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7 ***[Additional Parties on Following Pages]***

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

13 CHINO BASIN MUNICIPAL WATER  
14 DISTRICT,

15 Plaintiff,

16 vs.

17 CITY OF CHINO, ET AL.,

18 Defendants.

Case No: RCVRS 51010

*Assigned for All Purposes to:  
Honorable Gilbert G. Ochoa*

**DECLARATION OF COURTNEY JONES  
IN SUPPORT OF MOTION  
CHALLENGING WATERMASTER'S  
BUDGET ACTION TO FUND  
UNAUTHORIZED CEQA REVIEW**

[Concurrently Filed with Notice of Motion;  
Memorandum of Points & Authorities;  
Request for Judicial Notice; Proposed Order]

Date: October 18, 2022

Time: 9:00 a.m.

Department: S24

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28 DECLARATION OF COURTNEY JONES ISO MOTION CHALLENGING WATERMASTER'S BUDGET  
ACTION TO FUND UNAUTHORIZED CEQA REVIEW

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1 **DECLARATION OF COURTNEY JONES**

2 I, Courtney Jones, declare:

3 1. I am the Water Resources and Regulatory Affairs Director for the City of Ontario  
4 (“Ontario”), a party in the above-captioned case. I have held this position with Ontario for a year  
5 and a half and worked for Ontario for four years. I am a licensed Civil Engineer in California.  
6 As the Water Resources and Regulatory Affairs Director, I am responsible for Ontario’s water  
7 resources, production, and water quality. In connection with my management role for Ontario, I  
8 closely follow and regularly participate in matters involving the Chino Basin Watermaster. I  
9 regularly attend Watermaster meetings, including meetings of the Watermaster Board of Directors  
10 and the Advisory Committee. I am well-familiar with matters involving the Watermaster,  
11 including Watermaster proceedings pertaining to the Optimum Basin Management Program  
12 Update (“OBMPU”) and Watermaster’s annual budget process and assessment packages. I  
13 personally review Watermaster budgets and assessment invoices issued to Ontario. I have  
14 personal knowledge of the matters set forth herein, unless stated upon information and belief, and  
15 if called as a witness, I could and would competently testify to the facts stated herein. As to any  
16 matters stated upon information and belief I am informed and believe they are true.

17 2. Ontario is a party and signatory to the stipulated judgment (“Judgment”) for the  
18 Chino Basin, as well as a party and signatory to the Peace Agreement and the Peace II Agreement  
19 (“Peace II”). As a party to these agreements, Ontario has actively participated in efforts leading  
20 to Watermaster’s adoption of the OBMPU in 2020. I personally participated in meetings  
21 facilitated by Watermaster to start the process of developing an OBMPU Implementation Plan  
22 through an amendment to the Peace Agreement, including an orientation meeting and an  
23 Implementation Plan drafting session conducted in March 2020. After these two initial meetings,  
24 the process was put on hold and has yet to resume.

25 3. I have personally communicated with representatives of the City of Chino  
26 (“Chino”), Monte Vista Water District (“MVWD”), and Monte Vista Irrigation Company  
27 (“MVIC”) about concerns regarding Watermaster budget line items for CEQA review in  
28

1 connection with the OBMPU. I sought and obtained additional information about the budget line  
2 items, which include \$276,799 for environmental review and other technical work (account  
3 6906.26) and \$126,200 for legal support (account 6907.45), for a total of \$402,999. I understand  
4 from Watermaster sources that these amounts will help fund a new Programmatic Environmental  
5 Impact Report (“PEIR”) being prepared by the Inland Empire Utilities Agency (“IEUA”) as lead  
6 agency.

7 4. In light of my familiarity with Watermaster’s annual budget process and  
8 assessment packages, and the fact that I personally review Watermaster assessment invoices, I  
9 estimate that Ontario, Chino, MVWD, and MVIC, collectively, will be assessed about forty  
10 percent of the \$402,999 currently budgeted for CEQA expenses in this fiscal year, via  
11 Watermaster’s forthcoming annual assessment package.

