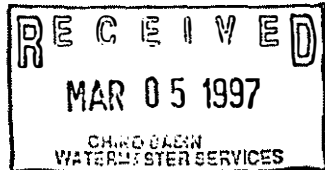


CHINO HILLS
REAPPT
TS

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8 Attorneys for CITY OF CHINO HILLS

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN BERNARDINO, WEST JUDICIAL DISTRICT

12 CHINO BASIN MUNICIPAL WATER
13 DISTRICT, et al.

CASE NO. RCV 51010

14 Plaintiff,

CITY OF CHINO HILLS'
OPPOSITION TO CHINO BASIN
WATERMASTER ADVISORY
COMMITTEE'S MOTION FOR
APPOINTMENT OF NINE MEMBER
BOARD AS WATERMASTER

15 vs.

16 CITY OF CHINO, et al.

17 Defendants.

DATE: March 11, 1997
TIME: 8:30 a.m.
Dept. H.

Specially Assigned to the
Honorable J. Michael Gunn

18 The City of Chino Hills ("City") hereby files its
19 opposition to the Chino Basin Watermaster's ("Watermaster")
20 Motion to Appoint a Nine Member Board as Watermaster ("Motion to
21 Appoint"). Additionally, the City urges this Court to appoint a
22 truly independent interim, i.e. one-year, Watermaster, such as a
23 retired Judge, on its own motion.

24 I.

25 PRELIMINARY STATEMENT:

26 The City currently holds 1.81 percent of the total voting
27 rights allocated to the Appropriative Pool of the Chino Basin, as
28 defined in the January 27, 1978 Judgment in the Chino Basin

1 Municipal Water District v. City of Chino, et al. case
2 ("Judgment"). Notwithstanding its minor interest, the City is
3 obligated to its approximately forty nine thousand water service
4 customers, and, therefore, has a significant interest in the
5 Watermaster acting fairly and equitably in administering the
6 parties' water rights in the Chino Basin ("Basin").

7 The controversy concerning the Watermaster has been on-going
8 for over a year. The City is displeased that it has had to spend
9 its limited resources in "participating" in the essentially
10 political, procedural, and self-interested disagreements
11 regarding the selection of a Watermaster.

12 The Chino Basin faces significant substantive challenges,
13 e.g., Proposition 218 and groundwater contamination, that impact
14 the City's water customers and need to be addressed. Those
15 members of the Basin which are public agencies, such as the City,
16 are subject to new requirements which may greatly impair their
17 ability to pass on to their customers water commodity rate
18 increases. Accordingly, these agencies need to insure that the
19 Basin is being operated efficiently and that expensive political
20 and self-interested games do not drive up the operating costs of
21 the Basin. Additionally, the Basin may be facing some
22 significant groundwater contamination issues. It will be
23 essential that all of the members of the Basin, even those in the
24 minority, be treated fairly and equitably in "cleaning up" the
25 Basin. The above are just two of many good reasons that the
26 Basin have an independent Watermaster to protect all of the
27 members' rights in the Basin.

28 The time has come for this Court on its own motion to

1 appoint a truly independent Watermaster. The City urges this
2 Court to appoint as Watermaster, on an interim, one-year basis, a
3 retired Judge, arbitrator, or other impartial individual who
4 could objectively assess the current situation and issues and
5 then provide constructive recommendations to the Court as to an
6 appropriate appointment of a Watermaster. In the alternative,
7 the City would support a five member Watermaster Board,
8 consisting of three members of Chino Basin Municipal Water
9 District ("CBMWD"), one member from Three Valleys Municipal Water
10 District ("Three Valleys"), and one member from Western Municipal
11 Water District ("Western").

12 II.

13 THIS COURT SHOULD REJECT THE PROPOSED
14 APPOINTMENT OF A NINE MEMBER BOARD AS
15 WATERMASTER

16 The constant in-fighting between the major political and
17 economic players, e.g. the Watermaster dispute, the extended
18 disagreement over the Watermaster audit, the allegations of
19 conflict of interest of the Watermaster General Counsel, among
20 other issues, should be sufficient to this Court that the current
21 proposal for a nine member Watermaster Board (comprised of the
22 same members who can sit on the Advisory Board) should be
23 rejected. Such a self-interested Board, which would be
24 controlled by the majority members just as the Advisory Board,
25 consisting of persons with adjudicated rights in the Chino Basin,
26 does not provide adequate safeguards to protect the interests of
27 water users throughout the Chino Basin.

28 Pursuant to the Judgment, the Watermaster is authorized to

1 establish a legal and practical means for making the maximum
2 reasonable beneficial use of the water of the Chino Basin by
3 providing for the optimum economic, long-term, conjunctive
4 utilization of surface waters, grounds waters and supplemental
5 waters, to meet the requirements of water users having rights in
6 or dependent upon the Chino Basin. (Judgment, ¶ 39 emphasis
7 added).

