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FILED - West District
San Bernardino County Clerk

MAR 10 1997

Wanda DeVinney

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C: FRED
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Attorneys for
CHINO BASIN WATERMASTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

CHINO BASIN MUNICIPAL WATER DISTRICT,)	Case No. RCV 51010
)	
Plaintiff,)	OPPOSITION TO MOTION TO DISQUALIFY WATERMASTER COUNSEL
)	
v.)	
)	DATE: March 11, 1997
CITY OF CHINO,)	TIME: 8:30 a.m.
)	DEPT: H
Defendant.)	
)	Specially assigned to the Honorable Judge J. Michael Gunn
)	
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1 **I. INTRODUCTION**

2 In a transparent attempt to disrupt the proceedings to name a new
3 Watermaster, and thus frustrate the will of the majority of the parties and the clear intent
4 of the Judgment, Chino Basin Municipal Water District ("CBMWD") has once again filed
5 a motion to disqualify the firm of Nossaman, Guthner, Knox & Elliott ("Nossaman") as
6 Watermaster counsel. All of the issues presented by CBMWD were presented by it last
7 June as well. At that time this Court properly ruled that Nossaman was properly acting
8 as Watermaster counsel and that there was no conflict of interest as alleged. No
9 appeal was taken from that decision, even though the Judgment provides that
10 supplemental orders of the Court in this case are appealable. (Judgment, ¶ 31(e).)
11 CBMWD takes this action now in the desperate hope of postponing or avoiding
12 altogether the hearing on March 11th on the motion for appointment of a new
13 Watermaster. That motion has been joined by many different parties; it stands on its
14 own; it is properly brought and it should be granted. The motion to disqualify counsel
15 should not be allowed to interfere with it. The motion to disqualify counsel is itself,
16 groundless, and should be denied.

17
18 **II. NOSSAMAN REPRESENTS THE OFFICE OF WATERMASTER**

19 The office of Chino Basin Watermaster is unique. It was created by the
20 Judgment entered in this case and can be understood only by a thorough reading of the
21 Judgment. The Judgment declared the rights of the parties and established a
22 mechanism under which those rights could be exercised. It then established a method
23 of administering the Judgment: Section V of the Judgment contains that method of
24 administration. Section V is entitled "Watermaster". Within that Section, the Judgment
25 established the positions of Watermaster, the Advisory Committee and the Pool
26 Committees. Also within Section V, the Judgment stated the relationship between
27 those positions and established the procedures by which those positions would interact
28 in administering and fulfilling the requirements of the Judgment. The Pool Committees

1 are responsible for administration of the Pools. The Pool Committees may also make
2 recommendations for action by Watermaster. Such recommendations are to be noticed
3 to the other Pools, then to the Advisory Committee, and finally to the Watermaster.
4 (Judgment, ¶ 38(a).)

5 The Advisory Committee directs policy and has the power to act on all
6 discretionary determinations by Watermaster. (Judgment, ¶ 38.) The Advisory
7 Committee has the authority to replace Watermaster. The Judgment directs the Court
8 to act in accordance with a majority of the Advisory Committee to name a new
9 Watermaster unless there are "compelling reasons" to the contrary. (Judgment, ¶ 16.)
10 In addition, the Judgment places primary responsibility for and control over the budget
11 in the Advisory Committee. Changes during the year in the budget also require
12 Advisory Committee approval. (Judgment, ¶ 30.) Any Advisory Committee matter
13 approved by a vote of 80% or more of the Advisory Committee is a "mandate for action
14 by Watermaster consistent therewith." (Judgment, ¶ 38(b)(1).) The Watermaster must
15 act in accordance with such mandate unless and until Watermaster has filed a noticed
16 motion, had a hearing before the Court, and received Court authority to act in some
17 different manner. (Judgment, ¶ 38(c).)

18 Watermaster itself acts in an executive capacity, responsible for implementing
19 the direction of the Advisory Committee. To carry out its responsibilities, the Judgment
20 gives Watermaster powers to perform certain tasks, such as acquiring facilities,
21 imposing assessments, and entering contracts. (Judgment, ¶¶ 17-27.)

22 The Judgment also gives Watermaster the authority to act on matters without
23 prior Advisory Committee action, but only under specified procedures. If Watermaster
24 proposes to take any discretionary action not within the scope of an Advisory
25 Committee recommendation, the Watermaster must give 30 days notice of a
26 Watermaster meeting at which it intends to take the intended action. (Judgment,
27 ¶ 38(b)(2).) If the Watermaster wishes to take action contrary to a matter which has
28 been approved by more than 50% but less than 80% of the Advisory Committee, the

1 Watermaster must first give notice of a public hearing. Following the public hearing the
2 Watermaster must make written findings and a written decision. Watermaster may then
3 act in accordance with that decision. (Judgment, ¶ 38(b)(1).) Of course, all
4 Watermaster actions are subject to review by the Court upon the motion of the Advisory
5 Committee, the Pool Committees or any party. In fact, Watermaster itself is authorized
6 under the Judgment to retain counsel to seek review of any action which Watermaster
7 was required to take because it was mandated by an 80% or more vote by the Advisory
8 Committee. (Judgment, ¶ 38(c).)

