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11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13  
14 FOR THE COUNTY OF SAN BERNARDINO

15 CHINO BASIN MUNICIPAL WATER  
16 DISTRICT,

17 Plaintiffs,

18 v.

19 CITY OF CHINO, et al.,

20 Defendants.

CASE NO.: RCVRS 51010

*Assigned for All Purposes to Hon. Gilbert G. Ochoa*

**INLAND EMPIRE UTILITIES AGENCY'S  
OBJECTION TO DECLARATION OF  
COURTNEY JONES IN SUPPORT OF CITY OF  
ONTARIO'S MOTION CHALLENGING  
WATERMASTER'S NOVEMBER 17, 2022  
DECISION TO APPROVE THE FY 2022/2023  
ASSESSMENT PACKAGE**

DATE: April 5, 2023

TIME: 9:00 a.m.

DEPT: S24

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23 COMES NOW, the INLAND EMPIRE UTILITIES AGENCY ("IEUA"), which submits the  
24 following evidentiary objections to Declaration of Courtney Jones in support of City of Ontario's Motion  
25 Challenging Watermaster's November 17, 2022 Decision to Approve the FY 2022/2023 Assessment  
26 Package.

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1           **I. General Objections**

2           IEUA objects generally to the testimony in the Declaration of Courtney Jones (Jones Declaration)  
3 as lacking foundation, based largely on hearsay and generally not admissible evidence. The events  
4 surrounding the formation of the 2019 Letter Agreement took place in 2018 and 2019. Nothing in the  
5 Jones declaration establishes that she has firsthand knowledge of the matters which occurred then. Her  
6 name appears nowhere on the emails from the relevant time period which have been submitted into  
7 evidence as exhibits to the declaration of Elizabeth Hurst submitted concurrently herewith. While  
8 paragraph 2 of the Jones Declaration establishes her employment from 2021, it asserts no personal  
9 knowledge of the relevant events prior to that time and a vague assertion that she was an employee of  
10 Ontario prior to 2021 does nothing to cure that defect.

11           The recent case of *LAOSD ASBESTOS CASES (Fermin Ramirez) v. Avon Products, Inc. (2023)*  
12 87 Cal. App. 5th 939 confirms the rule that a lay witness must have firsthand knowledge of the facts to  
13 which she testifies. There a corporate employee offered testimony on events and documents which  
14 predated her employment. While the respondent argued that the witness was a corporate representative  
15 who had reviewed the historical files and documents of the corporation in an “independent review” the  
16 appellate court nonetheless found the evidence inadmissible. The court described the testimony as  
17 “channeling” information from others who themselves lacked personal knowledge of the information.  
18 The court went on to rule that the exhibits attached to the declaration were also “channeled”, hearsay and  
19 inadmissible. Much of Ms. Jones’ testimony is comprised of quoting excerpts from hearsay documents.  
20

21           Applying the *LAOSD ASBESTOS CASES* analysis to the present case renders the Jones  
22 Declaration a nullity as lacking foundation and comprised of inadmissible hearsay and of virtually no  
23 probative value.

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25           **II. Specific Objections**

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Declaration Testimony	Grounds for Specific Objection:
<p>Paragraph 8, P. 3, lines 11-14.            “The Local Agency Agreements and DYY Storage Agreement as referenced in the 2003 and 2004 court Orders, are the Dry Year Yield Program (“DYY Program”). Any substantial changes that affect these elements of the DYY Program must be approved through the Watermaster Approval Process and not only approved by the signatories of the Funding Agreement.”</p>	<p>No foundation (Evid. Code 702, 1401), calls for legal conclusion (Evid. code 310), improper opinion (Evid. code 803)</p> <p style="text-align: center;">Sustained__ Overruled__</p>
<p>Paragraph 9, P. 3, lines 16 – 21.            “The Groundwater Storage Program Funding Agreement (“Funding Agreement”) was approved through the Chino Basin Watermaster approval process in February 2003 and signed by MWD, IEUA, TVMWD, and Watermaster in June 2003... As noted, above, this Funding Agreement was ultimately approved via a June 5, 2003 Court Order (“2003 Court Order”).... A flow chart depicting the approval process for the Funding Agreement is attached as Exhibit 3.”</p>	<p>No foundation (Evid. Code 702, 1401), calls for legal conclusion (Evid. code 310), hearsay (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>
<p>Paragraph 11, P. 4, lines 4 – 7.            “Also stated is, “however, it is clear that until Watermaster and this Court approve the Local Agency Agreements and Storage and Recovery Application, or some equivalent approval process is completed, the storage and recovery cannot be undertaken. The judgment mandates that the Funding Agreement be reviewed in this context.”</p>	<p>No foundation (Evid. Code 702, 1401), calls for legal conclusion (Evid. code 310), hearsay (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>
<p>Paragraph 14, P. 4, lines 16 – 20.            “The exhibit G Performance Criteria include both groundwater and imported water criteria.... The imported water criteria require a rule-off from imported water supplies and onto groundwater production from the DYY Program. In this way, an agency can only claim DYY credit that is equal to their shift off</p>	<p>No foundation (Evid. Code 702, 1401), calls for legal conclusion (Evid. code 310), hearsay (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>

