

FREE EXEMPT

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FILED - West District  
San Bernardino County Clerk

MAR 07 1997  
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5 Attorney for Fontana Water Company  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

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12 CHINO BASIN MUNICIPAL WATER )  
DISTRICT )

Case No. RCV 51010

13 )

14 ) Plaintiff, )

DECLARATION OF  
MICHAEL L. WHITEHEAD  
RE MOTION FOR APPOINTMENT  
OF NINE MEMBER BOARD AS  
WATERMASTER

15 )

v. )

16 CITY OF CHINO, et al., )

Date: March 11, 1997  
Time: 9:30 a.m.  
Place: Department H

17 )

Defendants. )

18 )

Specially assigned to  
the Honorable  
Judge J. Michael Gunn

19 )

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22 I, Michael L. Whitehead, do hereby declare:

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1. I am President, a director, and chief operating officer of San Gabriel

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Valley Water Company, which operates in San Bernardino County under the name

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Fontana Water Company. I am Fontana Water Company's designee under the Judgment

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in this case. I am also a producer member of the court-appointed Watermaster for the

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Main San Gabriel Basin under the Judgment in the case of *Upper San Gabriel Valley*

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*Municipal Water District v. Alhambra, et al.*, Los Angeles Superior Court Case No. 924128.

1                   2.     Fontana Water Company is a producer party to the Judgment, a  
2 member of the Appropriative Pool, and is a public utility water company providing  
3 water service to a population of more than 100,000 persons located mostly within the  
4 Chino Basin.

5                   3.     Fontana Water Company owns and operates 17 water production  
6 wells in the Chino Basin. During fiscal year July 1995 through June 1996, Fontana Water  
7 Company produced 8,395 acre-feet of groundwater in the Chino Basin. Chino Basin  
8 groundwater represents a major portion of Fontana Water Company's reliable water  
9 supply.

10                  4.     I submit this Declaration in support of the reply to opposition to  
11 motion for appointment of nine member board as watermaster. Fontana Water  
12 Company strongly believes that the proposed nine member board provides for equitable  
13 representation of all parties to the Judgment, provides for checks and balances, provides  
14 a balance among all interests within the Chino Basin, and removes potential conflicts of  
15 interest.

16                  5.     In my opinion, appointment of the nine member Watermaster board  
17 as proposed would be in the best interests of the Chino Basin because it would avoid  
18 the potential for a conflict of interest inherent in Chino Basin Municipal Water District's  
19 ("CBMWD") dual role as Watermaster and as a member agency of the Metropolitan  
20 Water District of Southern California ("MWD"). Whenever CBMWD's interests as a  
21 MWD member agency do not correspond precisely with the interests of the Basin as a  
22 whole, CBMWD faces a conflict of interest. For example, as a MWD member agency,  
23 CBMWD purchases imported water from MWD which it then sells to Watermaster for  
24 replenishment of the Basin.

25                  6.     The inherent conflict of interest arises from the fact that CBMWD is  
26 on both sides of the sale of imported MWD water to Watermaster. Watermaster  
27 determines how much imported water it must buy for groundwater replenishment, but  
28 CBMWD sets the price and terms for that transaction. Clearly, CBMWD has an

1 irreconcilable conflict of interest that is best resolved by appointing an entity other than  
2 CBMWD (or any board comprised of a majority of CBMWD members) as Watermaster.

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

Executed on this 7th day of March 1997 at El Monte, California.

  
\_\_\_\_\_  
Michael L. Whitehead