9 None of the positions established under the office of Watermaster can act on
10 its own without reference to the other positions. Thus, the office of Watermaster as
11 established by the Judgment is a multi-layered decision making entity.

12 Counsel for Watermaster is, and historically has been, called upon to give
13 advice under the Judgment to each of the Watermaster positions, the Pool Committees,
14 the Advisory Committee and the Watermaster itself.

15
16 **III. IN REPRESENTING WATERMASTER, WATERMASTER COUNSEL MUST BE**
17 **GUIDED BY THE RULES GOVERNING REPRESENTATION OF AN**
18 **ORGANIZATION**

19 When a client is an organization, counsel must look to Rule 3-600 of the Rules
20 of Professional Conduct. Rule 3-600(A) states:

21 "In representing an organization, a member shall conform his or
22 her representation to the concept that the client is the
23 organization itself, acting through its highest authorized officer,
24 employee, body, or constituent overseeing the particular
25 engagement."

26 In the event that an agent of the organization acts or intends to act in an
27 unauthorized manner, the duty of counsel is to seek direction from the next higher
28 authority in the organization. (Rule 3-600(B).)

1 Thus, the issue for organization counsel is who is the highest authority and
2 what is the direction of that authority. The issue before the Court in this, and in the
3 other motions currently pending before the Court in this matter, is to determine which is
4 the controlling body under the Judgment. As has been previously stated, and as is
5 further explained in the following sections, the controlling body is the Advisory
6 Committee.

7
8 **IV. THE ADVISORY COMMITTEE IS THE CONTROLLING BODY OF**
9 **WATERMASTER UNDER THE JUDGMENT**

10 By giving the Advisory Committee authority to act on all Watermaster
11 discretionary decisions, by giving the Advisory Committee ultimate control over the
12 budget, by giving the Advisory Committee the power to mandate Watermaster action,
13 and by giving the Advisory Committee the authority to name a new Watermaster, which
14 the Court must follow absent compelling reasons to the contrary, it is clear that the
15 Judgment established the Advisory Committee as the controlling body under the
16 Judgment.

17 The Court confirmed that such was the intent of the Judgment in Judge
18 Turner's Order in 1989. Judge Turner found that "under the Judgment [the Advisory
19 Committee] is the controlling body of the ground water basin." (Order at p. 7.) He also
20 noted that the Advisory Committee is "the policymaking group for the Basin." (Order at
21 p. 3.)

22 Independent scholars who have reviewed the Judgment and the history of its
23 formation have reached the same conclusion. Lipson reports the following^{1/}:

24
25 1/ Albert J. Lipson, Efficient Water use in California: The Evolution of Groundwater
26 Management in Southern California. Rand Study, November 1978. Excerpts of
27 the Lipson report and Blomquist report (discussed infra) are attached as Exhibits
28 to the moving papers for the March 11th motion. To avoid unnecessary
 duplication copies were not attached to this motion as well.

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"Although producers agreed on the district as Watermaster, they placed a number of conditions on its operations to assure that their interests were protected. In fact, there is little the Watermaster can do without producer approval.

"The judgment establishes the Chino Basin Municipal Water District as Watermaster but requires review and approval of all major discretionary actions by a producer advisory committee representing the three producer pools. Moreover, the Watermaster is appointed for the limited term of five years and may be removed by a motion of the advisory committee supported by a vote from the majority (where the majority represents the majority of the assessments paid). Also, any party can request court review of a Watermaster action and is entitled to full court review with no presumption of fact in favor of the Watermaster. In addition, the advisory committee can *mandate* the Watermaster to take certain actions if favored by 80 percent of the eligible voters. If the Watermaster does not adhere to the advisory committee's recommendations on non-mandated actions, a public hearing must be held before a decision can be reached. Furthermore, separate pool committees, elected on the basis of member assessments, make recommendations on policies for their respective groups. The actions of the Watermaster are also limited by policies set forth in the judgment, many of which specify management parameters and limit discretion. Thus the sophisticated institutional structure places substantial checks on Watermaster discretion and appears to assure that primary policy control remains in the hands of producers on the advisory and

1 individual pool committees.

2 “Inasmuch as appropriators are expected to pay the lion's
3 share of replenishment assessments and advisory committee
4 voting is based on these assessments, appropriators appear to
5 be assured a primary voice in basin policymaking.” (Lipson,
6 pp. 80-81; underlined emphasis added, footnotes deleted.)