1	of their use of imported water and onto DYY Program groundwater in any one year.”	
2	Paragraph 16, P. 5, lines 6 – 12.	
3	“These Local Agency Agreements contain an Exhibit A, which specifies each agency’s facilities to be used towards operation of the DYY Program as funded by the Funding Agreement.... Also, Exhibit B of these agreements describes each agencies’ performance targets for both the reduction in imported water demand and a corresponding increase in local groundwater pumping.... These local agency performance targets describe how the MWD performance criteria to be performed by IEUA and TVMWD would be met.”	No foundation (Evid. code 702, 1401), calls for legal conclusion (Evid. code 310), hearsay (Evid. code 1521, 1523).  Sustained__ Overruled__
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11	Paragraph 17, P. 5, lines 13 – 16.	
12	“FWC does not have a Local Agency Agreement. Notwithstanding this fact, watermaster permitted FWC to claim DYY Production resulting in a financial windfall to FWC at the expense of other parties, like Ontario, who were required to absorb the financial burden.”	No foundation (Evid. Code 702, 1401), calls for legal conclusion (Evid. code 310).  Sustained__ Overruled__
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17	Paragraph 18, P. 5, lines 19 – 21.	
18	“Watermaster did not have the authority to approve the 2019 Letter Agreement at a staff level and/or to further obligations as required by Court orders and court-approved agreements to another agency.”	No foundation (Evid. code 1401), calls for legal conclusion (Evid. code 310), improper opinion (Evid. code 803).  Sustained__ Overruled__
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21	Paragraph 19, P. 5, lines 22 – 25.	
22	“The Funding Agreement, the Storage Agreement and a subsequent material amendment, Amendment 8, to the DYY Program were approved through the Watermaster Approval Process as agenized [sic] business items with proper notice.”	No foundation (Evid. code 702, 1401), calls for legal conclusion (Evid. code 310), improper opinion (Evid. code 803).  Sustained__ Overruled__
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26	Paragraph 22, P. 6 – 7, lines 25 – 3.	
27	“The 20/15 Amendment No. 8 would be the first actual amendment to the DYY Program (not the Funding Agreement) since it amended the performance criteria and needed the	No foundation (Evid. code 702, 1401), calls for legal conclusion (Evid. code 310), improper opinion (Evid. code 803), hearsay (Evid. code 1521, 1523).
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1 amending of the Local Agency Agreements,  
 2 which all are based on that performance  
 3 criteria. The performance criteria are included  
 4 in the Funding Agreement, but as stated in  
 5 Section II. below, the DYY Program itself is  
 comprised of the Local Agency Agreements  
 (which contained the performance criteria)  
 and the Storage Agreement.

Sustained\_\_ Overruled\_\_

6 Paragraph 23, page 7, lines 4 – 12.  
 7 “The 2019 Letter Agreement amended one of  
 8 the performance criteria (by making  
 9 production out of the DYY Program voluntary  
 10 without needing and MWD Call) and changed  
 11 who could participate in the DYY Program.  
 12 FWC was not a party of the DYY Program  
 13 since they had no local agency agreement, and  
 14 neither Ontario nor other parties were ever  
 15 informed that the DYY Program under the  
 16 2019 Letter Agreement would allow non—  
 17 DYY participants to participate. Watermaster  
 18 staff did not have the authority to approve and  
 sign this 2019 Letter Agreement without  
 approval through the Watermaster Approval  
 Process. The 2019 Letter Agreement changed  
 the performance criteria and should have been  
 approved through the Watermaster Approval  
 Process as an Amendment to the DYY  
 Program.”

No foundation (Evid. Code 702, 1401), calls  
 for legal conclusion (Evid. code 310),  
 improper opinion (Evid. code 803), hearsay  
 (Evid. code 1521, 1523).

