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JUL 13 2000

By Susan King
Deputy

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

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, et al.,

Defendants

CASE NO. RCV 51010

ORDER CONCERNING
ADOPTION OF OBMP

Date: July 13, 2000

Dept: 8

Time: 2:00 p.m.

Background

This is a hearing on a motion by Watermaster for the Chino Groundwater Basin ("Watermaster") for court endorsement of its adoption of an Optimum Basin Management Program ("OBMP") and for an extension of the interim appointment of the nine-member board as Watermaster.

The Chino Groundwater Basin ("the Basin") is one of the largest groundwater basins in Southern California, containing an estimated 5,000,000 acre-feet of water in storage, with an estimated additional, unused storage capacity of about 1,000,000 acre-feet. The Basin is located primarily in San Bernardino County, with some portions of the Basin underlying lands in Riverside and Los Angeles Counties.

1 The rights to produce and store water in the Basin were adjudicated by this
2 Court in 1978, and a Physical Solution was imposed "to establish a legal and practical
3 means for making the maximum reasonable beneficial use of the waters of Chino
4 Basin by providing the optimum economic, long-term, conjunctive utilization of surface
5 waters, ground waters and supplemental water, to meet the requirements of water
6 users having rights in or dependent upon Chino Basin." (Judgment, ¶ 39, p. 23, Ins. 6-
7 11.) The imposition of a Physical Solution was intended to stop the growing decline in
8 groundwater levels and storage capacity. It continues to be "essential that this
9 Physical Solution provide maximum flexibility and adaptability" in using "existing and
10 future technological, social, institutional and economic options in order to maximize
11 beneficial use of the waters of Chino Basin." (Judgment, ¶ 40, p. 23, Ins. 12-16.) As
12 Watermaster's Annual Reports have shown, the Physical Solution has been generally
13 successful in stabilizing or recovering groundwater levels and storage. However,
14 degraded groundwater quality now requires completion of "an optimum basin
15 management program for Chino Basin, including both water quantity and quality
16 considerations." (Judgment, ¶ 41, p. 23, Ins. 22-23.) The Court is mindful that
17 "maintenance and improvement of water quality" must, and clearly will be, "a prime
18 consideration and function of management decisions by Watermaster." (Judgment, Ex.
19 "I", ¶ 1 (b), p. 79, Ins. 13-15.)

20 To address water quality issues, in February 1998, this Court directed
21 Watermaster to prepare an optimum basin management program ("OBMP"). Pursuant
22 to that order, efforts were begun to complete an OBMP for the Basin. The OBMP was
23 divided into two phases. Watermaster, with the approval of the Advisory Committee,
24 adopted the Optimum Basin Management Program Phase I Report, dated August 19,
25 1999, which was filed with the Court as a provisional report in September 1999. In
26 addition, Watermaster committed to developing an Implementation Plan for the OBMP
27 Phase I Report -- Phase II of the OBMP. A working draft of the Implementation Plan
28 was submitted to the Court in February 2000, and it was anticipated that when

1 completed, the two documents (OBMP Final Phase I Report and Final Implementation
2 Plan) would constitute the OBMP for the Chino Basin.

3 Commencing in April 2000, a series of intensive settlement negotiations was
4 initiated, led by Watermaster's General Counsel. The negotiations have led to the
5 drafting of a Peace Agreement, which is to be executed by the parties by August 1,
6 2000. Although not a signatory, Watermaster asserts that its support and approval of
7 the Peace Agreement will permit implementation of the OBMP without the attendant
8 delays caused by untold litigation and political posturing. Consequently, on June 29,
9 2000, the nine-member board unanimously adopted the goals and plans of the Phase I
10 Report consistent with the Implementation Plan and the Peace Agreement.
11 Watermaster also resolved that it will proceed in accordance with the OBMP
12 Implementation Plan and the Peace Agreement. Watermaster further resolved that it
13 will comply with the conditions described in Article V of the Peace Agreement labeled
14 "Watermaster Performance." Finally, Watermaster resolved that it shall adopt all
15 necessary policies and procedures in order to implement the provisions set forth in
16 Article V, on or before December 31, 2000, unless an earlier date is specified in the
17 Peace Agreement or the OBMP Implementation Plan. Watermaster has submitted a
18 copy of the final Peace Agreement and the final Implementation Plan and requests this
19 Court to approve its adoption of the OBMP and to enter an order directing
20 Watermaster to proceed in accordance with the Peace Agreement, the OBMP
21 Implementation Plan, and the pro forma Recharge Memorandum of Agreement.
22 Watermaster also requests that the term of the nine-member board be extended to
23 September 28, 2000, and that the hearing on the reappointment of the board be
24 continued to that date.

25 26 Findings

27 Subject to the continuing jurisdiction of this Court and to the satisfaction of the
28 conditions precedent listed below, the Court hereby makes the following findings:

1 1. The Court finds that the OBMP consists of the OBMP Phase I Report and the
2 OBMP Implementation Plan. The Court acknowledges that Watermaster has adopted
3 a resolution supporting and approving the Peace Agreement, and that Watermaster
4 and the parties to the Peace Agreement will commit to carry out elements of the OBMP
5 in accordance with the Peace Agreement. The Court also recognizes that the Peace
6 Agreement is consistent with the OBMP.