7 Lipson concludes that the management plan under the Judgment:
8 “married district Watermaster management with checks and
9 balances over the exercise of Watermaster powers that appear
10 to assure producer policy control.” (Lipson, p. 83.)

11 In 1990, Professor William Blomquist in the Department of Political Science at
12 the University of Indiana did a detailed study of the history and management of several
13 major groundwater basins in California. His study included a study of the formation and
14 operation of the Chino Basin judgment. He likewise concluded that the Advisory
15 Committee had control over all substantive basin management actions.

16 It is thus beyond reasonable dispute that the Advisory Committee is the
17 controlling body within the Watermaster structure. In the event of a disparity in the
18 direction to counsel from Watermaster and from the Advisory Committee, pursuant to
19 the guidelines of Rule 3-600, counsel is obligated to follow the direction of the Advisory
20 Committee.

21
22 **V. WATERMASTER COUNSEL IS OBLIGATED TO FOLLOW AND**
23 **HISTORICALLY HAS FOLLOWED THE DIRECTION GIVEN BY THE**
24 **ADVISORY COMMITTEE**

25 **A. The Advisory Committee Is The Controlling Body Within the Meaning**
26 **of Rule 3-600**

27 The manner in which this firm, and previous Watermaster counsel has acted is
28 consistent with the recognized role of the Advisory Committee as the controlling and

1 policy making body. The Advisory Committee is the highest authority within the
2 Watermaster structure. In the event of a dispute between the Advisory Committee and
3 the Watermaster, counsel for the Watermaster entity must follow the direction of the
4 Advisory Committee, just as in a corporate setting, in the event of a dispute between a
5 president and a board of directors, the instruction from the board of directors must be
6 followed. This does not mean that counsel is either simultaneously or successively
7 representing two competing entities. There is only one entity, the corporate entity. The
8 dispute is between decision making levels within that single entity. In the present case,
9 the Judgment expressly provides for resolution of such a dispute by stating that the
10 Watermaster may retain counsel to file a motion to seek relief from Court from
11 complying with a mandated action. (Judgment, ¶ 38(c).)

12
13 **B. The Nossaman Firm Has Been Instructed To and Has Followed the**
14 **Direction From the Advisory Committee Through the Chief of**
15 **Watermaster Services**

16 The Nossaman firm was hired as Watermaster counsel after an interview with
17 the Advisory Committee. The Advisory Committee then unanimously recommended
18 hiring the firm as Watermaster counsel. That was approved by the Watermaster Board.
(Stewart Decl. ¶ 8.)

19 At the time the firm was hired, Mr. Fudacz was told that he would receive
20 instruction from and report to the Chief of Watermaster Services. (Stewart Decl. ¶ 8.)
21 The Chief of Watermaster Services, in turn, acted pursuant to a contract between
22 CBMWD and Watermaster, the Facilities and Services Agreement, which stated that
23 Watermaster staff, which included the Chief of Watermaster Services, should take
24 direction from the Advisory Committee regarding Watermaster matters. (Stewart Decl.
25 ¶¶ 4, 5.) Counsel has in fact at all times acted in accordance with the instructions
26 given. (Stewart Decl. ¶ 9.)

27 The role of Watermaster counsel is consistent with the practices established
28

1 prior to the time of the retention of the Nossaman firm. Previous Watermaster counsel
2 attended Advisory Committee meetings, gave advise to the Advisory Committee
3 regarding the Judgment, and filed pleadings with the Court at the direction of the
4 Advisory Committee, including motions for the appointment of Watermaster for a new
5 term.

6 CBMWD asserts that Watermaster counsel did not attend Watermaster
7 meetings. Once again this was consistent with past practices. Prior to 1997,
8 Watermaster meetings have consisted of simply a ratification of actions of the Advisory
9 Committee. The average length of a Watermaster meeting was only 21 minutes.
10 (Stewart Decl. ¶ 11.) There was no need for Watermaster counsel to be present and no
11 request was made that counsel be present. At recent Watermaster meetings, where
12 attendance of counsel was requested, Nossaman has complied and either Mr. Fudacz
13 or Mr. Ossiff has attended the meeting.

14
15 **C. CBMWD Has Recognized Its Subservience to the Advisory Committee**

16 Watermaster staff has, to present, been composed of employees of CBMWD.
17 Facilities and services were provided by CBMWD to Watermaster through a written
18 Facilities and Services Agreement. In 1992 that Agreement was amended to expressly
19 provide that CBMWD employees serving Watermaster were to take their direction from
20 the Advisory Committee. This was a recognition by CBMWD of the controlling role of
21 the Advisory Committee. Indeed, this amendment would have been improper were it
22 not for the fact of Advisory Committee control. (Stewart Decl. ¶ 4.)

