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EXEMPT FROM FILING FEE
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO

10 CHINO BASIN MUNICIPAL WATER
DISTRICT,

11 Plaintiff,

12 vs.

13 CITY OF CHINO, ET AL.,

14 Defendants.
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Case No: RCVRS 51010

*Assigned for All Purposes to:
Honorable Stanford E. Reichert*

**CITY OF ONTARIO'S APPLICATION
FOR AN ORDER TO EXTEND TIME
UNDER JUDGEMENT, PARAGRAPH
31(c) TO CHALLENGE
WATERMASTER ACTION/DECISION
ON NOVEMBER 18, 2021 TO APPROVE
THE FY 2021/2022 ASSESSMENT
PACKAGE. IF SUCH REQUEST IS
DENIED, THIS FILING IS THE
CHALLENGE**

[Concurrently Filed with Declaration of
Christopher Quach; Proposed Order]

Date: April 8, 2022

Time: 1:30 p.m.

Department: S35

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TO: WATERMASTER AND ITS COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on April 8, 2022 at 1:30 PM in Dept S35 of the above entitled Court, the City of Ontario (“Ontario”) will make an Application for an order to extend the time under Paragraph 31(c) of the Judgement, from 90 days to 180 days, for Ontario to challenge the Watermaster Board action/decision on November 18, 2021 to approve the Fiscal Year 2021/2022 Assessment Package. If the request to extend the time is denied by the Court, this filing shall act as the challenge to the Watermaster Board action/decision on November 18, 2021 to approve the Fiscal Year 2021/2022 Assessment Package.

This Application is made for the following purposes: (a) to preserve the time in which the City of Ontario may file a motion to challenge the Watermaster Board action/decision to approve the Fiscal Year 2021/2022 Assessment Package, (b) to allow additional time for Appropriative Pool parties to negotiate a settlement, and (c) to act as the filing of Ontario’s motion to challenge the Watermaster Board action/decision to approve the Fiscal Year 2021/2022 Assessment Package if the request to extend the time is denied by the Court.

This Application is further based upon the Declaration of Christopher Quach, including attachments, filed concurrently herewith and the attached Memorandum of Points and Authorities below.

I. MEMORANDUM OF POINTS AND AUTHORITIES INTRODUCTION

The immediate purpose of this Application is to preserve the time in which Ontario may file a fully-developed motion to challenge the Watermaster Board action/decision for the approval of the Fiscal Year 2021/2022 Assessment Package. But, if the Application to preserve time is denied, then this Application shall serve as the filing of Ontario’s motion to challenge the Watermaster Board action/decision to approve the Fiscal Year 2021/2022 Assessment Package.

On November 1, 2021, Ontario sent a letter to Mr. Kavounas, Watermaster General Manager, that outlined questions and comments to the draft Fiscal Year 2021/2022 Assessment Package. Ontario requested that Watermaster explain the basis for exempting 23,000 acre-feet

1 (AF) of water produced from the Metropolitan Water District's (MWD) Chino Basin Conjunctive
2 Use Program (CUP), also known as the Dry Year Yield Storage and Recovery Program (DYYP),
3 as identified in the draft Fiscal Year 2021/2022 Assessment Package, from the Watermaster
4 assessment and the Desalter Replenishment Obligation (DRO) assessment. Under the 1978 Chino
5 Basin Judgement ("Judgement"), this production should have been assessed.. Watermaster waived
6 assessments for two Parties of the Chino Groundwater Basin, Cucamonga Valley Water District
7 (CVWD) and Fontana Water Company (FWC), inconsistent with the Judgement. (See Declaration
8 of Christopher Quach filed concurrently herewith ["Quach Decl."], ¶ 2, and Ex. A.)

9 On November 18, 2021, Watermaster presented a staff report to the Watermaster Board
10 in response to Ontario's November 1, 2021 letter. The Watermaster Board directed Watermaster
11 Staff and legal counsel to evaluate the concerns raised by Ontario surrounding the DYYP and
12 related applicability to Watermaster assessments. (Quach Decl., ¶ 3.)

13 On November 18, 2021, the Watermaster Board approved the Fiscal Year 2021/2022
14 Assessment Package. Ontario understood that resolution to the questions and comments raised
15 regarding the DYYP would not affect the ability to retroactively address the Fiscal Year 2021-
16 2022 Assessment Package. As stated in the Watermaster staff report on the assessment of
17 Ontario's issue, if warranted the assessment package could always be changed retroactively.
18 (Quach Decl., ¶ 4.)

