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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]

**CHINO BASIN WATERMASTER  
RESPONSE TO CITY OF CHINO  
CORRECTED MOTION FOR  
REIMBURSEMENT OF ATTORNEYS  
FEES AND EXPENSES PAID TO THE  
AGRICULTURAL POOL AND NOTICE  
OF JOINDER AND JOINDER BY THE  
CITY OF ONTARIO IN CHINO'S  
MOTION FOR REIMBURSEMENT OF  
ATTORNEYS' FEES AND EXPENSES  
PAID TO THE AGRICULTURAL POOL**

Date: February 4, 2022  
Time: 1:30 p.m.  
Dept: S35

*[Filed concurrently herewith: Declaration of Joseph S. Joswiak in Support of Chino Basin Watermaster's Response to City of Chino Corrected Motion for Reimbursement of Attorneys Fees and Expenses Paid to the Agricultural Pool and Notice of Joinder and Joinder by the City of Ontario in Chino's Motion for Reimbursement of Attorneys' Fees and Expenses Paid to the Agricultural Pool]*

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1 The Chino Basin Watermaster (“Watermaster”) provides this response to (1)  
2 inform the Court of Watermaster’s actions since the Court’s December 3, 2021 order  
3 denying the Overlying (Agricultural) Pool’s July 26, 2021 Motion for Attorney’s Fees  
4 (“Order”); (2) provide context to the Court around the matter raised in the City of  
5 Chino’s Corrected Motion for Reimbursement of Attorneys’ Fees and Expenses Paid to  
6 the Agricultural Pool, dated December 31, 2021 (“Motion”); and (3) describe  
7 Watermaster’s planned process as to the funds at issue in the Motion.

8 Watermaster takes no position on the substance of the dispute between the  
9 Appropriative Pool and the Overlying (Agricultural) Pool (“Ag Pool”) arising under  
10 Section 5.4(a) of the Peace Agreement. Watermaster offers this response for the sole  
11 purpose of providing the Court with an accurate statement of facts regarding  
12 Watermaster’s accounting for the funds at issue.

13 **I. INTRODUCTION**

14 On November 5, 2021, the Court heard the Ag Pool’s July 26, 2021 Motion for  
15 Attorney’s Fees in the above-captioned matter. In its December 3, 2021 Order, the Court  
16 ordered Watermaster to return all funds held in escrow to the members of the  
17 Appropriative Pool and the City of Chino file a motion for reimbursement of any  
18 assessments not held in the escrow account due to the paying party within 30 days of the  
19 Order. Consistent with the Court’s December 3, 2021 Order, Watermaster issued a refund  
20 on December 7, 2021 for \$161,070.90 of funds in escrow to fifteen members of the  
21 Appropriative Pool<sup>1</sup>. (Declaration of Joseph S. Joswiak [“Joswiak Decl.”] ¶ 9.)

22 On January 3, 2022, pursuant to the Order, the City of Chino filed a Motion for  
23 Reimbursement of Attorneys’ Fees and Expenses Paid to the Agricultural Pool,  
24 [Proposed] Order[s] for Reimbursement of Agricultural Pool Attorney Fees and Expenses

25 \_\_\_\_\_  
26 <sup>1</sup> Watermaster has at all times viewed the sum of \$161,070.09 deposited into the escrow  
27 account later in fiscal year 2019-2020 as the funds of the Appropriative Pool members, to  
28 be refunded to the paying Appropriative Pool members upon their direction or a Court  
order to do so. There was no Watermaster determination necessary for such a refund.

1 Paid by Appropriative Pool (“Chino Proposed Orders”), Declaration of Dave Crosley in  
2 Support of City of Chino Motion for Reimbursement of Attorney Fees and Expenses Paid  
3 to the Agricultural Pool (“Crosley Declaration”), Declaration of Jimmy L. Gutierrez in  
4 Support of Chino Motion for Reimbursement of Attorney Fees and Expenses Paid to the  
5 Agricultural Pool (“Gutierrez Declaration”), and Declaration of John J. Schatz in Support  
6 of City of Chino Motion for Reimbursement of Attorney’s Fees and Expenses Paid to the  
7 Agricultural Pool (“Schatz Declaration”). On January 4, 2022, the City of Chino filed a  
8 Corrected Motion for Reimbursement of Attorneys' Fees and Expenses Paid to the  
9 Agricultural Pool (“Motion”). Monte Vista Water District and Monte Vista Irrigation  
10 Company filed a Notice of Joinder and Joinder re City of Chino Corrected Motion for  
11 Reimbursement of Attorney’s Fees and Expenses Paid to the Agricultural Pool on  
12 January 6, 2022. On January 11, 2022, the City of Ontario filed a Notice of Joinder and  
13 Joinder By The City of Ontario in Chino’s Motion for Reimbursement of Attorneys’ Fees  
14 and Expenses Paid to the Agricultural Pool (“Ontario Joinder”), Declaration of Courtney  
15 Jones in Support of Joinder Filed by the City of Ontario in Chino’s Motion for  
16 Reimbursement of Attorneys’ Fees and Expenses Paid to the Agricultural Pool (“Jones  
17 Declaration”), and Proposed Order of Reimbursement Requested By the City of Ontario  
18 (“Ontario Proposed Order”).