23
24 **VI. BY ITS JULY 26, 1996 ORDER, THE COURT HAS ALREADY MADE CLEAR**
25 **THAT THERE WAS NO CONFLICT OF INTEREST**

26 CBMWD's assertions that Nossaman had a conflict of interest in its
27 representation of the Advisory Committee and of the Watermaster were all made in the
28 motion it filed last May to recuse counsel. The Court heard argument on that motion in

1 June. At the hearing the Court stated that the claim of conflict of interest was an
2 "illusion". (June 18, 1996 Transcript of hearing, p. 5:11.) The Court found that
3 Nossaman represented Watermaster, and it was instructed to take and was in fact
4 taking instruction from the Chief of Watermaster Services. The Court noted the analogy
5 to corporate counsel faced with a dispute between the president and the board of
6 directors. (Transcript, p. 19:8-15.) The Court issued a written order on July 26, 1996
7 denying the motion. No appeal was taken from that motion. There is no reason to
8 revisit these already well argued issues.

9 At the hearing on March 3, 1997, counsel for the City of Chino asserted that
10 he had been misled at the earlier hearing because, he asserted, Nossaman had
11 misrepresented its status as Watermaster counsel. That is demonstrably untrue. The
12 fact of Nossaman's retention as Watermaster counsel was expressly discussed at page
13 14 of the pleadings it filed on June 11, 1996. A copy of the minutes of Watermaster
14 approving Nossaman as Watermaster counsel were attached. Moreover, as noted in
15 the pleadings filed by this firm last week, prior to the June 18, 1996 hearing, counsel for
16 the City of Chino had requested and received a copy of Nossaman's contract with
17 Watermaster.

18
19 **VII. RECENT ACTIONS BY CBMWD DO NOT GIVE RISE TO ANY CONFLICT OF**
20 **INTEREST ON THE PART OF COUNSEL, BUT DO DEMONSTRATE**
21 **CBMWD'S UNWILLINGNESS TO COMPLY WITH THE JUDGMENT**

22 CBMWD argues that recently scheduled hearings on motions regarding
23 actions by CBMWD have raised conflict of interest issues. That is not the case.
24 CBMWD's actions however do demonstrate that CBMWD is unwilling to follow the
25 requirements of the Judgment.

26 As noted above, when there has been a vote of greater than 80% of the
27 Advisory Committee, that is a mandate for Watermaster action. Watermaster must
28 comply. If Watermaster wishes to be relieved from compliance it must first file a noticed

1 motion and seek and obtain Court authorization to act in a different manner.

2 (Judgment, ¶ 38(c).) The Judgment provides that Watermaster may retain counsel for
3 this purpose.

4 In January, the Advisory Committee, by a greater than 80% majority, voted
5 that Watermaster should not direct an audit be done until the Ad Hoc Finance
6 Committee had had an opportunity to review the situation and make recommendations.
7 Despite this mandate for action, CBMWD, sitting as Watermaster, ordered an audit be
8 done. CBMWD took this action without first seeking relief from Court. (Stewart Decl.
9 ¶ 14.)

10 CBMWD then scheduled a meeting to take action regarding the retention of
11 Nossaman as Watermaster counsel. The Advisory Committee met to discuss the issue
12 and again by greater than an 80% majority, voted to direct Watermaster to take no
13 action on the issue. (Stewart Decl. ¶ 15.) Once again CBMWD failed to seek relief
14 from Court, as required by the Judgment, but instead, on February 27, 1997, acted
15 contrary to the mandated action. Not only was this second action contrary to the
16 provisions of the Judgment, it was contrary to the direction given by this Court at the
17 June 18, 1996 hearing when the Court appointed CBMWD as Watermaster on an
18 interim basis only. At that time the Court expressly stated that it was making the
19 appointment with the understanding that there would be no significant changes in
20 personnel. (Transcript, p. 94:6.) Moreover, in light of the fact that a hearing for
21 appointment of a new Watermaster was scheduled only days after the CBMWD action.

22 CBMWD's actions in both instances have been brought to the Court's
23 attention and are the subject of the motions set for hearing on March 11th. CBMWD
24 points to those motions as a basis for claiming a conflict of interest. They are not.
25 They are, in fact, nothing more than examples of CBMWD acting in excess of its
26 authority as Watermaster and in direct violation of the requirements of the Judgment.
27 In such an instance, Watermaster counsel was obligated in accordance with the
28 direction of Rule 3-600 and counsel's obligations to follow and enforce the Judgment, to

1 follow the direction of the Advisory Committee and to bring the matters to the Court's
2 attention.

3
4 **VIII. CONCLUSION**

5 It is plain that there is no conflict of interest. Nossaman receives its direction
6 from the highest authorized body within Watermaster, the Advisory Committee through
7 the Chief of Watermaster Services. Not only is it not improper, it is our ethical duty to
8 act in this fashion. The motion to disqualify amounts to nothing more than a denial of
9 the obvious — that the Advisory Committee is the controlling body within the Basin,
10 subject to the direction of the Court, as was found by Judge Turner.

