

1 JIMMY L. GUTIERREZ (State Bar No. 59448)  
 2 A Professional Corporation  
 3 12616 Central Avenue  
 4 Chino, California 91710  
 5 Telephone: (909) 591-6336  
 6 Fax: (909) 628-9803

7 Attorney for City of Chino

8 SUPERIOR COURT OF CALIFORNIA  
 9 COUNTY OF SAN BERNARDINO, WEST JUDICIAL DISTRICT

10  
 11 CHINO BASIN MUNICIPAL WATER  
 12 DISTRICT,

13 Plaintiffs,

14 vs.

15 CITY OF CHINO, et. al.,

16 Defendants.

Case Number: RCV 51010  
 ESPECIALLY ASSIGNED TO THE  
 HONORABLE JUDGE J. MICHAEL GUNN

CITY OF CHINO'S JOINDER IN MOTION  
 TO STRIKE MOTION TO APPOINT  
 JUDGE TURNER AS INTERIM  
 WATERMASTER

Date: April 29, 1997  
 Time: 1:30 p.m.  
 Dept: H

17  
 18 NOW COMES THE CITY OF CHINO which hereby offers its opposition to the  
 19 Motion to Appoint Judge Turner as Interim Watermaster as follows:

20 The City of Chino supports and joins in the Motion to Strike the Motion to Appoint  
 21 Judge Turner as Interim Watermaster. The motion suggests the Advisory Committee  
 22 motion to appoint Judge Turner as Interim Watermaster was approved by a 91.43%  
 23 majority pool vote. The meeting was held without adequate notice to members of the  
 24 Advisory Committee including the City of Chino, and the vote did not reflect the majority  
 25 opinion of the Advisory Committee Membership.

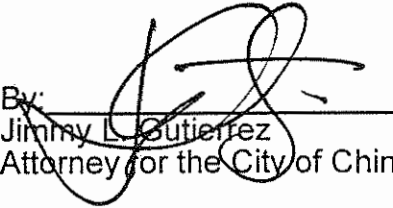
26 The Notice of Motion and Memorandum of Points and Authorities filed by Monte  
 27 Vista Water District are incorporated herein by this reference. The City of Chino urges this  
 28 court to not reconsider its determination and ruling that Chino Basin Municipal Water

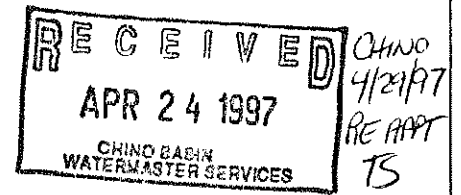
1 Company shall act as interim watermaster pending determination by Ms. Anne J.  
2 Schneider, Special Master.

3 Respectfully submitted by:

4 Dated: April 18, 1997

Jimmy L. Gutierrez,  
A Professional Corporation,

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6  
7 By:   
8 Jimmy L. Gutierrez  
9 Attorney for the City of Chino  
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Chino, California 91710  
3 Telephone: (909) 591-6336  
Fax: (909) 628-9803  
4

5 Attorney for City of Chino  
6  
7

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SAN BERNARDINO, WEST JUDICIAL DISTRICT  
10

11 CHINO BASIN MUNICIPAL WATER  
DISTRICT,

12 Plaintiffs,

13 vs.

14 CITY OF CHINO,

15 Defendants.  
16

Case Number: RCV 51010

DECLARATION OF JIMMY L. GUTIERREZ  
IN OPPOSITION TO MOTION TO  
APPOINT DON TURNER AS INTERIM  
WATERMASTER

Date: April 29, 1997  
Time: 1:30 p.m.  
Dept: H

17  
18 I, Jimmy L. Gutierrez, state and declare as follows:

19 1. I am the City Attorney of the City of Chino; and I make this declaration based  
20 upon my personal knowledge. If called to testify I would competently testify to the matters  
21 contained herein.

