

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
CHINO DISTRICT

OCT 08 2010

BY Julie Francis
DEPUTY

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

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, ET AL.,

Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the Honorable
STANFORD E. REICHERT]

~~PROPOSED~~ ORDER APPROVING
WATERMASTER'S COMPLIANCE WITH
CONDITION SUBSEQUENT NUMBER
EIGHT AND APPROVING PROCEDURES
TO BE USED TO ALLOCATE SURPLUS
AGRICULTURAL POOL WATER IN THE
EVENT OF A DECLINE IN SAFE YIELD

Hearing Date: September 24, 2010
Hearing Time: 10:30 AM
Dept.: C1

Having read, reviewed and considered all pleadings filed in support and in response, if any, including the testimony presented at the September 24, 2010, hearing, and good cause appearing therefore:

I. Recharge Master Plan

On December 21, 2007, this Court issued its *Order Concerning Motion for Approval of Peace II Documents*. The Order required Watermaster to comply with nine conditions subsequent. The ninth condition subsequent is an ongoing requirement that Watermaster comply with all commitments made in the Peace II Documents. The eighth condition subsequent is thus the final specific condition subsequent under the December 21, 2007 Order.

1 Consistent with section 8.1 of the Peace II Agreement, condition subsequent number eight
2 requires Watermaster to submit for approval an updated Recharge Master Plan by July 1, 2010. The
3 specific items required to be covered by the updated Recharge Master Plan were described with
4 specificity in the *Special Referee's Final Report and Recommendations on Motion for Approval of*
5 *Peace II Documents*. The updated Recharge Master Plan lists these required elements and in Table
6 7 describes where in the updated Recharge Master Plan they can be found. No party has alleged
7 that the updated Recharge Master Plan does not address all of the issues required by the Court's
8 Order, or does not otherwise satisfy the requirements of section 8.1 of the Peace II Agreement.

9 At the broadest level, the purpose of the Recharge Master Plan updated is to ensure that at
10 any time during the period when the 400,000 acre-feet of Basin Re-Operation water is being
11 produced, Watermaster and the parties will have the ability to cease production of the 400,000 acre-
12 feet and return to normal Basin operations.

13 According to the conclusions of the updated Recharge Master Plan, the Chino Basin
14 currently has sufficient recharge capacity that Basin Re-Operation could cease and normal
15 operations could resume. However, this conclusion is conditioned on certain assumptions.

16 With regard to local stormwater management, the updated Recharge Master Plan
17 recommends the formation of a committee to develop the monitoring, reporting, and accounting
18 practices that will be required to estimate local project stormwater recharge and new yield.

19 With regard to regional stormwater recharge facilities, the updated Recharge Master Plan
20 recommends that Watermaster should conduct further analyses of the Phase I through III projects
21 described in the RMP to refine the projects, to develop a financing plan, and to develop an
22 implementation plan for projects deemed necessary to meet the objectives. The schedule to
23 implement the necessary Phase I through III projects should be developed during the proposed
24 planning work.

25 With regard to supplemental water for replenishment, the updated Recharge Master Plan
26 recommends that the RMP revisit the issue after the completion of the parties' Urban Water
27 Management Plans which are scheduled to be complete by the end of June 2011. The updated
28

1 Recharge Master Plan also recommends that Watermaster begin replenishing the Basin when water
2 for replenishment is available, rather than waiting for the need for replenishment to arise. The RMP
3 calls this “preemptive replenishment.”

4 With regard to supplemental water recharge facilities, the updated RMP finds that no new
5 recharge facilities will be required, but conditions this finding of the construction of the Riverside
6 Corona Feeder within the next ten years.

7 Finally, the updated Recharge Master Plan recommends that the plan should be further
8 updated following the completion of the parties’ UWMPs in June 2011, and then every five years
9 thereafter.

10 No party has objected to these conclusions and recommendations. The Inland Empire
11 Utilities Agency has deferred its right to approval of the Recharge Master Plan until after the
12 completion of the parties’ UWMPs. IEUA believes that the water demand and production
13 assumptions are overly conservative and should be re-evaluated with the completion of the parties
14 UWMPs to avoid unnecessary expense to the parties.