8 The Watermaster, with the advice of the Advisory and Pool
9 Committees, is granted discretionary powers in order to develop
10 an optimum basin management program for the Chino Basin,
11 including both water quantity and quality considerations.
12 (Judgment, ¶ 41). The Motion to Appoint proposes to return the
13 parties to the contentious and litigious situation that existed
14 prior to the Judgment, where the parties owning water rights
15 determined the extraction and replenishment of groundwater from
16 the Chino Basin and were able to pass on direct and indirect
17 costs to the public free of any scrutiny.

18 The Watermaster, as well as the joinder parties, i.e. the
19 Cucamonga County Water District, Western Municipal Water
20 District, Kaiser Ventures Inc., City of Ontario, City of Pomona,
21 State of California, City of Upland, and Fontana Union Water
22 District, have submitted no objective evidence whatsoever that
23 the management structure proposed in the Motion to Appoint will
24 1) provide a legitimate and effective review process, 2) lead to
25 improved staff responsiveness, 3) result in a more effective
26 representation of the parties, and 4) provide for more effective
27 management of costs. The need for objective analysis and
28 management of these issues underscores the need for a truly

1 independent Watermaster.

2 Similarly, the fact that only approximately 60% of the total
3 Chino Basin Watermaster Advisory Committee ("Advisory Committee")
4 (approximately 10% did not vote) supported the current proposal
5 (as compared to the high nineties for past proposals) should
6 indicate to this Court that consensus has not been reached on
7 many issues as is alleged in the Motion to Appoint. (See
8 Memorandum of Points and Authorities in Support of Motion, 1:15-
9 17). It also shows a strong minority of members are in fact
10 dissatisfied with the proposal.

11 III.

12 THIS COURT SHOULD APPOINT A TRULY INDEPENDENT
13 WATERMASTER WHO DOES NOT HAVE ADJUDICATED
14 WATER RIGHTS WITHIN THE CHINO BASIN

15 As this Court is aware, the Judgment authorizes this Court
16 to appoint a new Watermaster on its own motion. (See Judgment
17 ¶ 16). The City urges this Court to appoint on an interim, one-
18 year basis a truly independent watermaster, i.e. a watermaster
19 with no adjudicated rights within the Basin. This Court could
20 appoint for example a retired judge or arbitrator. This person
21 could objectively evaluate the purpose and needs of the
22 watermaster over a one year period and provide this Court with an
23 independent assessment as to the appropriate composition and
24 purpose of the Watermaster. This process would be considerably
25 more economical and fairer than the "process" that taken place
26 over the last year.

27 In the alternative, the City would support a five member
28 Watermaster Board that would consist of three members of CBMWD,

1 one member from Three Valleys, and one member from Western.

2 IV.

3 CONCLUSION:

4 For all of the foregoing reasons, the City respectfully
5 requests that this Court deny the Motion to Appoint and appoint a
6 truly independent Watermaster on its own motion.

7 DATED: March 3, 1997

8 MARK D. HENSLEY, CITY ATTORNEY
9 CITY OF CHINO HILLS; and
10 BURKE, WILLIAMS & SORENSEN
11 MARK D. HENSLEY
12 CHRISTOPHER R. CHELEDEN

13 By: 
14 CHRISTOPHER R. CHELEDEN
15 Attorneys for CITY OF CHINO HILLS
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28

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner _____ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, 19____, at _____, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

1013A (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 611 W. Sixth Street, Suite 2500, Los Angeles, CA 90017

On March 3, 1997, I served the foregoing document described as CITY OF CHINO HILLS' OPPOSITION TO CHINO BASIN WATERMASTER ADVISORY COMMITTEE'S MOTION FOR APPOINTMENT OF NINE MEMBER BOARD AS WATERMASTER

_____ on interested parties in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list: by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

I deposited such envelope in the mail at _____, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 3, 1997, at Los Angeles, California.

*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee. Executed on _____, 19____, at _____, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Shirley J. West

Type or Print Name

Shirley J. West
Signature

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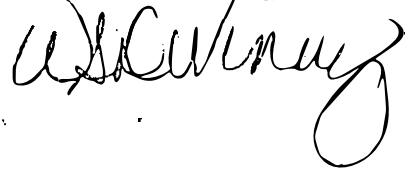
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FILED - West District
San Bernardino County Clerk

MAR 10 1997



5 Attorneys for No One in This Case
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7
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO
11

12 CHINO BASIN MUNICIPAL WATER	)	Case No. RCV 51010
DISTRICT,)	
)	
13)	
	)	EX PARTE APPLICATION FOR
14 Plaintiff,	)	ORDER DELETING RICHARDS,
	)	WATSON, DREYFUSS & GERSHON
15 v.	)	FROM SERVICE LIST;
	)	DECLARATION OF MITCHELL E.
16 CITY OF CHINO, et al.,	)	ABBOTT IN SUPPORT THEREOF
)	
17 Defendants.)	