11
12 **RESPECTFULLY SUBMITTED:**

13 **NOSSAMAN, GUTHNER, KNOX & ELLIOTT**
14 **FREDERIC A. FUDACZ**
15 **JOHN OSSIFF**

16 By: 

17 Frederic A. Fudacz

18 Attorneys for

19 CHINO BASIN WATERMASTER
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DECLARATION OF TRACI STEWART

I, Traci Stewart, declare as follows:

1. I am the Chief of Watermaster Services for the Chino Basin Watermaster ("Watermaster"). I have held that position since August 1994. In that position I am familiar with the records and operations of Watermaster. In addition, I serve as Secretary to the Advisory Committee which was established pursuant to the Judgment herein. I am familiar with the records and operations of the Advisory Committee. This Declaration is based upon my own knowledge of Watermaster and Advisory Committee records and operations, the operations of CBMWD, and my own personal knowledge.

2. I have examined the records of Watermaster concerning the issues raised in the ex parte application by Chino Basin Municipal Water District. Those records are voluminous and cover a period of approximately 18 years. This Declaration is based upon my own knowledge of Watermaster and Advisory Committee records and operations, the operations of CBMWD, and my own personal knowledge.

3. Pursuant to a contractual arrangement between Watermaster and CBMWD, Watermaster staff has historically been provided from the employees of CBMWD. As Chief of Watermaster Services I am a CBMWD employee. Pursuant to an Amended Services and Facilities Contract, the District provides certain employees to serve as Watermaster staff.

4. Paragraph 6 of the Amended Services and Facilities Contract states:

"Any District staff working on or providing assistance to the Watermaster program shall receive their direction from and report to the Advisory Committee."

This language was expressly added at the request of my predecessor and the Advisory Committee during the last renegotiation of the Contract in order to clarify the reporting

1 responsibilities of any CBMWD staff performing duties for Watermaster.

2 5. In my duties as Chief of Watermaster Services I have at all times
3 complied with the requirements of the Amended Services and Facilities Contract,
4 including paragraph 6.

5 6. The job description of the position of the Chief of Watermaster
6 Services states that the Chief of Watermaster Services is responsible for exercising
7 direct supervision over the professional staff of Watermaster.

8 7. In November 1993, the firm of Nossaman, Guthner, Knox & Elliott
9 ("Nossaman") was retained as special legal counsel to advise the Advisory Committee
10 on certain issues.

11 8. The Nossaman firm was approved as general counsel to the Chino
12 Basin Watermaster in July 1994. After being selected as general counsel, Nossaman
13 no longer functioned as special counsel. The retention of the Nossaman firm as
14 Watermaster general counsel was unanimously approved by the Advisory Committee
15 and subsequently approved by CBMWD as Watermaster. In their capacity as legal
16 counsel, their functions are viewed just as any other member of the Watermaster
17 professional staff. Direction is provided to the Watermaster staff by the Advisory
18 Committee, either directly at meetings or through the Chief of Watermaster Services.
19 Additionally, at the time the firm was retained, Frederic Fudacz, a partner of Nossaman,
20 was specifically instructed by the Advisory Committee that the firm was to receive
21 direction from and report to the Chief of Watermaster Services. Attached hereto as
22 Exhibit A is true and correct copy of an excerpt of the minutes of the Advisory
23 Committee Meeting of June 23, 1994 which reflect the instructions given to Mr. Fudacz.
24 Attached hereto as Exhibit B is a true and correct copy of the minutes of the July 6,
25 1994 meeting of Watermaster, at which Watermaster approved Nossaman as counsel.
26 (See Item J of Consent Calendar.)

27 9. As Chief of Watermaster Services I have at all times given direction
28 to Watermaster's legal counsel, the Nossaman firm. Such direction has been in

1 accordance with direction given to me by the Advisory Committee. Watermaster's legal
2 counsel has at all times acted in accordance with the direction which I have given.

3 10. My review of Watermaster and Advisory Committee minutes
4 indicates that direction to Watermaster legal counsel has always been provided through
5 Watermaster staff and not through the CBMWD Board of Directors acting in its capacity
6 as Watermaster.

7 11. My review of the Watermaster records reveals that during the period
8 from August 1992 to April 1996, a period of 44 months, CBMWD met as Watermaster
9 only 16 times. The total amount of time spent by the District in Watermaster meetings
10 during this period of time was 5.48 hours. This averages to less than 21 minutes per
11 meeting. In some instances the meeting was as short as 3 minutes. Only in the first
12 year following entry of the Judgment did the Chino Basin Municipal Water District meet
13 more than 5 times per year. In all of the subsequent years in the 18 years since entry
14 of the Judgment, it has met no more than 5 times per year.

