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CHINO BASIN WATERMASTER

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN BERNARDINO

12 CHINO BASIN MUNICIPAL WATER
DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

Case No. RCVRS 51010

[ASSIGNED FOR ALL PURPOSES TO
HONORABLE GILBERT OCHOA]

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

Hearing:

Date: October 14, 2022

Time: 9:00 a.m.

Dept: S24

BROWNSTEIN HYATT FARBER SCHRECK, LLP
Attorneys at Law
1021 Anacapa Street, 2nd Floor
Santa Barbara, California 93101-2102

1 COMES NOW, Chino Basin Watermaster (“Watermaster”) and submits these objections
 2 to the Declaration of Courtney Jones in Support of Motion Challenging Watermaster’s Budget
 3 Action to Fund Unauthorized CEQA Review. In addition to the specific objections set forth
 4 below, Watermaster objects to the declaration generally in that the declaration lacks foundation
 5 (Evid. Code § 403), is misleading, and is filled with irrelevant content (Evid. Code §§ 201 and
 6 350). The testimony contained therein attempts to usurp the role of the Court in deciding the
 7 merits of this motion by improperly applying the law to the facts. (*Amtower v. Photon Dynamics,*
 8 *Inc.* (2008) Cal.App.4th 1582, 1598-99.)

9 Watermaster also objects on the ground that the declaration sets forth conclusions,
 10 opinions, or ultimate facts, which are insufficient. (Lack of personal knowledge, Evid. Code §
 11 702; Not qualified as an expert §§ 720 and 801; Opinion based upon improper matter § 803.)
 12 Additionally, Watermaster objects to the declaration as being impermissibly speculative, and
 13 therefore irrelevant. (*People v. Morrison* (2004) 34 Cal.App.4th 698, 711.) To the extent that this
 14 testimony attempts to constitute competent oral evidence or an opinion on an ultimate issue, it
 15 makes unfounded conclusions violating Evidence Code sections 400 *et seq.* and 800 *et seq.*, and
 16 should be excluded because the testimony is more prejudicial than probative. (Evid. Code § 352.)

17 Watermaster further objects to the declaration on the grounds that the information
 18 contained therein is Hearsay, Evid. Code §§ 1200 *et seq.*

19 **OBJECTIONS TO DECLARATION OF COURTNEY JONES**

MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT’S RULING:
2. As a party to these agreements, Ontario has actively participated in efforts leading to Watermaster’s adoption of the OBMPU in 2020. I personally participated in meetings facilitated by Watermaster to start the process of developing an OBMPU Implementation Plan through an amendment to the Peace Agreement, including an orientation meeting and an Implementation Plan drafting	A. Incomplete (Cal. Evid. Code § 356) B. Improper Legal Conclusion (<i>Hayman v. Block</i> , (1986) 176 Cal.App.3d 629, 638-39 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate facts’”]) C. Misstates the Testimony (Cal. Evid. Code §§ 210, 403)	SUSTAINED _____ OVERRULED _____