18
19 For more than 19 years, the law firm of Richards, Watson
20 & Gershon (formerly Richards, Watson, Dreyfuss & Gershon) has been
21 incorrectly listed on the master service list in the above-
22 entitled litigation, notwithstanding that its client, United
23 Dairymen's Association, long ago ceased to exist. The law firm
24 has made numerous informal efforts to have its name dropped from
25 the service list, without success.

26 WHEREFORE, Richards, Watson & Gershon, a Professional
27 Corporation, successor in interest to Richards, Watson, Dreyfuss &
28 Gershon, hereby respectfully requests that the court order that

1 the firm's name be deleted from the service list in this case. A
2 proposed form of order is submitted concurrently herewith.

3

4 DATED: March 5, 1997


5

RICHARDS, WATSON & GERSHON
A Professional Corporation
MITCHELL E. ABBOTT
DANIEL L. PINES

6

7

8

By: 

Mitchell E. Abbott
Attorneys for No One in This Case

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DECLARATION OF MITCHELL E. ABBOTT

I, Mitchell E. Abbott, hereby declare:

1. I am an attorney at law, duly admitted to practice before all of the courts of the State of California and I am a member of Richards, Watson & Gershon, a Professional Corporation, with offices in Los Angeles, California. I have personal knowledge of the matters and facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. I have been continuously employed by Richards, Watson & Gershon and its predecessor, Richards, Watson, Dreyfuss & Gershon, since August 1975. Between 1975 and 1978 I handled a number of litigation and other matters for a longtime client of the firm, United Dairymen's Association, a dairy cooperative organized under California law with its headquarters in Ontario, California.

3. On or about May 22, 1978, United Dairymen's Association filed a petition under Chapter XI of the Bankruptcy Code in United States District Court for the Central District of California. A true and correct conformed copy of the Notice of Filing of Petition is attached hereto as Exhibit "A" and incorporated herein by this reference. From and after the date of filing of the bankruptcy petition, my firm had no further responsibility for representing United Dairymen's Association, aside from some minor assistance to the client's bankruptcy counsel. I am informed and believe that United Dairymen's Association was liquidated in or about 1978 and has not done business since that time. I do not know whether the water rights

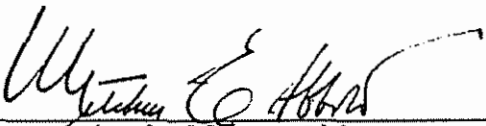
1 appurtenant to the United Dairymen's Association property were
2 among the assets liquidated.

3 4. Notwithstanding that United Dairymen's Association
4 no longer exists, and that my law firm no longer represents it, my
5 law firm has remained on the master service list in the above-
6 entitled litigation for the past 19 years and has continued to
7 receive substantial and regular amounts of useless paperwork as a
8 result. This flow of paperwork is a nuisance and a burden to my
9 law firm and a totally unnecessary expense for the parties to the
10 litigation. I have personally asked several of the lawyers in the
11 case to drop my firm from the service list, but without success.

12 5. I respectfully request that the court order the
13 removal of my law firm from the master service list, inasmuch as
14 we represent no interested party and otherwise are not involved in
15 this case.

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

18 Executed on March 5, 1997.

19
20 
21 Mitchell E. Abbott

Richards, Watson, Dreyfuss & Gershon and
Don Rothman and Howard Kollitz of (SPACE BELOW FOR FILING STAMP ONLY)

IRVING SULMEYER, ARNOLD L. KUPETZ, RICHARD BAUMANN & DON ROTHMAN

MEMBERS OF

SULMEYER, KUPETZ, BAUMANN & ROTHMAN

A PROFESSIONAL CORPORATION
SIXTH FLOOR TISHMAN BUILDING
615 SOUTH FLOWER STREET
LOS ANGELES, CALIFORNIA 90017
(213) 626-2311

FILED

MAY 22 1978

Attorneys for Debtor _____

Clerk, U.S. District Court
Central District of California
By Deputy

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In re	)	Chapter XI Case No.
)	
UNITED DAIRYMEN'S ASSOCIATION,	)	NOTICE OF FILING OF PETITION;
a California corporation,	)	NOTICE OF STAY
)	
Debtor.)	
_____)	

TO THE CREDITORS OF THE ABOVE-NAMED DEBTOR AND ALL OTHER INTERESTED PARTIES:

NOTICE IS HEREBY GIVEN that the above-named Debtor has filed an original petition under Chapter XI of the Bankruptcy Act on the 19th day of May, 1978 and that said proceeding is now pending.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that pursuant to Bankruptcy Rule 11-44(a) the filing of the aforesaid petition operates as a stay of the commencement or continuation of any act, or proceeding against the Debtor, or the enforcement of, or any judgment against United Dairymen's Association; or of any act or the commencement or continuation of any Court proceeding to

...

1 enforce any lien against property of United Dairymen's Association.

2 DATED: This 19th day of May, 1978.

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SULMEYER, KUPETZ, BAUMANN & ROTHMAN,
a professional corporation

By Don Rothman
DON ROTHMAN,
Attorneys for Debtor