19 **II. POINTS OF CLARIFICATION**

20 Following review of the Motion and Ontario Joinder, Watermaster seeks to clarify  
21 and provide context to certain issues raised in the Motion, Crosley Declaration, Gutierrez  
22 Declaration, Schatz Declaration, Chino Proposed Orders, Ontario Joinder, Jones  
23 Declaration, and Ontario Proposed Order.

24 **A. \$102,557.12 For Legal Services Rendered To The Agricultural Pool In**  
25 **Fiscal Year 2020-21 From Watermaster Administrative Reserve**  
26 **Funds**

27 In regard to the legal expenses incurred on behalf of each of the Pools,  
28

1 Watermaster pays those expenses only receiving information from each of the Pools as to  
2 the invoiced expenses and direction on behalf of the Pool that such expenses should be  
3 paid. (Joswiak Decl. ¶ 3.) During July 2020 to December 2020, Watermaster paid  
4 \$217,821 to the Ag Pool legal counsel only after receipt of the necessary information as  
5 to the invoices to be paid and direction from the Ag Pool Chair. (Joswiak Decl. ¶ 5.) The  
6 amount of \$102,557.12 is the difference between the \$217,821 paid to the Ag Pool legal  
7 counsel and the amount of \$115,263.88 collected from the November 19, 2020  
8 Assessment invoices paid by the Appropriative Pool.<sup>2</sup> (Joswiak Decl. ¶ 5.) As this Court  
9 has stated, Watermaster’s role is limited to that of a “mailman”; Watermaster makes no  
10 determination as to whether any of the Ag Pool’s legal expenses benefit the Pool or are  
11 adverse to the Appropriative Pool. (See Joswiak Decl. ¶ 4.)

12 As described in email correspondence with counsel for the City of Chino,  
13 Watermaster expects that Watermaster’s Administrative reserve funds will be re-funded  
14 in the amount of \$102,557.12 paid from Watermaster Administrative reserve funds for  
15 Ag Pool attorney fees and expenses for fiscal year 2020-21. (See Gutierrez Declaration ¶  
16 10(v); Joswiak Decl. ¶ 6.) This re-funding may come from either the Appropriative Pool  
17 or Ag Pool. (Joswiak Decl. ¶ 6.) At this time, Watermaster is not actively seeking to re-  
18 fund this account, nor has it taken any position on how it might seek re-funding. (Joswiak  
19 Decl. ¶ 6.) It is Watermaster’s expectation that the proper manner in which it should seek  
20 to re-fund the reserves will be clear upon the Court’s disposition of the Motion. (See  
21 Joswiak Decl. ¶ 6.)

22 **B. Transfer Of \$63,314 from Agricultural Pool Special Projects Fund**  
23 **(8471) into the Agricultural Pool Legal Fund (8467)**

24 In Fiscal Year 2019-20, when the Ag Pool increased its 2019-20 legal services

25 \_\_\_\_\_  
26 <sup>2</sup> Ordinarily, the Watermaster Administrative Reserve would not be used to fund any of the  
27 Pool’s legal services invoices; however, the Watermaster Administrative Reserve  
28 temporarily funded the shortfall created when the November 19, 2020 Assessment invoices  
were not paid in full. (Joswiak Decl. ¶ 5.)

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expenditures budget by the sum of \$229,008.75, *Watermaster* did not transfer the sum of \$63,314 from the Agricultural Pool Special Projects Fund (8471) into the Agricultural Pool Legal Fund (8467). The Ag Pool itself controls both of these funds and directed this transfer, with those funds being spent on legal expenses during Fiscal Year 2019-20. (Joswiak Decl. ¶ 7.)

C. **\$161,070.09 Deposited Into The Escrow Account And \$4,624.66 Paid In Fiscal Year 2019-2020**

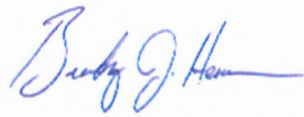
Both the sum of \$161,070.09 deposited into the escrow account and the sum of \$4,624.66 paid into Ag Pool funds were paid to *Watermaster* by Appropriative Pool members. (Joswiak Decl. ¶ 8.) Fifteen parties gave instruction to place the funds in the escrow, but four did not (totaling \$4,624.66). (Joswiak Decl. ¶ 8.) Instructions from Appropriative Pool legal counsel were clear that parties needed to indicate whether they wanted funds deposited to escrow or they would be deposited directly into Ag Pool funds. (Joswiak Decl. ¶ 9.)

III. **CONCLUSION**

*Watermaster* provides this information for the Court's consideration in its disposition of the Motion. Upon the Court's disposition of the issues regarding amounts of reimbursement due, if any, *Watermaster* can better advise the Court as to best methods to implement the Court's order. If the Court desires additional information, *Watermaster* would be pleased to provide details at the February 4, 2022 hearing.

Dated: January 24, 2022

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:   
SCOTT S. SLATER  
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Attorneys for CHINO BASIN WATERMASTER

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 January 24, 2022 served the following:

1. CHINO BASIN WATERMASTER RESPONSE TO CITY OF CHINO CORRECTED MOTION FOR REIMBURSEMENT OF ATTORNEYS FEES AND EXPENSES PAID TO THE AGRICULTURAL POOL AND NOTICE OF JOINDER AND JOINDER BY THE CITY OF ONTARIO IN CHINO'S MOTION FOR REIMBURSEMENT OF ATTORNEYS' FEES AND EXPENSES PAID TO THE AGRICULTURAL POOL

/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:** Master Email Distribution List

/\_\_\_/ 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 January 24, 2022 in Rancho Cucamonga, California.



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