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

10 CHINO BASIN MUNICIPAL WATER
11 DISTRICT

12 Plaintiff,

13 vs.

14 CITY OF CHINO, ET AL.

15 Defendant.
16
17

Case No. RCV 51010

NOTICE OF MOTION AND MOTION
REQUESTING CASE MANAGEMENT
ORDER

Hearing Date: April 2, 2010
Time: 10:30 a.m.
Dept: C-1

18 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

19 Please take Notice that on April 2, 2010, at 10:30 a.m. in the above captioned Court, Chino
20 Basin Watermaster ("Watermaster") will request that the Court issue a Case Management Order
21 concerning procedural matters pertaining to the March 16, 2010 Paragraph 31 Motion filed by the
22 Overlying (Non-Agricultural) Pool ("Non-Agricultural Pool"). This request will be based upon the
23 attached Motion, the Court's record in this matter, and any arguments presented at the hearing.
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MOTION REQUESTING CASE MANAGEMENT ORDER

Chino Basin Watermaster ("Watermaster") hereby requests that the Court issue a Case Management Order ("CMO") in order to provide Watermaster and the parties with procedural guidance prior to the upcoming April 16, 2010 hearing on the Non-Agricultural Pool's Paragraph 31 Motion. Watermaster believes that a CMO such as the one proposed here would assist the parties and the Court to organize and streamline the process regarding resolution of the Paragraph 31 Motion.

A. Sequence of the Proceedings

Watermaster will be filing a timely response to the Paragraph 31 Motion on April 5, 2010. Watermaster believes the Court will have sufficient grounds to reject the Paragraph 31 Motion solely on the arguments based on the record and supporting affidavits. However, if after reviewing the moving papers and opposition, and hearing argument from the Parties, the Court determines that additional evidence is necessary to rendering its decision, Watermaster proposes that the Parties be authorized to conduct discovery on the subjects of interest to the Court. In this way, Watermaster and the Parties can be relieved of the time and expense associated with written discovery and depositions that are potentially unnecessary to the resolution of the matter. Watermaster believes that any additional discovery could be accomplished on an expedited basis. Accordingly, Watermaster proposes that this matter be handled in a two-phase process as follows:

(1) Any party wishing to respond to the Paragraph 31 Motion will file responsive pleadings by April 5, 2010, in accordance with local Court rules. At the hearing on April 16, 2010, the Court will determine whether the arguments presented by Watermaster and others based on the existing record are dispositive of this matter, or whether the Court's decision-making would be facilitated with additional factual development of the record.

(2) If the Court concludes that it cannot reach a decision based upon the moving papers and affidavits and supporting arguments, then a second hearing will be scheduled following the

1 completion of limited discovery. Following the April 16, 2010 hearing, the Parties will promptly
2 meet and confer and present the Court with their joint or, if they cannot agree, their separate
3 discovery plans for the Court's consideration. At the second hearing, the Court will permit live
4 testimony to be offered by any party.

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6 However, if the Court is not inclined to proceed in this fashion, Watermaster respectfully
7 requests a thirty-day continuance to allow for the taking of the depositions of relevant parties. The
8 factual foundation for the Paragraph 31 Motion is based entirely upon declarations, and Watermaster
9 must be permitted the opportunity to clarify the assertions made therein.

10 B. Other Procedural Issues

11 Waiver of Page Limitations. Moving parties have filed approximately 300 pages of
12 exhibits in support of their moving papers and have raised a number of issues that, although
13 meritless, will require Watermaster to fully respond and provide assurance to the Court that
14 appropriate procedures have been followed in this case. Moreover, in recognition of the complexity
15 involved in administering the Judgment, the Court has never imposed or enforced a page limitation,
16 so that Watermaster may provide a complete and fair response. Watermaster requests the Court's
17 determination that Watermaster, which serves at the pleasure of the Court, may provide a full
18 response without regard to the page limitation.
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21 If the Court is not inclined to grant this waiver of page limitation, then Watermaster requests
22 a one week continuance of the April 16, 2010 hearing in order to allow Watermaster an opportunity
23 to conform its response papers to the Court's instructions.

24 Because of the short time available prior to the hearing, and because replies to the Paragraph
25 31 Motion must be filed by April 5, 2010, Watermaster requests the Court to rule on this Motion as
26 soon as possible, and in no case later than the hearing scheduled for this request.
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Dated: March 25, 2010

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: 
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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

**[PROPOSED] CASE MANAGEMENT
ORDER**

Hearing Date: April 2, 2010
Time: 10:30 a.m.
Dept: C-1

The Court finds and orders as follows:

1. Sequence of Proceedings and Discovery

(1) Watermaster and any other party that wishes to respond to the Paragraph 31 Motion filed by the Non-Agricultural Pool Committee in this proceeding will file responsive pleadings by April 5, 2010, in accordance with local court rules. At the scheduled hearing on April 16, 2010, the Court will determine whether the arguments presented by Watermaster and others based on the moving and responsive papers, affidavits and supporting arguments are dispositive of this matter.

(2) If the Court concludes that it cannot reach a final decision based upon the moving and responsive papers, affidavits and supporting arguments, then the Court shall schedule a second hearing to take place following the completion of limited discovery. Following the April 16, 2010

1 hearing, the Parties shall promptly meet and confer and present the Court with their joint or, if they
2 cannot agree, their separate discovery plans for the Court's consideration. At the second hearing, the
3 Court will permit live testimony to be offered by any party.

4 **2. Additional Procedural Issue**

5 There Are No Page Limits for Pleadings in This Proceeding

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7 In recognition of the complexity involved in administering the Judgment, the Court has not
8 previously imposed or enforced a page limitation on pleadings filed in this case. The Court orders
9 that the pleadings submitted in this matter are not required to conform to any page limitations
10 imposed under the California Rules of Court or California Rules of Civil Procedure.

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12 Dated: _____, 2010

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14 By: _____
15 HON. STANFORD E. REICHERT
16 JUDGE OF THE SUPERIOR COURT
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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 March 25, 2010 I served the following:

- 1) **NOTICE OF MOTION AND MOTION REQUESTING CASE MANAGEMENT ORDER**
- 2) **[PROPOSED] CASE MANAGEMENT ORDER**

☒ 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 March 25, 2010 in Rancho Cucamonga, California.



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