12 5. Ontario, Chino, MVWD, and MVIC share similar concerns about Watermaster’s  
13 CEQA budget because it represents a departure from prior representations of Watermaster to the  
14 effect that the process of identifying OBMPU projects would involve collective development of  
15 an Implementation Plan and an amendment to the Peace Agreement, subject to agreement of all  
16 the parties. Parties repeatedly were told by Watermaster throughout the OBMPU process that  
17 following completion of the OBMPU, the parties would need to reach an agreement before  
18 proceeding with further actions towards implementation, including but not limited to CEQA  
19 review.

20 6. On May 2, 2022, representatives of Ontario, Chino and MVWD, including me,  
21 sent a letter to Watermaster objecting to Watermaster’s proposed budget for CEQA. Our letter  
22 sought an explanation of whether Watermaster intends to proceed with OBMPU-related work  
23 prior to the necessary Peace Agreement amendment. We proposed that Watermaster reconvene  
24 meetings pertaining to the Implementation Plan, with CEQA review of the environmental impacts  
25 to be conducted, as needed, after an agreement is reached regarding the Implementation Plan.  
26 Attached hereto as **Exhibit “A”** is a true and correct copy of our letter.

27 ///

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1           7.       On May 25, 2022, we sent a follow-up letter to Watermaster requesting a written  
2 legal opinion. This letter also identified a potential conflict of interest arising from Watermaster's  
3 apparent intention to finance and support IEUA's PEIR, where IEUA is itself a proponent of a  
4 proposed OBMPU project (i.e., the Chino Basin Program) that requires Watermaster approval  
5 under the Judgment. Attached hereto as **Exhibit "B"** is a true and correct copy of our letter.

6           8.       On June 21, 2022, we sent another follow-up letter to Watermaster reiterating our  
7 request for a legal opinion. Attached hereto as **Exhibit "C"** is a true and correct copy of our  
8 letter.

9           9.       On July 28, 2022, Watermaster convened a special meeting of its Board Members  
10 specifically to address the Moving Parties' request for a legal opinion. I attended this meeting  
11 virtually. At the end of the meeting, the Board directed Watermaster staff to gather stakeholder  
12 input and develop a project description for the PEIR and proceed with the effort within  
13 Watermaster's approved budget. The Board declined to support an amended motion to proceed  
14 with the staff recommendation following approval of a project description by the parties.  
15 Watermaster refused to provide the requested written legal opinion.

16           10.      Watermaster's Board and the IEUA Board of Directors have held joint workshops  
17 regarding the Chino Basin Program. I personally attended at least one such joint workshop about  
18 the Chino Basin Program. I am informed and believe that the capital cost of the Chino Basin  
19 Program is estimated to be on the order of roughly \$650 million with a total project cost on the  
20 order of \$1.1 billion in 2019 dollars, and that IEUA needs Watermaster's approval of the Chino  
21 Basin Program including an analysis and determination regarding "material physical injury"  
22 (MPI).

23           11.      Based on information and belief, Watermaster's consulting engineer West Yost  
24 and environmental engineer Tom Dodson are working for IEUA on the Chino Basin Program.

25           12.      Ontario has sued IEUA over IEUA's inadequate evaluation the alternative  
26 advanced treatment proposal advocated by Ontario in connection with the Chino Basin Program,  
27 as alleged by Ontario in a complaint recently filed against IEUA.

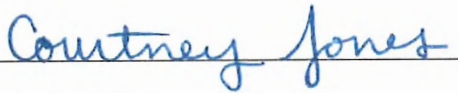
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1           13.     Ontario and Chino are member agencies of the Chino Basin Desalter Authority, a  
2 joint powers agency that undertook the construction and operation of a well field along the Santa  
3 Ana River and a desalter facility as part of OBMP implementation under Peace II. The  
4 construction and operation of these projects have been financed by the financial commitments of  
5 members of the Chino Basin Desalter Authority that are local public entities including Chino and  
6 Ontario.