15 12. Because the Watermaster Board meets only quarterly, day to day
16 operations under the Judgment are, and have for all times since entry of the Judgment,
17 been conducted by Watermaster staff acting at the direction of the Advisory Committee.

18 13. Each year an annual budget for Watermaster is approved by the
19 Advisory Committee and adopted by Watermaster. All Watermaster expenses,
20 including costs for Watermaster counsel, are paid from assessments collected pursuant
21 to the Judgment. No funds of Chino Basin Municipal Water District are used to pay any
22 Watermaster expenses. Even payment of the salaries of the CBMWD employees who
23 work on Watermaster functions are reimbursed from Watermaster funds. Payment for
24 all such expenses are approved by the Advisory Committee, which then directs staff
25 assigned to Watermaster to perform the ministerial functions of preparing the
26 paperwork and sending the payments out.

27 14. At the Advisory Committee meeting on January 8, 1997, the Advisory
28 Committee decided that before deciding to have an audit conducted and before

1 determining what the proper scope of any such audit should be, the Advisory
2 Committee would have an Ad Hoc Finance Committee, composed of financial experts
3 from the members of the Advisory Committee, evaluate the issue. At that January 8,
4 1997, meeting the Advisory Committee took, among others, the following actions:

5 (a) It directed a recently formed Executive Committee (which
6 consists of the chairman of each of the three Pools) to attend the special Watermaster
7 meeting that had been called for the next day, January 9th, to recommend that the
8 Watermaster Board not take any action on its agendized items, including the
9 authorization of an independent audit. This motion was approved by a 91.43%
10 majority.

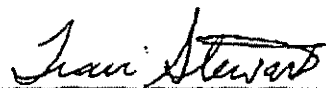
11 (b) It defeated a motion that was made to recommend to the
12 Watermaster that the Board of Directors of the District conduct an examination and
13 review of the internal procedures utilized by Watermaster Services. This motion failed
14 by a 91.43% vote.

15 15. On January 30, 1997, at a Special Advisory Committee Meeting, the
16 Advisory Committee took the following actions:

17 (a) Approved by a voted of 87.99% in favor to 12.01% opposed, a
18 motion to request that the Chino Basin Watermaster take off its calendar for the
19 scheduled February 26, 1997, special Watermaster meeting, the agenda item for review
20 and action regarding the legal services contract between Nossaman, Guthner, Knox &
21 Elliott, LLP and Watermaster.

22
23 I declare under penalty of perjury under the laws of the State of California that
24 the foregoing is true and correct.

25 Executed on March 10, 1997, at Rancho Cucamonga, California.

26 

27 Traci Stewart
28

MINUTES
OF THE
QUARTERLY ADVISORY COMMITTEE MEETING
JUNE 23, 1994

The Annual meeting of the Advisory Committee was held June 23, 1994, at 12:00 o'clock noon, in the board room of the Chino Basin Municipal Water District.

Advisory Committee Members Present

Robert DeBerard	Agricultural Pool
Jack Hagerman	Agricultural Pool
Dirk Johnston	Agricultural Pool
Gerald J. Black	Appropriative Pool
Les Evans	Appropriative Pool
Terry Kimbro	Appropriative Pool
Mike Teal	Appropriative Pool
Tom Shollenberger	Appropriative Pool
Ira Pace	Appropriative Pool
Jim Moody	Appropriative Pool
Edwin James	Appropriative Pool
Rob Hartman	Non-Agricultural Pool
Bonnie Poulsen	Non-Agricultural Pool

Watermaster Staff Present

Traci Stewart	Acting Chief, WM Services
Kathy Beckley	Water Resources Specialist
Michelle Lauffer	Recording Secretary
Kevin Smead	Stetson Engineers, Inc.

Others Present

Nancy Bice	Geomatrix
Mark Gage	Geomatrix
Andrew Cox	Geomatrix
Ken Kules	MWD
Cynthia Miller	MWD
Michael J. McGraw	Fontana Union Water Company
Joe Schenk	City of Norco
Rick Darnell	SCE
Chet Anderson	So. California Water Company
Bill Stafford	Marygold Mutual Water Company
Mark Wildermuth	Wildermuth Water Resources
Bob Westdyke	General Manager, CBMWD

The meeting was called to order at 12:25 p.m.

- | | | |
|----|---|--------------------------------------|
| K. | Recommended Watermaster approve a General Counsel Services Agreement, with the firm of Nossaman, Guthner, Knox and Elliott for FY94/95. | GENERAL
COUNSEL
AGREEMENT |
| L. | Recommended Watermaster approve an Agreement for Watermaster Engineering Services, with Stetson Engineers, Incorporated for the terms provided therein. | ENGINEERING
SERVICES
AGREEMENT |

Item H. FY94/95 BUDGET TRANSFER - INLAND EMPIRE WEST RESOURCE CONSERVATION DISTRICT DAIRY CONSERVATION PILOT PROGRAM

Following a discussion regarding the background of the Inland Empire West Resource Conservation District, a motion was made

Motion by Gerald Black, second by Mike Teal and by unanimous vote.