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
<p>session conducted in March 2020. After these two initial meetings, the process was put on hold and has yet to resume.</p>		
<p>3. I have personally communicated with representatives of the City of Chino ("Chino"), Monte Vista Water District ("MVWD"), and Monte Vista Irrigation Company ("MVIC") about concerns regarding Watermaster budget line items for CEQA review in connection with the OBMPU. I sought and obtained additional information about the budget line items, which include \$276,799 for environmental review and other technical work (account 6906.26) and \$126,200 for legal support (account 6907.45), for a total of \$402,999. I understand from Watermaster sources that these amounts will help fund a new Programmatic Environmental Impact Report ("PEIR") being prepared by the Inland Empire Utilities Agency ("IEUA") as lead agency.</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p> <p>C. Inadmissible Hearsay (Cal. Evid. Code § 1200)</p> <p>D. Misstates the Testimony (Cal. Evid. Code §§ 210, 403)</p> <p>E. Vague & Ambiguous as to "Watermaster sources"</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>
<p>4. In light of my familiarity with Watermaster's annual budget process and assessment packages, and the fact that I personally review Watermaster assessment invoices, I estimate that Ontario, Chino, MVWD, and MVIC, collectively, will be assessed about forty percent of the \$402,999 currently budgeted for CEQA expenses in this fiscal year, via Watermaster's forthcoming annual assessment package.</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p> <p>C. Improper Expert Testimony (Cal. Evid. Code §§ 720, 800-803)</p> <p>D. Improper Legal Conclusion (<i>Hayman v. Block</i>, (1986) 176 Cal.App.3d 629, 638-39 ["affidavits must cite evidentiary facts, not legal</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
	conclusions or 'ultimate facts']) E. Vague & Ambiguous as to how estimations are being calculated	
5. Ontario, Chino, MVWD, and MVIC share similar concerns about Watermaster's CEQA budget because it represents a departure from prior representations of Watermaster to the effect that the process of identifying OBMPU projects would involve collective development of an Implementation Plan and an amendment to the Peace Agreement, subject to agreement of all the parties. Parties repeatedly were told by Watermaster throughout the OBMPU process that following completion of the OBMPU, the parties would need to reach an agreement before proceeding with further actions towards implementation, including but not limited to CEQA review.	A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800) B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014) C. Inadmissible Hearsay (Cal. Evid. Code § 1200) D. Improper Legal Conclusion (<i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-39 ["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate facts'"]) E. Misstates the Testimony (Cal. Evid. Code §§ 210, 403) F. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352) G. Vague & Ambiguous as to "...it represents a departure from prior representations of Watermaster..." H. Attempts to usurp the role of the Court in deciding the merits of the case, and improperly applies law to particular facts. (<i>Amtower v. Photon Dynamics, Inc.</i> (2008) Cal.App.4th 1582, 1598-99)	SUSTAINED _____ OVERRULED _____
6. On May 2, 2022, representatives of Ontario,	A. Best (Secondary) Evidence Rule (Cal. Evid. Code §§	SUSTAINED _____

