

Indian Wells (760) 568-2611 Irvine (949) 263-2600 Los Angeles (213) 617-8100

(909) 989-8584

Ontario

BEST BEST & KRIEGER

2001 N. Main Street, Suite 390, Walnut Creek, CA 94596 Phone: (925) 977-3300 | Fax: (925) 977-1870 | www.bbklaw.com Riverside (951) 686-1450 Sacramento (916) 325-4000 San Diego (619) 525-1300 Washington, DC (202) 785-0600

**Gene Tanaka** (925) 977-3301 gene.tanaka@bbklaw.com

March 29, 2018

## VIA ELECTRONIC FILING

Justices of the Court of Appeal Fourth District, Division Two 3389 Twelfth Street Riverside, CA 92501

Re: Chino Basin Municipal Water District v. City of Chino, et al.

Court of Appeal Case No. E068640 (Superior Court, Case No.

RCVRS 51010) - Joint Status Update re Stay

#### Dear Justices:

Pursuant to this Court's Order dated January 3, 2018, this letter shall serve as a joint status report on the settlement negotiations among Appellants Cucamonga Valley Water District, Monte Vista Water District, and the City of Pomona and Respondents City of Chino, Jurupa Community Services District, and City of Ontario (Parties). The Parties have not concluded settlement negotiations, but they have made significant progress and are confident they can settle this appeal. Efforts to finalize the settlement in this matter are challenging due, among other reasons, to (1) the complex nature of the underlying case (San Bernardino County Case No. RCV 51010) in which the Chino Basin Restated Judgment ("Judgment") has been entered, (2) the continuing jurisdiction of the Judgment (Paragraph 15), including trial court approval of the agreements among the numerous parties to the Judgment, and (3) the relationship between the potential settlement and existing court-approved agreements.

The Parties continue to diligently pursue settlement and have conducted numerous settlement meetings among their managers, attorneys and the Watermaster (the non-party arm of the trial court that implements the Judgment) since they originally sought a briefing extension on November 1, 2017. Specifically, the Parties participated in settlement discussions on the following dates:

- November 1, 2017 (attorneys and managers)
- November 9, 2017 (Watermaster Board Special Meeting)
- November 16, 2017 (Watermaster Board Meeting)
- December 11, 2017 (attorneys and managers)



# BEST BEST & KRIEGER &

Justices of the Court of Appeal March 29, 2018 Page 2

- December 12, 2017 (attorneys)
- January 25, 2018 (Watermaster Board Meeting)
- January 26, 2018 (attorneys)
- February 9, 2018 (attorneys and managers)
- February 16, 2018 (attorneys)
- February 26, 2018 (attorneys)
- March 5, 2018 (attorneys)
- March 8, 2018 (managers)
- March 16, 2018 (attorneys)
- March 20, 2018 (attorneys)
- March 27, 2018 (attorneys)

As a result of these efforts, the Parties have reached agreement on a draft settlement. The Watermaster is informed of the settlement and will facilitate discussions as settlement progresses and expands to involve parties to the Judgment who are not parties to the appeal.

The Parties anticipate the following steps to finalize and effectuate settlement that will allow for the dismissal of this appeal:

(1) Obtain approval of settlement agreement from other members of the Appropriative Pool, who are not parties to the appeal;

Obtain the support or non-opposition of the Watermaster, the Agricultural Pool, and the Non-Agricultural Pool; and

Finalize and execute settlement agreement.

Target completion date for all of the above: May 31, 2018;

(2) Draft papers for court approval of settlement agreement.

*Target completion date: July 31, 2018;* 



# BEST BEST & KRIEGER a

ATTORNEYS AT LAW

Justices of the Court of Appeal March 29, 2018 Page 3

(3) Obtain court approval of settlement agreement.

Target completion date: September 14, 2018. (This is the existing hearing date for a motion to stay the trial court's order pending appeal.)

If uncontested, the Parties could obtain court approval of the settlement agreement as early as September 2018. However, opposition to the request for court approval or unanticipated delays resulting from Nos. 1 and 2 above could delay court approval by a number of months.