22 2. On March 12, 1997, I received a "Notice of Special Advisory Meeting  
23 Committee Meeting" which noticed a meeting for March 13, 1997 at 1:30 p.m. which merely  
24 referred to four items of discussion. The first two items were described as follows:

25 "1. Consideration and possible action regarding the retention of legal  
26 counsel.

27 2. Consideration and possible action regarding an interim watermaster."

28 3. I immediately drafted a letter to the attention of Traci Stewart whereby I

1 objected to the proposed meeting which my secretary sent to her by facsimile. A true copy  
2 of that letter is attached hereto as Exhibit 1.

3 4. On March 13, 1997, I attended the meeting of the Advisory Committee. From  
4 the outset, it was evident that the person present had discussed, among themselves, both  
5 the appointment of James Markman as attorney for the Advisory Committee and the  
6 appointment of Judge Turner as Interim Watermaster. In fact, such a motion was made by  
7 Mike Teal of the City of Ontario and seconded by Jerry Black of the Fontana Water  
8 Company.

9 5. I objected to the motion and I stated my grounds as follows. First, I protested  
10 that the notice of the special meeting was insufficient. Second, I stated that there had been  
11 no Request for Proposal for legal services. Third, I stated that the judgment does not give  
12 standing to the Advisory Committee to petition the court to appoint the Watermaster.  
13 Fourth, I stated that the Judgment does not give the Advisory Committee to retain an  
14 attorney for this purpose. Fifth, I reminded everyone that Judge Gunn had stated his  
15 intention to appoint Anne J. Schneider to advise him on this issue. Sixth, I suggested that  
16 James Markman was unacceptable because he represents the City of Upland which is  
17 party to the Judgment and that he may have a conflict of interest. On this last issue, James  
18 Markman advised that he did not have such a conflict.

19 6. In addition, Joe Grindstaff objected on the basis that these issues had not  
20 been presented to the various pools prior to the actions of the Advisory Committee.

21 7. Robert Dougherty for the City of Ontario stated that a majority of the Advisory  
22 Committee did not want the Chino Basin Municipal Water District (CBMWD) but noted that  
23 only the Agricultural Pool was in favor of retaining CBMWD. Josephine Johnson, Board  
24 Member of the Monte Vista Water District, responded by stating that CBMWD has no real  
25 power. Then, Mr. Dougherty stated that he did not want CBMWD to serve as Watermaster  
26 past April 29, 1997.

27 8. Next, Joe Grindstaff asked why a retired judge had not been suggested as  
28 Watermaster during the various meeting held in January 1997 to consider a new

1 Watermaster. In response, Mr. Dougherty made a statement to the effect that "We have a  
2 Watermaster that is hostile to the Advisory Committee."

3 9. At that time, I presented the following question to those present: Would Judge  
4 Gunn consider a motion by the Advisory Committee to appoint an Interim Watermaster to  
5 be just as unnecessary as the special audit performed by CBMWD? I wanted everyone to  
6 understand that the Advisory Committee may look foolish especially since Judge Gunn had  
7 denied the request of Marilyn Levine of the State of California to appoint an Interim  
8 Watermaster other than CBMWD. No one except Marilyn Levine acknowledged that Judge  
9 Gunn may have such a reaction to the proposed motion.

10 10. Later in the discussion, Marilyn Levine stated that the Advisory Committee  
11 needed a lawyer and that she was unsure if she wanted Anne J. Schneider looking at the  
12 Judgment.

13 11. In an effort to dissuade the majority present from approving the motion, I  
14 suggested that the Advisory Committee limit its motion to the appointment of Judge Turner  
15 but not the appointment of James Markman as its attorney. I advised them that under the  
16 Judgment, only a party to the judgment could make a motion for the appointment of a  
17 Watermaster and that Robert Dougherty had already stated that the City of Ontario would  
18 make such a motion. I attempted to communicate that there was no authority for an  
19 attorney for this purpose and there was no need for the Advisory Committee to make a  
20 motion for a new Watermaster.