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

9           Executed this 26th day of August, 2022, at Ontario, California.

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Courtney Jones

# **EXHIBIT A**



May 2, 2022

Joseph S. Joswiak, MBA  
Chief Financial Officer  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

**Chino Basin Watermaster, Fiscal Year 2022/23 Draft Budget**

Dear Mr. Joswiak:

The Cities of Ontario (Ontario) and Chino (Chino) and Monte Vista Water District (MVWD) appreciate the opportunity to review and provide input on the Watermaster Fiscal Year (FY) 2022/23 Draft Budget.

The proposed FY 2022/23 budget includes scoping items related to implementation of projects included in the Optimum Basin Management Program (OBMP) 2020 Update Report, which was completed and adopted by the Watermaster Board on October 22, 2020. During the process of Watermaster developing the OBMP Update Report, with input from the Parties, it was understood that the next steps for implementation would require agreement by the Parties. This was confirmed by Watermaster's Summary of Engineering Services and Costs for the Budget: "Furthermore, to implement the 2020 OBMP Update, the parties must update the 2000 OBMP Implementation Plan and amend the Peace Agreement." Under Section 10.14, amendments to the Peace Agreement require unanimous consent. With that in mind, it was understood that this agreement must be completed prior to any further OBMP related work, in line with past practice. If Watermaster intends otherwise, please provide justification.

Watermaster initiated a process to facilitate an update to the OBMP Implementation Plan (IP) through an amendment to the Peace Agreement. A Drafting Session Orientation was held on March 2, 2020, and the first OBMP IP Drafting Session was held on March 16, 2020. The process was put on hold after the first working meeting and has yet to resume.

The proposed scope of work totals \$276,799 for environmental review and other technical work (account 6906.26) along with \$126,200 for legal support (account 6907.45). Watermaster staff has repeatedly stated that this work is discretionary. Further, CEQA review, and Watermaster expense to support it, is not warranted prior to an agreement on the Implementation Plan and Peace Agreement Amendment. While the parties to the Peace Agreement sanctioned CEQA review of the then-agreed-to project elements, CEQA authorization under Section 2.2 of that Agreement does not extend to future projects to which agreement has not been reached. Watermaster's own



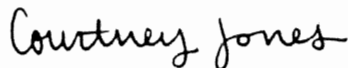
discretionary activities to develop an optimum basin management program, as part of the Judgment's physical solution, are not subject to CEQA review and hence is not a justification for such expense.

While the Parties could all agree to proceed with this scope of work, Ontario, Chino, and MVWD believe a better approach is to reconvene the IP drafting process in advance of any additional scoping and budget. This will allow the Parties responsible for implementation to first develop the scope of implementation and negotiate an amendment to the Peace Agreement, then study the environmental impacts as needed. This process is in line with what Watermaster stakeholders have already committed to complete – an agreement for the implementation.

Ontario, Chino, and MVWD are also seeking clarification from Watermaster whether it intends to implement the budgeted discretionary work either upon a simple majority budget approval of the Advisory Committee or upon approval by all Parties. If the former, please provide a legal explanation of Watermaster's authority to impose this onto the Parties to the Peace Agreement.

Thank you for your time and consideration.

Sincerely,



Courtney Jones  
City of Ontario Water Resources and Regulatory Affairs Director



Justin Scott-Coe  
Monte Vista Water District General Manager



Dave Crosley  
City of Chino Utilities Engineering and Operations Manager

cc: Peter Kavounas, General Manager, Chino Basin Watermaster

Eduardo Espinoza, Chair, Appropriative Pool Committee

# **EXHIBIT B**



May 25, 2022

Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

**Chino Basin Watermaster, Fiscal Year 2022/23 Draft Budget**

To Watermaster Board Members:

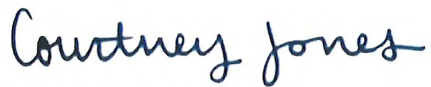
The cities of Ontario and Chino and Monte Vista Water District are following up on their letter of May 2, 2022, which questioned the inclusion of expenditures for Optimum Basin Management Program (OBMP) Update California Environmental Quality Act (CEQA) review in the 2022/23 Draft Budget. While we received written comments from Mr. Kavounas and spoke with Watermaster Counsel, which we appreciate, we have not received an explanation of the legal basis for such expenditures. We have been repeatedly told by Watermaster that CEQA review, and associated Watermaster expenditures, would follow an Implementation Plan and Agreement by the parties to the Peace Agreement. Similarly, Watermaster Counsel acknowledged, and we agree, that there is a need to revisit the “project” description in the pending Inland Empire Utilities Agency (IEUA) CEQA analysis.

Accordingly, we hereby request a Written Legal Opinion from Watermaster Counsel that identifies both the CEQA “project” description and the provision(s) in the Chino Basin Judgment and/or Peace Agreements, and/or any other agreement among the parties to the Judgment, which authorizes such expenditures. We understand from recent communications with Watermaster Counsel that Watermaster is not a public agency but rather an extension of the Superior Court, and hence not authorized to conduct CEQA review. We agree with that statement and conclusion. However, that statement and conclusion suggest that CEQA review and associated expenditures require agreement by all parties to the Judgment – the procedure followed by the Peace Agreement.

It also appears that Watermaster intends to finance, by funding the CEQA consultants (Dodson and West Yost) and CEQA attorneys, the efforts of IEUA as the Lead CEQA agency when IEUA itself is a proponent of an OBMP project that requires Watermaster approval under the Judgment. This would appear to present a conflict of interest. We request that the Legal Opinion address this perceived conflict of interest.

We appreciate your attention to this important matter in the belief that you share our desire to ensure that all expenditures within the draft budget are legally justified.

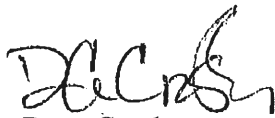
Sincerely,



Courtney Jones  
City of Ontario Water Resources and Regulatory Affairs Director



Justin Scott-Coe  
Monte Vista Water District General Manager



Dave Crosley  
City of Chino Utilities Engineering and Operations Manager

cc: Peter Kavounas, General Manager, Chino Basin Watermaster  
Eduardo Espinoza, Chair, Appropriative Pool Committee

# **EXHIBIT C**



June 21, 2022

Chino Basin Watermaster Board  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

**Re: Chino Basin Watermaster, Fiscal Year 2022/23 Budget**

Dear Chair Curatalo:

The Cities of Ontario (Ontario) and Chino (Chino) and Monte Vista Water District (MVWD) are following up on our May 2, 2022 letter, which is attached. Ontario, Chino and MVWD request Watermaster act on our letter by directing Watermaster legal counsel to provide a legal opinion regarding Watermaster's authority to impose costs, associated with the FY 2022/23 budgeted discretionary work within accounts 6906.26 & 6907.45, onto the Parties to the Peace Agreement by majority vote.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Courtney Jones".

Courtney Jones  
City of Ontario Water Resources and Regulatory Affairs Director

A handwritten signature in black ink that reads "Justin Scott-Coe".

Justin Scott-Coe  
Monte Vista Water District General Manager

A handwritten signature in black ink that reads "Dave Crosley".

Dave Crosley  
City of Chino Utilities Engineering and Operations Manager

cc: Peter Kavounas, General Manager, Chino Basin Watermaster  
Eduardo Espinoza, Chair, Appropriative Pool Committee

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 August 26, 2022 I served the following:

1. DECLARATION OF COURTNEY JONES IN SUPPORT OF MOTION CHALLENGING WATERMASTER'S BUDGET ACTION TO FUND UNAUTHORIZED CEQA REVIEW

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.

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 August 26, 2022 in Rancho Cucamonga, California.



By: Denise Morales  
Chino Basin Watermaster

PAUL HOFER  
11248 S TURNER AVE  
ONTARIO, CA 91761

JEFF PIERSON  
2 HEXAM  
IRVINE, CA 92603



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