MOVED, to recommend Watermaster approve a budget transfer in the amount of \$3,000 for the agricultural water conservation Pilot Program to identify areas of water conservation and water management on dairy farms in the Chino Basin.

BUDGET TRANSFER
FY 94/95
AGRICULTURAL
CONSERVATION
PILOT PROGRAM

2. STEERING COMMITTEE OR OTHER AD HOC COMMITTEE REPRESENTATION

Kathy Beckley asked the committee for ratification of the Steering Committee Representation policy. Each pool was given the opportunity to decide if the Steering Committee representatives would be selected by entity or by individual. For clarification, the following selections were presented to the committee.

STEERING
OR AD HOC
COMMITTEE
POLICY RE
REPRESENT-
ATIVES

Steering Committee or Other Ad Hoc Committee Representation

- Agricultural Pool*
- Chairman
- Vice Chair
- State Representative
- Appropriative Pool*

proposal consists of MWD delivering water to WFA at no cost, paying the capital and O & M for treatment and delivery of water to a well with degraded water quality, and paying capital costs to retrofit the well for injection. The local agency would operate and maintain the well on behalf of MWD. MWD would use the well for injection in the off peak season from October through April, the agency would have the ability to pump that water in the peak demand period from May through September. The water going in is better than what is coming out improving quality. If a blending process does not occur at least there would be a bubble of clean water that could allow the agency to maintain a well that currently has water quality problems. The term would be 20 years with early termination provisions. MWD sees the project as a mutual benefit because MWD gets replenishment and local agencies may be able to protect or reactivate wells depending on the circumstances. The local agency pumps the water based on safe yield or replenishment of overdraft.

Mr. Kules said the decision to construct that type of facility might affect the number of spreading basins that might be developed. He said MWD continued to be committed to a priority of exchange.

6. OTHER BUSINESS

A. GENERAL COUNSEL

Chairman Shollenberger welcomed the new firm of Nossaman, Guthner, Knox and Elliott.

Motion by Gerry Black, second by Edwin James and by unanimous vote.

MOVED, to direct staff to prepare a letter to Guido Smith regarding the status of ongoing projects and the transfer of Watermaster files.

GENERAL
COUNSEL
TRANSFER

B. STETSON ENGINEERS, INC.

Chairman Shollenberger asked that Stetson Engineers attend the Conjunctive Use Demonstration Project

DIRECTION
TO STETSON
RE: CUDPW

Workshop scheduled for June 24, 1994. Kevin Smead was introduced and he responded that a representative of the firm would attend.

C. RECOGNITION OF KATHY BECKLEY

Mr. Shollenberger said he would like to take the opportunity to thank Kathy Beckley for her fine efforts on behalf of Watermaster and wished her well in her new assignment to the Water Resources Department.

RECOGNITION
OF KATHY
BECKLEY

D. EVAPORATION LOSSES ON SPREAD WATER

Edwin James requested Watermaster to write a letter to MWD stating that any water that is spread would have a 1 1/2 to 2 percent evaporation loss. Mr. Shollenberger said it would be appropriate to have the engineering firm prepare an evaluation in that regard.

EVAPORATION
LOSS
EVALUATION

Kathy Beckley asked for clarification with regard to direction being given to the engineering firm. Mr. Shollenberger said all decisions had to be approved by the Advisory Committee. He continued that in lieu of that a special meeting could be called if necessary.

ADMINISTRATIVE
ISSUES RE
CONTRACT
SERVICES

Mr. Shollenberger said it would be appropriate to have general counsel, members of the pools, engineering services, and Watermaster Administrative staff hold a workshop to determine the list of duties and projects that were necessary.

Mr. Fudacz asked how he would receive direction. Mr. Shollenberger responded that direction would be received through Traci Stewart in her capacity as Acting Chief of Watermaster Services.

With no further business to discuss the meeting was adjourned at 2:00 p.m.


Secretary

MINUTES
OF
QUARTERLY MEETING
OF THE
CHINO BASIN WATERMASTER
JULY 6, 1994

Watermaster Members Present:

Bill Hill	Chairman
George Borba	Vice Chairman
Wyatt Troxel	Member
Anne Dunihue	Member

Watermaster Members Absent:

John L. Anderson	Secretary/Treasurer
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Watermaster and CBMWD Staff Present:

Kathy Beckley	Acting Chief, Watermaster Services
Michelle Lauffer	Recording Secretary

Others Present:

Robert G. Westdyke	CBMWD
Tina Cheng	CBMWD

Chairman Hill called the meeting to order at 8:30 a.m. and inquired if anyone wished to discuss any items on the agenda. Consent Calendar, Item D was pulled for discussion at the request of Director Dunihue.

