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CHINO BASIN WATERMASTER

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

11 CHINO BASIN MUNICIPAL WATER
DISTRICT,

12 Plaintiff,

13 v.

14 CITY OF CHINO, ET AL.,

15 Defendants.
16

Case No. RCV RS 51010

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

**UPDATE TO FIFTH SUPPLEMENT TO
CHINO BASIN WATERMASTER STATUS
REPORT ON THE UPDATE TO THE
OPTIMUM BASIN MANAGEMENT
PROGRAM**

Date: March 26, 2021
Time: 1:30 p.m.
Dept: S35

*[Filed concurrently herewith: Declaration of
Bradley J. Herrema in Support of Update to Fifth
Supplement to Chino Basin Watermaster Status
Report on the Update to the Optimum Basin
Management Program]*

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1 The Chino Basin Watermaster (“Watermaster”) submits this Update to its February 24,
2 2021 Fifth Supplement to Chino Basin Watermaster on the Update to the Optimum Basin
3 Management Program in order to inform the Court of the developments since its February 24,
4 2021 filing. When Watermaster legal counsel were last before the Court on January 8, 2021, they
5 described with some specificity the short-term issues facing the parties to the Restated Judgment,
6 Watermaster, and this Court.

7 In implementing the Optimum Basin Management Program (“OBMP”) the parties have
8 successfully stored more water in the Chino Basin than was originally contemplated in 2000
9 when the OBMP was initially adopted. Twenty-one years later, there are now nearly 600,000
10 acre feet (“AF”) of stored water in the Chino Basin. This is approximately 100,000 AF more than
11 the designated Safe Storage Capacity of 500,000 AF¹. This excess quantity of stored water was
12 provisionally permitted until June 30, 2021 under an Addendum to the original programmatic
13 environmental impact report (“PEIR”) for the OBMP. Consequently, the parties to the Restated
14 Judgment, Watermaster, and the Court must now resolve how this excess 100,000 AF of stored
15 water will be managed.

16 As previously described to the Court, the parties proposed pausing the consideration of the
17 more robust OBMP Update Supplemental EIR which would have evaluated storage quantities as
18 high as 1M AF. The parties then collectively focused attention more narrowly on the Local
19 Storage Limitation Solution (“LSLS” or “skinny storage”). Toward that end, all three Pool
20 Committees and the Advisory Committee unanimously recommended that Watermaster should
21 proceed with the LSLS. (Fifth Supplemental Report at 3.)

22 The first milestone to be achieved was the adoption of a California Environmental Quality
23 Act (“CEQA”) compliant document as provided in paragraphs 2.1-2.4 of the Peace Agreement. A
24 public briefing on the supporting technical analysis for the proposed LSLS was publicly noticed
25 to all parties to the Restated Judgment and then held at the February 18, 2021 Advisory

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¹ A single family of 4 uses approximately .45 AF of water per year for interior uses.

1 Committee meeting. The Inland Empire Utilities Agency (“IEUA”), as the lead agency,
2 recommended an addendum as the appropriate mechanism for fulling obligations under CEQA.
3 The LSLS Addendum was considered by the IEUA Board of Directors during its March 17, 2021
4 regular meeting, where it was unanimously approved with direction from the Board to file a
5 Notice of Determination. (Declaration of Bradley J. Herrema (“Herrema Decl.”) ¶ 4.)

6 Accordingly, the CEQA requirements of Peace Agreement paragraphs 2.1-2.4 have been
7 satisfied for the utilization of up to 700,000 AF of Local Storage until 2030. This is sufficient to
8 cover all groundwater currently held in storage along with room for an additional 100,000 AF of
9 storage to allow the parties to the Restated Judgment to rely upon existing facilities to the
10 maximum extent. As the parties to the Restated Judgment withdraw groundwater from storage
11 over time, the coverage would be gradually reduced to 620,000 AF until 2035.

12 As noted above, the Peace Agreement establishes processes, procedures, burdens of proof,
13 priorities and protections for managing storage quantities up to 500,000 AF. These provisions do
14 not apply to quantities in excess of 500,000 AF. While the LSLS Addendum was under
15 consideration, the parties to the Restated Judgment turned their attention to preparing proposed
16 instructions as to how water in storage in excess of 500,000 AF would be managed.

17 Consequently, new management directives will be required. These will either come by: (i) a
18 unanimously supported proposal of the parties to the Restated Judgment coupled with a
19 recommendation by Watermaster; (ii) a request to amend the Peace Agreement over the objection
20 of one or more parties, with Watermaster potentially supporting, or opposing the proposal; or (iii)
21 an independent Watermaster proposal, supported and/or opposed by respective parties.

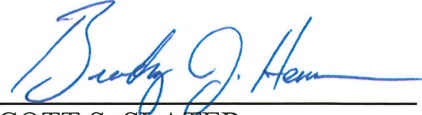
22 In pursuit of unanimity, parties to the Peace Agreement have proposed offers and counter-
23 proposals for consideration and they are engaged in active discussions regarding potential
24 amendments to the Peace Agreement inclusive of instructions that would guide the future
25 management of storage in amounts in excess of 500,000 AF. (Herrema Decl., ¶ 5.) While no
26 specific party positions are ripe for sharing at this time, the Court is acutely aware of the
27 importance of this subject matter, the need for the timely resolution and itself has substantial
28 experience in gauging the speed at which a resolution may be accomplished. In the present

1 situation, the Court's active involvement in spurring resolution in the form of further status
2 reports may be welcome or if not welcome then necessary to ensure timely completion.

3 Watermaster respectfully requests the Court to take notice of this Update to the Fifth
4 Supplemental Status Report. As always, Watermaster seeks an open dialogue with the Court to
5 address any questions it may have and further direction that the Court may wish to offer at the
6 March 26, 2021 hearing.

7 Dated: March 22, 2021

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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 March 22, 2021 I served the following:

1. UPDATE TO FIFTH SUPPLEMENT TO CHINO BASIN WATERMASTER STATUS REPORT ON THE UPDATE TO THE OPTIMUM BASIN MANAGEMENT PROGRAM

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list: Mailing List 1

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

/___/ BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

/X/ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on March 22, 2021 in Rancho Cucamonga, California.



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