19 In an effort to exhaust all administrative remedies, on January 5, 2022, Watermaster,
20 Ontario, CVWD, and FWC met to discuss the DYYP issues and begin good faith negotiations.
21 (Quach Decl., ¶ 5.)

22 On January 24, 2022, Ontario, CVWD, and FWC met to discuss a draft settlement term
23 sheet and good faith negotiations are currently ongoing. Ontario is actively working with Parties
24 and Watermaster to reach a resolution. (Quach Decl., ¶ 6.)

25 On January 24, 2022, Ontario sent a letter to Mr. Kavounas, Watermaster General
26 Manager, detailing Ontario's concerns with Watermaster's administration of the DYYP. (Quach
27 Decl., ¶ 7, and Ex. B.)

1 On January 27, 2022, Watermaster presented a staff report to the Watermaster Board in
2 response to Ontario's concerns as reiterated in the January 24, 2022 letter and in response to the
3 Watermaster Board's direction on November 18, 2021. However, when asked, Watermaster
4 general counsel stated that he was "not prepared to provide a legal opinion in this moment." It
5 was understood by Ontario that in order to comply with Watermaster Board direction on November
6 18, 2021, a report with legal counsel's opinion would be forthcoming. (Quach Decl., ¶ 8.)

7 On February 11, 2022, Ontario requested Watermaster general counsel approve an
8 extension to the 90-day period if determined necessary by Watermaster. (Quach Decl., ¶ 9.)

9
10 Under Paragraph 31(c) of the Judgement, a party to the Judgement seeking to challenge
11 an action/decision of the Watermaster Board has 90 days in which to file a motion to challenge
12 said action/decision. Since the Watermaster Board approved the Fiscal Year 2021-2022
13 Assessment Package on November 18, 2021, the 90-day period by which Ontario must file its
14 motion to challenge said Watermaster Board action/decision falls on February 17, 2022. Since that
15 time, the parties have been attempting to negotiate a settlement and thus Ontario has not had
16 sufficient time to fully develop its challenge to the Watermaster Board decision. The parties have
17 known of Ontario's challenge, thus there is no harm to the parties if the Watermaster were to grant
18 an extension of time so that Ontario can fully develop its arguments in support of its challenge.

19 Ontario has grounds to challenge the propriety of the action/decision of the Watermaster
20 Board's approval of the Fiscal Year 2021-2022 Assessment Package. Specifically, Ontario's
21 challenge is based on the grounds of the failure of Watermaster staff to administer assessments
22 consistent with the Judgement and Court Orders. Ontario desires additional time to further develop
23 that challenge. However, in the event Ontario's Application for an extension of time is denied, this
24 Application and Declaration in support of the Application as well as Exhibits A and B attached to
25 the Declaration shall serve as Ontario's challenge to the propriety of the action/decision of the
26 Watermaster Board to approve the Fiscal Year 2021-2022 Assessment Package.

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II. CONCLUSION

If the extension of the time to file a challenge to the above Watermaster Board action/decision is not extended from 90 to 180 days, the City of Ontario will be burdened with the expense and effort of filing a complete and thorough motion by February 17, 2022. Furthermore, granting the extension of time imposes no harm on Watermaster or the parties hereto. However, in the event an extension of time is denied, Ontario's arguments in favor of its challenge are stated in the correspondence attached as exhibits to the Declaration of Christopher Quach filed concurrently herewith, and thus this Application shall act as Ontario's challenge to the Watermaster Board's action/decision.

Dated: February 17, 2022 LAW OFFICES OF CHARISSE L SMITH
CHARISSE L SMITH

By: Charisse Smith
Charisse L Smith
Attorney for CITY OF ONTARIO

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 17, 2022 served the following:

1. CITY OF ONTARIO'S APPLICATION FOR AN ORDER TO EXTEND TIME UNDER JUDGEMENT, PARAGRAPH 31(C) TO CHALLENGE WATERMASTER ACTION/DECISION ON NOVEMBER 18, 2021 TO APPROVE THE FY 2021/2022 ASSESSMENT PACKAGE. IF SUCH REQUEST IS DENIED, THIS FILING IS THE CHALLENGE

/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 February 17, 2022 in Rancho Cucamonga, California.



By: Janine Wilson
Chino Basin Watermaster

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