Sustained\_\_ Overruled\_\_

19 Paragraph 25, P. 7, lines 19 – 25.  
 20 “Under the judgment, the powers and  
 21 functions of the Advisory Committee  
 22 includes: “in the event watermaster proposes  
 23 to take discretionary action, other than  
 24 approval or disapproval of a Pool Committee  
 25 action or recommendation property [sic]  
 26 transmitted, or execute any agreement not  
 27 theretofore within the scope of an Advisory  
 Committee recommendation, notice of such  
 intended action shall be served on the  
 Advisory Committee and its members at least  
 thirty (30) days before the Watermaster  
 meeting at which such action is finally  
 authorized.”...”

No foundation (Evid. code 702, 1401), calls  
 for legal conclusion (Evid. code 310),  
 improper opinion (Evid. code 803), hearsay  
 (Evid. code 1521, 1523).

Sustained\_\_ Overruled\_\_

<p>1 Paragraph 26, P. 7, lines 26 – 27.          2 “The 2019 letter agreement revised the court          3 orders and court approved agreements, was          4 not properly noticed, and was not authorized          at any watermaster meeting.”</p>	<p>No foundation (Evid. Code 702, 1401), calls          for legal conclusion (Evid. code 310),          improper opinion (Evid. code 803), hearsay          (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained Overruled</p>
<p>5 Paragraph 32, P. 9, lines 5 – 11.          6 “In 2018, IEUA initiated discussions with the          7 participating agencies for implementing and          8 approving revisions to the DYY Program.          9 These revisions would significantly change          10 the DYY Program by allowing voluntary          11 production out of the DYY Program storage          12 account. These changes provided exemptions          13 from the approved and amended performance          14 criteria in the local agency agreements and          allowed for unprecedented amounts of DYY          Program production by any one agency. This          letter agreement, as implemented, also          allowed for agencies without a local agency          agreement to participate in the DYY          Program.”</p>	<p>No foundation (Evid. code 702, 1401), calls          for legal conclusion (Evid. code 310),          improper opinion (Evid. code 803), hearsay          (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>
<p>15 Paragraph 33, P. 9, lines 12 – 19.          16 “In September 2018, the topic of the letter          17 agreement was listed as “Proposed Changes to          18 DDY Program Operation” under the General          19 Manager’s Report in the Pools, Advisory          20 Committee, and Board meeting packages.          21 However, there was no staff report and the          22 General Manager’s report was only verbal.          The letter agreement was not approved          through the Watermaster Approval Process          and there was no amendment to the local          agency agreements or storage agreement....”</p>	<p>No foundation (Evid. code 702, 1401), calls          for legal conclusion (Evid. code 310),          improper opinion (Evid. code 803), hearsay          (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>
<p>23 Paragraph 34, P. 9, lines 19 – 26.          24 “Through the discussion, Ontario staff had          25 questions and concerns with the proposed          26 changes. On July 31, 2018, Ontario emailed          27 IEUA explaining that the City is “neutral”          28 regarding the proposed letter agreement and          “Ontario cannot a position[sic] of support          because we cannot know the full effects of the          proposed changes. Without these details,          which would best be explained and</p>	<p>No foundation (Evid. code 702, 1401), calls          for legal conclusion (Evid. code 310),          improper opinion (Evid. code 803), hearsay          (Evid. code 1521, 1523).</p> <p style="text-align: center;">Sustained__ Overruled__</p>

1 memorialized in an amendment, we will take  
2 a wait-and-see approach regarding impacts,  
3 and we reserve the right to address any harm  
4 or detriment that may arise.” Ontario did not  
5 approve the 2019 letter agreement...”

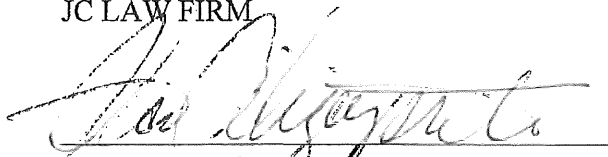
6 Exhibits 1, 2, 3, 4, 5, 6, 7 and 8.

No foundation (Evid. code 702, 1401), calls  
for legal conclusion (Evid. code 310), hearsay  
(Evid. code 1521, 1523), Relevance (Evid.  
Code 210).

Sustained Overruled

9  
10 Dated: March 20, 2023

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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 action within. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On March 22, 2023 , I served the following:

1. INLAND EMPIRE UTILITIES AGENCY'S OBJECTION TO DECLARATION OF COURTNEY JONES IN SUPPORT OF CITY OF ONTARIO'S MOTION CHALLENGING WATERMASTER'S NOVEMBER 17, 2022 DECISION TO APPROVE THE FY 2022/2023 ASSESSMENT PACKAGE

/ X / BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the 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.

/ \_\_\_ / 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.  
**See attached service list:** Master Email Distribution List

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

Executed on March 22, 2023 in Rancho Cucamonga, California.

---

By: Ruby Favela Quintero  
Chino Basin Watermaster



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