1. CONSENT CALENDAR

Motion by Director Troxel, second by Director Dunihue and by unanimous vote:

Moved, to approve the Consent Calendar as follows:

- | | | |
|----|---|--------------------|
| A. | Approved the minutes of the regularly scheduled meeting dated April 6, 1994. | MINUTES |
| B. | Approved the Treasurer's Report of Financial Affairs for the period ended March 31, 1994. | TREASURER'S REPORT |

-
- | | | |
|----|---|---|
| C. | Approved the Statement of Revenue and Expense and Changes in Retained Earnings for the period ended March 31, 1994. | REV & EXPENSE
REPORT |
| D. | Approved the Notice of Sale or Transfer of Right to Water in Storage in the amount of 3,000 acre feet of water in storage from Marygold Mutual Water Company to Fontana Water Company for use during FY1993/94. | TRANSFER
MARYGOLD
MWC TO
FONTANA WC |
| E. | Approved a transfer from the Watermaster Adopted Budget FY1993/94 in the amount of \$2,500 from account WM 450 910 6160 to account WM 450 915 6129 for midge fly spraying at the Montclair Basins. | 93/94
BUDGET
AMENDMENT
MIDGE FLY |
| F. | Approved an amendment from the Watermaster Adopted Interim Budget FY1994/95 in the amount of \$18,000 for midge fly spraying if it becomes necessary. | 94/95
BUDGET
AMENDMENT
MIDGE FLY |
| G. | Approved an amendment from the Watermaster Adopted Interim Budget FY1994/95 in the amount of \$3,000 for the Agricultural Water Conservation Program pilot program. | 94/95
AGRICULTURAL
CONSERV. WTR
PILOT PROG. |
| H. | Approved conditional Local Storage Agreements numbered 30 and 11.1, in the amount of 20,000 acre feet respectively for Jurupa Community Services District and the City of Ontario. | LOCAL
STORAGE
JCSD #30
ONTARIO 11.1 |
| I. | Approved a Change Order to extend Chino Basin Watermaster Agreement Number AEB93005 with Mr. Patrick Park, for Professional Database Specialist Services, for a not-to-exceed amount of \$40,320.00 to cover the period July 1, 1994 through June 30, 1995. | DATABASE
SPECIALIST
CONTRACT
CHANGE
ORDER |
| J. | Approved an Agreement with the firm of Nossaman, Guthner, Knox and Elliott to provide General Counsel Services for Fiscal Year 1994/95. | GENERAL
COUNSEL
AGREEMENT |
-

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2 JOHN OSSIFF, STATE BAR NO. 120149
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5 Attorneys for
6 CHINO BASIN WATERMASTER

7
8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

11
12 CHINO BASIN MUNICIPAL WATER

13 DISTRICT,

14 Plaintiff,

15 v.

16 CITY OF CHINO,

17 Defendant.

) Case No. RCV 51010

)
) PROOF OF SERVICE OF
) OPPOSITION TO MOTION TO
) DISQUALIFY WATERMASTER
) COUNSEL

) Hearing:

) DATE: March 11, 1997

) TIME: 8:30 a.m

) DEPT: H

)
) Specially assigned to the Honorable
) Judge J. Michael Gunn

1 I, Mary L. Staula, declare:

2 1. I am over the age of 18 and not a party to this action. My business address is
3 Chino Basin Watermaster, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California
4 91730.

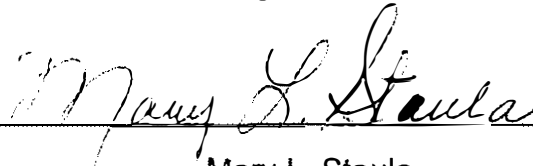
5
6 2. On today's date, I served the documents identified below by placing a true and
7 correct copy of same in sealed envelopes address to each of addresses listed on the attached
8 mailing list "A".

- 9 • Opposition to Motion to Disqualify Watermaster Counsel

10
11 3. I then placed said envelopes for collection, processing and mailing by Chino
12 Basin Watermaster personnel with the United States Postal Service on today's date, following
13 Chino Basin Watermaster's ordinary business practices. Pursuant to these practices, with
14 which I am familiar, addressed envelopes are deposited in the ordinary course of business
15 with the United States Postal Service on the same date they are collected and processed, with
16 postage thereon fully prepaid.

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

20
21 Executed on March 10, 1997, at Rancho Cucamonga, California.

22
23 
24 _____
25 Mary L. Staula

AAAAA AAAAA
MAILING LIST A INTERESTED PARTIES
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UPDATED 3/05/97 BY MDL/CB

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