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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO, WEST DISTRICT
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10 CHINO BASIN MUNICIPAL WATER)
11 DISTRICT;)
12 Plaintiffs,)
13 vs.)
14 CITY OF CHINO,)
15 Defendants.)

CASE NO. RCV 51010
RESPONSE OF THE CHINO BASIN
WATER CONSERVATION DISTRICT
WITH RESPECT TO THE CHINO BASIN
WATERMASTER'S MOTION FOR
APPROVAL OF PEACE II DOCUMENTS
DATE: 11/29/2007
TIME: 1:30 p.m.
DEPARTMENT: R8

16
17 COMES NOW THE CHINO BASIN WATER CONSERVATION DISTRICT (CBWCD) and
18 submits the following comments and concerns with respect to the Chino Basin Watermaster's Motion
19 for Approval of Peace II Documents:

20 First of all, the motion and all of its attachments consist of hundreds of pages, many of which
21 involve complex engineering analysis. The initial motion only included the Draft Ground Water
22 Model Documentation Report, and the Final Ground Water Model Documentation Report was not
23 prepared and available for review until November 15, 2007. There was also no summary provided as
24 to the specific changes between the draft report and the final report. Therefore, it will be necessary
25 to make a careful review of the two reports for any significant differences and the impact on the
26 parties. In comparing the Executive Summaries of the draft and final reports, there are some
27 significant differences that are troubling.

28 In the Executive Summary of the Draft Technical Report, on page ES-1, re-operation of the

1 basin was explained to be a controlled overdraft from the 200,000 acre feet in the original judgment
2 to a projected 600,000 acre feet for a net increase of 400,000 acre feet. It was clear in the draft report
3 that the 400,000 acre feet increase was to be the maximum amount of increase. However, in the final
4 report, the Executive Summary, while making a couple of passing remarks about the 400,000 acre feet
5 in the re-operation, it does not make it clear that this is the maximum increase in controlled overdraft.
6 When one then looks at the Supplemental Documents that were served by the Chino Basin
7 Watermaster on November 15, 2007, the Supplemental Declaration of Mark Wildermuth states in
8 Paragraph 19 on page 9 that the 400,000 acre feet of controlled overdraft is now a minimum, and that
9 additional controlled overdraft may be necessary in the future. This is a significant change that was
10 completely unexpected and Mr. Wildermuth's explanation that it is based on "extensive modeling
11 analysis" is an insufficient explanation. CBWCD believes that before there can be any increase in
12 controlled overdraft beyond the 400,000 acre feet, there would need to be further analysis by Mr.
13 Wildermuth, Mr. Scalmanini and other interested parties and a Motion filed by Watermaster requesting
14 the court's approval of any such increase in controlled overdraft. Until such time, any order approving
15 Watermaster's Motion must state that the 400,000 acre feet increase in controlled overdraft is a
16 maximum that cannot be exceed without a further evidentiary hearing and order of the court.

17 Another area of concern is the reduction in safe yield for the baseline alternative which shows
18 a decrease from approximately 145,000 acre feet to approximately 119,000 acre feet by 2060. The
19 alternatives 1A and 1B also show decreases in the safe yield though at a slower rate. It needs to be
20 clear in any approval of this Motion that any reductions in safe yield must be shared pro rata by all
21 appropriators. There must also be a mechanism in place for enforcement of any pro rata reductions
22 in safe yield.

23 In reviewing the data for the recharge from the Santa Ana River, the executive summary of the
24 draft report indicated that there would be a shortfall in recharge resulting in the reduction and storage
25 by 2030 of about 109,000 acre feet for the baseline alternative, and 123,000 acre feet for Alternatives
26 1A and 1B. However, in the final report, the executive summary indicates that the reduction in storage
27 by 2030 would be approximately 198,000 acre feet for the baseline alternative (an increase of 82%)
28 and 212,000 acre feet for Alternatives 1A and 1B (an increase of 72%). This is a significant difference

1 between the two reports and is an indication of the potential unreliability of the model and the
2 assumptions made. These numbers and the analysis need to be thoroughly reviewed and understood
3 before the court signs off on this.

