte application misinterprets the order of the Court of Appeal
27 and any ruling this court might have made.

28 c. This ex parte application has nothing to do with any of the court’s previous

1 orders with respect to the AgPool's petition.

2 d. This court cannot sever its subject matter jurisdiction to address and approve a
3 settlement that involves only a part of its April 28, 2017 order. This court concludes
4 that to do so would be contrary to the Court of Appeal's remand order.

5
6 3. The court accepts Watermaster's argument that the vehicle appellants chose to
7 dispose of their appeal is not an agreement inter-se. Instead they chose a global
8 resolution of matters requiring amendment of the restated judgment, existing
9 agreements, and prior court approvals – all of which affect the rights of all parties to
10 the restated judgment.” (Page 1, lines 12-15.)

11 a. The court's consideration of amendments to the restated judgment may be
12 undertaken pursuant only to a noticed motion. (Restated judgment, ¶ 15.) The
13 amendment of the provisions of Peace I agreement is subject to the unanimous
14 agreement of the parties thereto (Peace I agreement §10.14), and the re--operation
15 schedule may only be amended through approval of Watermaster (Peace II
16 agreement, §7.2(C)(ii).) (Page 4, line 27 to page 5, line 2.)

17 b. The Watermaster motion contains the 2018 amendments as well as proposed
18 amendments to the non-agricultural pooling plan and requests the court to instruct
19 Watermaster to implement the safe yield reset and new reset methodology of the safe
20 yield reset order – all of which are matters contained in the judgment. (Page 5, lines
21 3-7.)

22
23 4. Watermaster's motion is not in violation of the Court of Appeals November 6,
24 2018 remand order or December 28, ex parte order.

25 a. The irreparable harm must be something outside of the denial of the motion
26 itself, but it is the denial of the motion which the MVWD claims as irreparable harm.
27 (Page iii lines 19-26.)

28 b. If there is a requirement about advising the Court of Appeal about the court

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


2 1) On the contrary, the ex parte application violates the basis of the Court of
3 Appeal remand as set forth herein.

4 c. This court's December 28, 2018 order dealt strictly with the motion by the
5 parties on appeal. It does not prohibit any other motions from being filed.

6 d. There is no good cause to take Watermaster's motion off calendar.

7 e. MVWD has s failed to submit an affirmative showing of irreparable harm,
8 immediate danger, or any other statutory basis for granting relief.

9
10 Dated: February 20, 2019

11
12 
13 _____
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

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 February 20, 2019 in Rancho Cucamonga, California.



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Chino Basin Watermaster

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