7 2. The Court finds that Watermaster's support and approval of the Peace
8 Agreement and its commitment to implement the OBMP Phase I Report through the
9 provisions of the OBMP Implementation Plan as expressly set forth in Article V of the
10 Peace Agreement is in furtherance of the Physical Solution set forth in the Judgment
11 and is in furtherance of Article X, Section 2 of the California Constitution;

12 3. The Peace Agreement and the OBMP Implementation Plan implement the
13 goals and plans of the OBMP Phase I Report. Subject to the satisfaction of the
14 conditions precedent identified below, the continuing jurisdiction of the Court, and
15 adaptive management consistent with the Peace Agreement, Watermaster has
16 satisfied its obligation to prepare and implement an optimum basin management
17 program for the Basin.

18
19 Order

20 Subject to the continuing jurisdiction of this Court and to the satisfaction of the
21 conditions precedent listed below, the Court hereby makes the following Orders:

22 1. Watermaster shall adopt the goals and plans of the Phase I Report and
23 implement them through the Implementation Plan, which is attached as Exhibit B to the
24 Peace Agreement. Watermaster shall proceed in a manner consistent with the Peace
25 Agreement and the OBMP Implementation Plan;

26 2. In furtherance of the OBMP and the Peace Agreement, the Court adopts the
27 following briefing schedule for any motions to amend the Judgment: motions to be filed

28 ///

1 by August 15, 2000; oppositions to be filed by September 1, 2000; replies to be filed
2 by September 8, 2000; hearing on motions set for September 28, 2000, at 2:00 p.m.

3 3. Watermaster shall prepare and timely file reports with the Court regarding its
4 progress in implementing the OBMP.

5
6 *Conditions Precedent*

7 The Court's Findings and Orders stated above are expressly conditioned upon the
8 satisfaction of the following conditions precedent:

9 1. Unanimous approval of the Peace Agreement by the parties thereto, no later
10 than August 1, 2000;

11 2. Certification of the Programmatic Environmental Impact Report for the OBMP
12 by Inland Empire Utilities Agency;

13 3. Appropriation by the California Legislature by October 1, 2000, of at least
14 \$121,000,000 from the proceeds made available by the passage of Proposition 13, for
15 the benefit of the Santa Ana Watershed Project Authority;

16 4. Submission by September 1, 2000, of a schedule for Watermaster's adoption
17 and Court approval of Uniform Groundwater Rules and Regulations; such adoption
18 and approval to be accomplished no later than December 31, 2000;

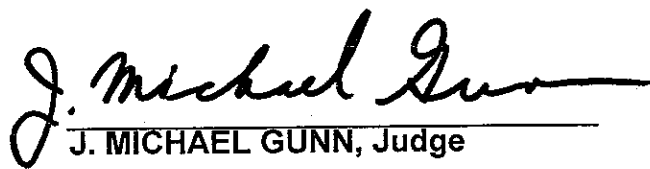
19 5. Submission by September 1, 2000, of a schedule and a process for submission
20 to the Court of detailed periodic reports regarding compliance with OBMP
21 implementation; such periodic reports to commence no later than October 31, 2000;

22 6. Court approval of all Judgment modifications in furtherance of the OBMP. That
23 is, pursuant to its continuing jurisdiction, the Court shall ensure that Watermaster's
24 actions, including actions in accordance with the Peace Agreement, are consistent with
25 the Judgment as amended.

26 To enable Watermaster to satisfy all of the above-listed conditions precedent, the
27 Court hereby extends the interim appointment of the nine-member board as
28 Watermaster to September 28, 2000. Watermaster shall retain discretion regarding

1 the negotiation, termination, and execution of contracts for personnel and consultants
2 with an expiration date no later than September 30, 2000, and Watermaster is
3 authorized to enter into equipment rental and service agreements with an expiration
4 date no later than June 30, 2001. The hearing on the reappointment of the nine-
5 member board as Watermaster shall be continued to September 28, 2000, and the
6 reappointment motion heard in conjunction with any motions for Judgment modification
7 in furtherance of the OBMP.

8
9
10 Dated: July 13, 2000


J. MICHAEL GUNN, Judge

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, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On July 13, 2000, I served the attached:

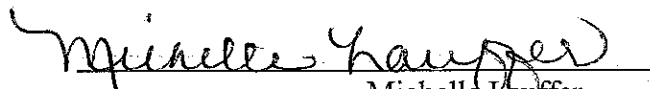
**1. ORDER CONCERNING ADOPTION OF OPTIMUM BASIN
MANAGEMENT PROGRAM**

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, addressed as follows:

See attached service lists:

- Attorney Service List
- Mailing List A

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on July 13, 2000.


Michelle Lauffer

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GEOFFREY VANDEN HEUVEL
CBWM BOARD
7551 KIMBALL AVE
CHINO CA 91710

ERICK VAUGHN
ANGELICA RENTAL SERVICE
1575 N CASE ST
ORANGE CA 92867-3635

ERIC WANG
SUNKIST GROWERS INC
760 E SUNKIST ST
ONTARIO CA 91761

MARK WARD
AMERON INTERNATIONAL
13032 SLOVER AVE
FONTANA CA 92335-6990

RAY WELLINGTON
SAN ANTONIO WATER COMPANY
139 N EUCLID AVE
UPLAND CA 91786-6036

CHARLES R. WHITE
DWR-SO DIST
770 FAIRMONT AVE
GLENDALE CA 91203-1035

MICHAEL WHITEHEAD
SAN GABRIEL VALLEY WC
P.O. BOX 6010
EL MONTE CA 91734

MARK WILDERMUTH
WILDERMUTH ENVIRONMENTAL INC
415 N EL CAMINO REAL STE A
SAN CLEMENTE CA 92672

JEROME WILSON
CBWM BOARD
6035 FALLING TREE LN
ALTA LOMA CA 91737