Accordingly, despite their efforts and significant progress, the Parties need additional time to finalize the settlement due to the complexity of the appeal as well as the underlying Judgment and its implementing agreements. The Parties respectfully request that the stay remain in place and will provide a further status report as ordered by this Court.

Sincerely,

Gue Taka

Gene Tanaka
BEST BEST & KRIEGER, LLP
Attorney for Appellant
Cucamonga Valley Water District

/s/ with permission
Jimmy L. Gutierrez
JIMMY L. GUTIERREZ, A LAW
CORPORATION
Attorney for Respondent
City of Chino

/s/ with permission\_

Arthur G. Kidman Andrew B. Gagen KIDMAN GAGEN LAW LLP Attorney for Appellant Monte Vista Water District /s/ with permission
Robert E. Donlan
ELLISON SCHNEIDER & HARRIS LLP
Attorney for Respondent
Jurupa Community Services District

/s/ with permission\_

Thomas Bunn III
LAGERLOF, SENECAL, GOSNEY &
KRUSE, LLP
Attorney for Appellant
City of Pomona

/s/ with permission
Frederic A. Fudacz
NOSSAMAN LLP
Attorney for Respondent
City of Ontario



Justices of the Court of Appeal March 29, 2018 Page 4

cc: See attached list

# **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed: **Joint Status Update re Stay** with the Clerk of the Court for the United States Court of Appeal, Fourth Appellate District, Division Two, by using TrueFiling, the court's EFS on March 29, 2018 and served as follows:

- I certify that the participants, as indicated below, are registered TrueFiling EFS users and that service will be accomplished by the appellate EFS system.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
- I caused such envelope to be delivered via overnight delivery.

  Such envelope was deposited for delivery by United Parcel Service following the firm's ordinary business practices.

#### Via TrueFiling and First Class Mail

Thomas Bunn II, Bar No. 89502 Lagerlof, Senecal, Gosney & Kruse LLP 301 N. Lake Avenue, 10th Floor Pasadena, CA 91101-5123 tombunn@lagerlof.com Telephone (626) 793-9400 Facsimile (626) 793-5900 Attorneys for Appellant City of Pomona

#### Via TrueFiling and First Class Mail

Jimmy L. Gutierrez, Bar No. 59448 Gutierrez, Fierro & Erickson, A.P.C. 12616 Central Ave. Chino, CA 91710 jimmy@city-attorney.com Telephone: (909) 591-6336 Facsimile: (909) 628-9803 Attorneys for Defendant and Respondent City of Chino

### Via TrueFiling and First Class Mail

Scott Slater, Bar No. 117317
Bradley J. Herrema, Bar No. 228973
Brownstein Hyatt Farber Schreck, LLP
1020 State Street
Santa Barbara, CA 93101-2711
sslater@bhfs.com
bherrema@bhfs.com
Talanharay (805) 062 7000

Telephone: (805) 963-7000 Facsimile: (805) 965-4333

Attorneys for Chino Basin Water Master

#### Via TrueFiling and First Class Mail

Arthur Kidman, Bar No. 61719 Andrew Gagen, Bar No. 212257 Kidman Gagen Law LLP 2030 Main Street, Ste 1300 Irvine, CA 92614 akidman@kidmanlaw.com agagen@kidmanlaw.com Telephone: (714) 755-3100 Facsimile: (714) 755-3110

Attorneys for Appellant Monte Vista

Water District

#### Via TrueFiling and First Class Mail

Robert E. Donlan, Bar No. 186185 Ellison, Schneider & Harris LLP 2600 Capital Avenue, Ste 400 Sacramento, CA 95816 Telephone: (916) 447-2166 Facsimile: (916) 447-3512 Attorneys for Jurupa Community Services District

#### Via TrueFiling and First Class Mail

Fredric A. Fudacz NOSSAMAN LLP 777 S. Figueroa St., 34th Fl. Los Angeles, CA 90017

Attorneys for City of Ontario

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

Executed on March 29, 2018 at Walnut Creek, California.

Irene Islas