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FEE EXEMPT

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

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendants.

Case No. RCV RS 51010

[Assigned for All Purposes to the
Honorable Stanford E. Reichert, Dept. S35]

**CHINO BASIN WATERMASTER'S
REPLY TO CITY OF CHINO'S
RESPONSE AND RESERVATION OF
RIGHTS AND OBJECTIONS TO NOTICE
OF MOTION AND MOTION REGARDING
IMPLEMENTATION OF THE LOCAL
STORAGE LIMITATION SOLUTION**

Date: June 25, 2021
Time: 1:30 p.m.
Dept: S35

(FEE EXEMPT PER GOVERNMENT CODE § 6103)

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

The Chino Basin Watermaster (“Watermaster”) respectfully submits this reply to the City of Chino’s Response and Reservation of Rights and Objections to Notice of Motion and Motion Regarding Implementation of the Local Storage Limitation Solution (the “Response”) filed by the City of Chino (the “City”). The Proposed Order sought by Watermaster’s Motion is characterized by the City as “apparently ... benign” (Response, 2:5) and yet the City seeks further clarification, that however well intended, will only serve to create uncertainty, where none currently exists.

Watermaster’s request to the Court is straightforward and offered only after having gone to great lengths to propose a resolution to the pending situation by asking the Court to extend the quantitative reach of the Peace Agreement for amounts of stored water up to a maximum of 700,000 AF through its Proposed Order. Why? Because there are currently known, clear, comprehensive, and unanimously agreed upon provisions addressing storage in the Peace Agreement up to a cumulative maximum of 500,000 AF. The Court’s order of June 2000 already makes it clear that Watermaster must follow these procedures, and it has for twenty-one years.

The Proposed Order simply takes the same known, customary, and previously agreed upon procedures and extends them to all quantities of water held in storage in amounts from 500,001 AF up to a maximum of 700,000 AF until June 30, 2030 and thereafter a maximum of 620,000 until June 30, 2035 (the “LSLS Quantities”). As a result, there will be no difference – no discrepancy – in the manner that stored water is managed, accounted for, stored and recovered.

Pursuant to the Proposed Order, Watermaster will manage all water – from 0-700,000 AF in storage in strict accordance with the applicable provisions of the Peace Agreement and the Peace II Agreement, subject to further order of this Court. (Proposed Order, 2:18-21.) Paradoxically, the City’s Response states that administration by Watermaster of the LSLS Quantities pursuant to the Proposed Order “cannot be known at this time.” (Response, 2:6-7.) For this reason, the City seeks to “preserve its rights and its objections in the event that Watermaster's administration of the proposed orders becomes inimical to [the City’s] production and storage rights.” (Response, 2:14-16.)

///

1 The City’s remedies to challenge Watermaster actions, should it feel necessary, are not
2 affected by the Proposed Order. The Proposed Order makes the management uniform and
3 seamless. Whether the uniform administration might become “inimical” to the City’s interests is
4 really not the point. The City’s action alone controls whether it acts in conformity with the known
5 uniform rules and procedures. The rules apply equally to optimize the use of all water while
6 protecting the Basin and the Parties, and the City has a remedy to address any action by
7 Watermaster.

8 The City further requests that the Proposed Order be “amplified” to specify that its rights
9 as to the LSLs Quantities are “reserved, preserved, and protected,” and to preserve all of its
10 potential objections to Watermaster’s Motion Regarding Implementation of the Local Storage
11 Limitation Solution (the “Motion”). (Response, 3:17-19.) However, the City’s Response does not
12 make clear what this requested “amplification” means. If it means existing rights should be
13 protected, it is not clear how the Proposed Order can be read to suggest otherwise and if this is
14 true, the proposed “amplification” would be superfluous.

15 On the other hand, if “preserving all objections” to the current motion means that the
16 Parties to the Restated Judgment, Watermaster, and the Court may only learn that the City objects
17 to the Peace Agreements or, more importantly, to their application to the LSLs Quantities, what
18 those objections are should be known now. That is, the security of the stored water managed
19 under unanimous agreed upon comprehensive and uniform guidelines, consistently applied under
20 historical practice, is the entire point of Watermaster’s Motion. This clarity and certainty
21 provided by the Court’s order should not be subject to a mysterious trap door, that may result in
22 an unspecified claim later frustrating the expectations of the Parties.

23 As described in Watermaster’s Motion, the goal of the LSLs is to preserve specified
24 quantities of storage above those covered in the Peace and Peace II Agreements and their
25 associated CEQA reviews, particularly in light of the present drought conditions in the State. The
26 proposal – including the Proposed Order – was taken through the Watermaster Committee and
27 Board process, with modifications made to address comments received during that process. No
28 City raised no objection.

1 Watermaster has requested that the Court expressly order that “*all of the parties’* rights
2 and remedies, whatever they may be, are expressly reserved, preserved and protected and made
3 applicable to the quantities of stored water greater than 500,001 AF” – not just some or one.
4 (Proposed Order, 2:25-27, emphasis added.) This includes the City and all of its rights and
5 remedies that arise under the Judgment, the prior Court Orders and the Peace Agreements.

6 The proposed implementation of the LSLs as described in the Motion and the Proposed
7 Order also preserves the Parties’ ability to negotiate further amendments and Watermaster to
8 entertain new proposals without the pressure of the looming deadline and does not compel them
9 to agree. In other words, the pursuit of perfection may continue but it will not be the enemy of the
10 good embodied by the Proposed Order. Thus, the Court can confidently order the implementation
11 of the LSLs as described in the Proposed Order with all rights and remedies of the Parties
12 preserved. (Peace Agreement. at § 11.1.) The Court’s reserved jurisdiction to consider future
13 proposals of Watermaster or the Parties with regard to storage management also remains
14 undisturbed.

15 The City has not expressed a particular concern with the Proposed Order other than the
16 potential vagaries of future administration as it may apply to the City. The chances of a new
17 Watermaster application of the Peace Agreements seem remote and in any event, completely
18 redressable without creating an avenue for new challenges that undermine what the Court would
19 accomplish by entering the Proposed Order: an action that will safely authorize the largest
20 groundwater bank in Southern California with the potential of meeting the emergency needs of
21 more than one million people.

22
23 Dated: June 18, 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 June 18, 2021 I served the following:

1. CHINO BASIN WATERMASTER'S REPLY TO CITY OF CHINO'S RESPONSE AND RESERVATION OF RIGHTS AND OBJECTIONS TO NOTICE OF MOTION AND MOTION REGARDING IMPLEMENTATION OF THE LOCAL STORAGE LIMITATION SOLUTION

/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

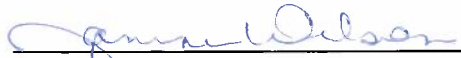
/___/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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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.

Executed on June 18, 2021 in Rancho Cucamonga, California.


By: Janine Wilson
Chino Basin Watermaster

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