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
<p>Chino and MVWD, including me, sent a letter to Watermaster objecting to Watermaster's proposed budget for CEQA. Our letter sought an explanation of whether Watermaster intends to proceed with OBMPU-related work prior to the necessary Peace Agreement amendment. We proposed that Watermaster reconvene meetings pertaining to the Implementation Plan, with CEQA review of the environmental impacts to be conducted, as needed, after an agreement is reached regarding the Implementation Plan. Attached hereto as Exhibit "A" is a true and correct copy of our letter.</p>	<p>1520-23) (This statement attempts to impermissibly characterize the content of a document in violation of Evid. Code § 1521 and Evid. Code § 412)</p> <p>B. Incomplete (Cal. Evid. Code § 356)</p> <p>C. Inadmissible Hearsay (Cal. Evid. Code § 1200)</p>	<p>OVERRULED _____</p>
<p>7. On May 25, 2022, we sent a follow-up letter to Watermaster requesting a written legal opinion. This letter also identified a potential conflict of interest arising from Watermaster's apparent intention to finance and support IEUA's PEIR, where IEUA is itself a proponent of a proposed OBMPU project (i.e., the Chino Basin Program) that requires Watermaster approval under the Judgment. Attached hereto as Exhibit "B" is a true and correct copy of our letter.</p>	<p>A. Best (Secondary) Evidence Rule (Cal. Evid. Code §§ 1520-23) (This statement attempts to impermissibly characterize the content of a document in violation of Evid. Code § 1521 and Evid. Code § 412)</p> <p>B. Incomplete (Cal. Evid. Code § 356)</p> <p>I. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>C. Improper Legal Conclusion (<i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-39 ["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate' facts"])</p> <p>D. Attempts to usurp the role of the Court in deciding the merits of the case, and improperly applies law to particular facts. (<i>Amtower v. Photon Dynamics, Inc.</i></p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
	<p>(2008) Cal.App.4th 1582, 1598-99)</p> <p>E. Vague & Ambiguous as to "we"</p>	
<p>8. On June 21, 2022, we sent another follow-up letter to Watermaster reiterating our request for a legal opinion. Attached hereto as Exhibit C is a true and correct copy of our letter.</p>	<p>A. Best (Secondary) Evidence Rule (Cal. Evid. Code §§ 1520-23) (This statement attempts to impermissibly characterize the content of a document in violation of Evid. Code § 1521 and Evid. Code § 412)</p> <p>B. Incomplete (Cal. Evid. Code § 356)</p> <p>C. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>D. Vague & Ambiguous as to "we"</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>
<p>9. On July 28, 2022, Watermaster convened a special meeting of its Board Members specifically to address the Moving Parties' request for a legal opinion. I attended this meeting virtually. At the end of the meeting, the Board directed Watermaster staff to gather stakeholder input and develop a project description for the PEIR and proceed with the effort within Watermaster's approved budget. The Board declined to support an amended motion to proceed with the staff recommendation following approval of a project description by the parties. Watermaster refused to provide the requested written legal opinion.</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p> <p>C. Inadmissible Hearsay (Cal. Evid. Code § 1200)</p> <p>D. Misstates the Testimony (Cal. Evid. Code §§ 210, 403)</p> <p>E. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>F. Incomplete (Cal. Evid. Code § 356)</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
<p>10. Watermaster's Board and the IEUA Board of Directors have held joint workshops regarding the Chino Basin Program. I personally attended at least one such joint workshop about the Chino Basin Program. I am informed and believe that the capital cost of the Chino Basin Program is estimated to be on the order of roughly \$650 million with a total project cost on the order of \$1.1 billion in 2019 dollars, and that IEUA needs Watermaster's approval of the Chino Basin Program including an analysis and determination regarding "material physical injury" (MPI).</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p> <p>C. Inadmissible Hearsay (Cal. Evid. Code § 1200)</p> <p>D. Improper Expert Testimony (Cal. Evid. Code §§ 720, 800-803)</p> <p>E. Improper Legal Conclusion (<i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-39 ["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate facts'"])</p> <p>F. Misstates the Testimony (Cal. Evid. Code §§ 210, 403)</p> <p>G. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>H. Vague & Ambiguous as to how the capital cost of the Chino Basin Program was estimated</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>
<p>11. Based on information and belief, Watermaster's consulting engineer West Yost and environmental engineer Tom Dodson are working for IEUA on the Chino Basin Program.</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
	<p>C. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>D. Vague & Ambiguous as to where declarant's knowledge comes from</p>	
<p>12. Ontario has sued IEUA over IEUA's inadequate evaluation the alternative advanced treatment proposal advocated by Ontario in connection with the Chino Basin Program, as alleged by Ontario in a complaint recently filed against IEUA.</p>	<p>A. Lack of Foundation/No Personal Knowledge (Cal. Evid. Code §§ 702(a), 800)</p> <p>B. Inadmissible Speculation and Conclusions (Cal. Evid. Code §§ 400, 403, 410; <i>Lyons v. Security Pacific National Bank</i> (1995) 40 Cal.App.4th 1001, 1014)</p> <p>C. Inadmissible Hearsay (Cal. Evid. Code § 1200)</p> <p>D. Improper Legal Conclusion (<i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-39 ["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate' facts"])</p> <p>E. Irrelevant and Prejudicial (Cal. Evid. Code §§ 210, 350, 352)</p> <p>F. Best (Secondary) Evidence Rule (Cal. Evid. Code §§ 1520-23) (This statement attempts to impermissibly characterize the content of a document in violation of Evid. Code § 1521 and Evid. Code § 412)</p> <p>G. Attempts to usurp the role of the Court in deciding the merits of the case, and improperly applies law to particular facts. (<i>Amtower</i></p>	<p>SUSTAINED _____</p> <p>OVERRULED _____</p>

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MATERIALS OBJECTED TO: Declaration of Courtney Jones	GROUNDS FOR OBJECTION	COURT'S RULING:
	<p><i>v. Photon Dynamics, Inc.</i> (2008) Cal.App.4th 1582, 1598-99)</p> <p>H. Vague & Ambiguous as to "inadequate evaluation"</p> <p>I. Improper Expert Testimony (Cal. Evid. Code §§ 720, 800-803)</p>	

Dated: October 3, 2022

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

SCOTT S. SLATER
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24676582.2

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 October 3, 2022 I served the following:

1. CHINO BASIN WATERMASTER'S OBJECTIONS TO 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 October 3, 2022 in Rancho Cucamonga, California.



By: Ruby Favela Quintero
Chino Basin Watermaster

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