4 Additionally, there does not appear to be any long term plan regarding the availability of
5 supplemental water to use for recharge. Given the uncertainty of the availability of water from the
6 State Water Project, the Colorado River and other sources, there needs to be a long term plan in place
7 with realistic assumptions regarding the availability of supplemental water so that the model can be
8 accurately tested.

9 Even the Watermaster and Mr. Wildermuth recognize the potential for significant error with
10 the 2007 model. The Executive Summary of the final report states at page ES-8 that "[T]here is no
11 way to determine the accuracy of the information used in the future simulations" and "it is possible that
12 the planning information used to evaluate the future alternatives could be flawed and the modeling
13 results questionable." Close monitoring of groundwater, recharge, re-operation and the potential for
14 subsidence should continue for the foreseeable future to assess the accuracy of the model. As the
15 Executive Summary states at page ES-8: "This is especially important on a go forward basis as the
16 projected operation of the basin is outside the bounds of the historical operation used in the calibration
17 of the 2007 Watermaster model."

18 Accordingly, the court should reserve the right of any and all parties and appropriators to obtain
19 and/or analyze additional data as it is developed so that the impact and accuracy of the 2007 model
20 utilized by Mr. Wildermuth can be assessed and any significant changes brought to the court's
21 attention.

22 Because of the significance of the issues before the court, the court should continue to utilize
23 the services of the Special Referee and Mr. Scalmanini in reviewing and overseeing the work of the
24 Watermaster and Mr. Wildermuth.

25 Accordingly, CBWCD agrees with the court's recent Order to Show Cause concerning the
26 continuance of the hearing on the Motion for Approval of the Peace II Documents to some time in
27 early 2008. This should give all parties sufficient time to make a reasoned and informed analysis of
28 the Motion and its supporting documents and to have an opportunity to review the Special Referee's

1 report and any declaration from Mr. Scalmanini regarding the Watermaster's motion.

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CBWCD realizes that a delay in the hearing until early 2008 may present some of the parties with a financial problem since assessments for 2008 will be sent out soon. There may be a desalter replenishment obligation of approximately 18,000 acre feet that cannot be met without using some of the proposed 400,000 acre feet increase in controlled overdraft of the basin. In order to avoid this financial problem as a result of a continuance of the hearing, CBWCD has no objection to the court issuing an order at the November 29, 2007 hearing that allows a partial use of the proposed 400,000 acre feet increase in controlled overdraft in order to meet the expected desalter replenishment obligation of approximately 18,000 acre feet.

DATED: November 19, 2007

BRUNICK, McELHANEY & BECKETT

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PROOF OF SERVICE

**STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO}**

I, the undersigned, am employed in the aforesaid County, State of California; I am over the age of 18 years, not a party to this action and am employed at 1839 Commercenter West, San Bernardino, California 92408.

On November 19, 2007, I served the following document: **RESPONSE OF THE CHINO BASIN WATER CONSERVATION DISTRICT WITH RESPECT TO THE CHINO BASIN WATER MASTER'S MOTION FOR APPROVAL OF PEACE II DOCUMENTS** on the interested parties in this action as follows:

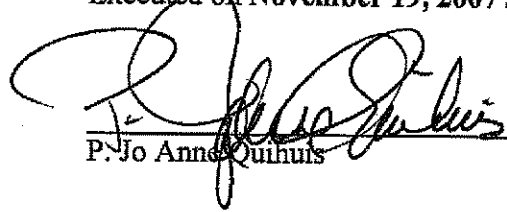
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[XX] BY ELECTRONIC SERVICE to: jwilson@cbwm.org. Receipt of service was confirmed using the Return Receipt Requested feature of electronic mail system.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

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

Executed on November 19, 2007 at San Bernardino, California.



P. Jo Anne Quihuis

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 November 19, 2007 I served the following:

1) RESPONSE OF THE CHINO BASIN WATER CONSERVATION DISTRICT WITH RESPECT TO THE CHINO BASIN WATERMASTER'S MOTION FOR APPROVAL OF PEACE II DOCUMENTS

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

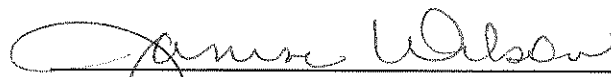
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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 November 19, 2007 in Rancho Cucamonga, California.



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