15
16 **II. Procedures Regarding Allocation of Surplus Agricultural Pool Water In The**
17 **Event of a Decline in Safe Yield**

18 In 2008, Watermaster entered into a stipulation with Monte Vista Water District and agreed
19 to address the procedure to be used by Watermaster to allocate surplus Agricultural Pool water in
20 the event of a decline in Safe Yield based on the Judgment, Peace Agreements and Watermaster
21 Rules and Regulations. In connection with Watermaster Compliance with Condition Subsequent
22 Number Eight, Watermaster has outlined the proper procedure to reallocate surplus Agricultural
23 Pool water and submitted a December 2008 staff report and December 4, 2008 memorandum from
24 legal counsel that describe this specific procedure adopted by the Watermaster Board. Watermaster
25 requests that the Court direct that the adopted procedure be the procedure used by Watermaster in
26 the event of a decline in Safe Yield. No party has objected to the Court so ordering.
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1 **III. Findings and Order**

2 On the basis of the above, the Court finds and Orders as follows:

3 (1) The Court finds that the 2010 updated Recharge Master Plan is responsive to the
4 Court's December 21, 2007, condition subsequent number eight, and satisfies this condition.

5 (2) Watermaster has satisfied all of the conditions subsequent under the Court's
6 December 21, 2007 Order. The ninth condition is a catchall condition requiring Watermaster to
7 fulfill all of its commitments under the Peace II Agreement, and does not require a specific
8 compliance action as have the other eight conditions.

9 (3) Watermaster is hereby ordered to convene the committee described in item 3 of
10 section 7.1 of the updated RMP to develop the monitoring, reporting, and accounting practices that
11 will be required to estimate local project stormwater recharge and new yield.

12 (4) Watermaster is hereby ordered to conduct further analyses as described in section 7.2
13 of the updated RMP of the Phase I through III projects to refine the projects, to develop a financing
14 plan, and to develop an implementation plan.

15 (5) By December 17, 2011, six months following completion of the parties UWMPs,
16 Watermaster will report to the Court on any changes to the 2010 RMP necessitated by information
17 received through the UWMPs. In this report Watermaster will also report on progress made under
18 items (3) and (4) above, and will report on the status of IEUA's approval of the RMP.

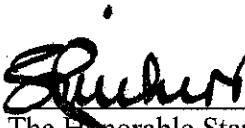
19 (6) Watermaster is ordered to utilize the procedures regarding re-allocation of surplus
20 Agricultural Pool water in the event of a decline in Safe Yield as described in the December 2008
21 staff report and December 4, 2008 memorandum from legal counsel. Specifically, in the event that
22 the Operating Safe Yield is reduced because of a reduction in Safe Yield, Watermaster will follow
23 the hierarchy provided for in the Judgment, Exhibit "H," by first applying the unallocated
24 Agricultural Pool water to compensate the Appropriative Pool members for the reduction in Safe
25 Yield. (Judgment, Exhibit "H," paragraph 10(a).) If there is unallocated water left, Watermaster
26 will then follow the remainder of the hierarchy and reallocate unallocated Agricultural Pool water
27 next to conversion claims then to supplement the Operating Safe Yield without regard to reductions
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in Safe Yield according to the guidance provided by Peace Agreement I & II and Watermaster's Rules and Regulations, as amended. If, after applying the unallocated Agricultural Pool water to compensate the Appropriative Pool members for the reduction in Safe Yield, the actual combined production from the Safe Yield made available to the Agricultural Pool, which includes overlying Agricultural Pool uses combined with land use conversions and the Early Transfer, exceeds 82,800 in any year, the amount of water available to members of the Appropriative Pool shall be reduced pro rata in proportion to the benefits received according to the procedures outlined in the Watermaster Rules and Regulations.

Watermaster will revise its Rules and Regulations to reflect this Order.

~~September 24, 2010~~
OCT 08 2010


The Honorable Stanford E. Reichert



CHINO BASIN WATERMASTER
Case No. RCV 51010
Chino Basin Municipal Water District v. The City of Chino

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 11, 2010 I served the following:

- 1) ORDER APPROVING WATERMASTER'S COMPLIANCE WITH CONDITION SUBSEQUENT NUMBER EIGHT AND APPROVING PROCEDURES TO BE USED TO ALLOCATE SURPLUS AGRICULTURAL POOL WATER IN THE EVENT OF A DECLINE IN SAFE YIELD

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: 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.

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 11, 2010 in Rancho Cucamonga, California.



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