21 12. Since no one who spoke in opposition to the proposed motion could persuade  
22 any of its proponents and since very short notice of the meeting had been given, it certainly  
23 appeared that those present had agreed to support the motion prior to the meeting.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 April 22, 1997

26 By: \_\_\_\_\_

27 Jimmy L. Gutierrez  
28

EUNICE M. ULLOA  
Mayor

DENNIS YATES  
Mayor Pro Tem



GLENN DUNCAN  
LEO LEON  
BRUCE ROBBINS  
Council Members

JIMMY L. GUTIERREZ  
City Attorney

## CITY of CHINO

March 12, 1997

**CHINO BASIN MUNICIPAL WATER DISTRICT**  
8632 Archibald Avenue, Suite 109  
Rancho Cucamonga, California 91730  
Attn: Traci Stewart

**SENT VIA U.S. MAIL AND FACSIMILE**  
**(909) 484-3890**

**RE: SPECIAL ADVISORY COMMITTEE MEETING**

Dear Ms. Stewart:

By way of this letter, the City of Chino formally objects to the Special Advisory Committee Notice for March 13, 1997 at 1:30 p.m. on the following grounds:

1. The Agenda is vague. Specifically, no proposals or staff reports are included. Therefore it impossible to be prepared.
2. Insufficient notice is given so as to permit the various public agencies to consider and comment.
3. Agenda item number 3 is completely vague since there is no way to know at this time what action CBWMD will take at it's March 13, 1997 meeting. I also request who authorized this special meeting. Certainly, the City of Chino was not consulted. In addition, I have the following questions and concerns:
  - (1) Is consideration being given to retaining the Nossaman firm?
  - (2) At some point, the Advisory Committee should consider a position against paying any further bills to the Nossaman firm and a lawsuit to recover fees previously paid to the Nossaman firm.
  - (3) With respect to consideration of an interim Watermaster, I believe Judge Gunn made it clear that the Chino Basin Municipal Water District is the interim Watermaster and that he will look to the Referee for recommendations on a Watermaster other than CBWMD or the nine member Board previously proposed.



1 JIMMY L. GUTIERREZ (State Bar No. 59448)  
A PROFESSIONAL CORPORATION  
2 12616 Central Avenue  
Chino, CA 91710  
3 (909) 591-6336  
(909) 628-9803 Fax  
4

5 ATTORNEY FOR CITY OF CHINO  
6

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

11 **CHINO BASIN MUNICIPAL WATER**  
12 **DISTRICT,**

13 **Plaintiff,**

14 **vs.**

15 **CITY OF CHINO,**

16 **Defendant.**  
17

**CASE NO. RCV 51010**

**PROOF OF SERVICE BY MAIL OF CITY  
OF CHINO'S JOINDER IN MOTION TO  
STRIKE MOTION TO APPOINT JUDGE  
TURNER AS INTERIM WATERMASTER  
AND DECLARATION OF JIMMY L.  
GUTIERREZ, ATTORNEY FOR CITY OF  
CHINO**

18  
19 I am employed in the County of San Bernardino, State of California and am over the age of  
20 18. I am not a party to the action within. My business address is 12616 Central Avenue, Chino,  
21 California, 91710.

22 On April 22, 1997, I served the foregoing document(s) described as:

23 **CITY OF CHINO'S JOINDER IN MOTION TO STRIKE MOTION TO APPOINT JUDGE**  
24 **TURNER AS INTERIM WATERMASTER AND DECLARATION OF JIMMY L.**  
25 **GUTIERREZ, ATTORNEY FOR CITY OF CHINO;** on the following interested parties in  
26  
27 this action  
28

1 [ X ] by placing the [ ] original and/or [ X ] a true copy thereof enclosed in a sealed  
2 envelope(s), addressed as follows:

3 **SEE ATTACHED SERVICE LIST**

4 [ X ] [By regular mail]

5 [ X ] I caused such envelope to be deposited in the mail at Chino, California. The  
6 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the  
7 firm's practice of collection and processing correspondence for mailing. It is deposited  
8 with the U.S. Postal Service on that same day in the ordinary course of business. I am  
9 aware that on motion of the party served, service is presumed invalid if postal cancellation  
10 date or postage meter date is more than one (1) day after deposit of mailing affidavit.  
11

12 [ ] [By Personal Service] I personally handed the sealed enveloped addressed as  
13 above to a representative of that party on \_\_\_\_\_, at Chino,  
14 California.  
15

16 [ ] [By Fax] I transmitted a true copy of said document by facsimile machine,  
17 pursuant to Rule 2005. The facsimile machine I used complied with Rule 2003(3) and no  
18 error was reported by the machine. Pursuant to Rule 2005(k), I caused the machine to  
19 print a transmission record of the transmission, a copy of which is attached to this  
20 declaration. Said fax transmission was completed on the above date.  
21

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

24 Executed on April 22, 1997, at Chino, California.

25  
26   
27 REBECCA SHETLEY  
28



ATTACHMENT

CASE NAME : CHINO BASIN MUNICIPAL WATER DISTRICT v. CITY OF CHINO

CASE NUMBER0: RCV 51010

John Harper  
453 South Glassel Street  
Orange, CA 92666

Jean Cihigoyenetché  
CIHIGOYENETCHE, GROSSBERG, &  
CLOUSE  
(Chino Basin Municipal Water District)  
3602 Inland Empire Boulevard, Suite C-315  
Ontario, CA 91764

Sam Crowe/Robert Dougherty  
COVINGTON & CROWE  
(City of Ontario)  
1131 West 6th Street  
Ontario, CA 91761

Mark Hensley, Esq.  
BURKE WILLIAMS & SORENSON  
611 W. 6th Street, Suite 2500  
Los Angeles, CA 90017

Arnold Alvarez Glasman, Pomona City Attorney  
(City of Pomona)  
505 South Garey Avenue  
Pomona, CA 91766

Thomas McPeters, Esq.  
McPETERS, McALEARNEY, SHIMOFF &  
HATT  
P.O. Box 2084  
Redlands, CA 92373

Jim Markman, Esq.  
MARKMAN, ARC, HANS, CUR & SL.  
P.O. Box 1059  
Brea, CA 92622-1059

Mutual Water Company of Glen Avon Heights  
9643 Mission Boulevard  
Riverside, CA 92509

Alan Marks, Assistant County Counsel  
157 West Fifth Street  
San Bernardino, CA 92415

Southern California Water Company  
Attn: Jim Gallagher  
321 Yale Avenue  
Claremont, CA 91773

Marilyn Levin  
ATTORNEY GENERAL'S OFFICE  
300 South Spring Street, 11th Fl. N. Tower  
Los Angeles, CA 90013-1232

Harold Anderson  
(Monte Vista Irrigation Company)  
2529 West Temple Street  
Los Angeles, CA 90026-4819

Gene Tenaka  
BEST, BEST & KRIEGER  
P.O. Box 1028  
Riverside, CA 92502

Santa Ana River Water Company  
Attn: Arnold Rodriguez  
10530 54th Street  
Mira Loma, CA 91752-2331

1 Arthur Kidman, Esq.  
McCORMICK, KIDMAN & BEHRENS  
2 695 Town Center Drive, Suite 1400  
Costa Mesa, CA 92628-1924  
3  
4 Rick Darnell  
SOUTHERN CALIFORNIA EDISON  
5 (Non-Agricultural Pool)  
8996 Etiwanda Avenue  
6 Etiwanda, CA 91739-9697  
7 Traci Stewart, Chief of Watermaster Services  
CHINO BASIN WATERMASTER  
8 8632 Archibald Avenue, Suite 109  
9 Rancho Cucamonga, CA 91730  
10 P. Joseph Grindstaff, General Manager  
11 Monte Vista Water District  
10575 Central Avenue  
12 Montclair, CA 91763

State Water Resources Control Board  
Attn: Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95809-2000

Robert DeBerard  
P.O. Box 1223  
Upland, CA 91786-1223

Edward James  
JURUPA COMMUNITY SERVICE DISTRICT  
(Appropriator Pool)  
8621 Jurupa Road  
Riverside, CA 92509

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