a	(RECEIVED 4/29/97
1	CIHIGOYENETCHE, GROSSBERG & CLOU Jean Cihigoyenetche (Bar No. 105227)	USE APR 2 3 1997 WATERMASTER SERVICES
2 3	3602 Inland Émpire Boulevard, Suite C-315 Ontario, CA 91764 (909) 483-1850	
4	Attorneys for Plaintiff, CHINO BASIN MUNICIPAL WATER DISTRIC	Т
6		
7		
8	SUPERIOR COURT OF TH	E STATE OF CALIFORNIA
. 9	FOR THE COUNTY O	F SAN BERNARDINO
10		
11	CHINO BASIN MUNICIPAL WATER)	CASE NO. RCV 51010
12	DISTRICT,	MEMORANDUM OF POINTS AND
13	Plaintiff(s),)	AUTHORITIES IN OPPOSITION TO MOTION OF ADVISORY COMMITTEE AND
14		CITY OF ONTARIO FOR THE APPOINTMENT OF THE HONORABLE DON A. TURNER AS INTERIM WATERMASTER
15	CITY OF CHINO, et al.,) Defendant(s).	A. TORNER AS INTERIM WATERWAYER AND TO MODIFY PARAGRAPH 18 OF THE JUDGMENT TO PROVIDE FOR
16	Defendant(s).	COMPENSATION TO THE INTERIM WATERMASTER; MEMORANDUM OF
17		POINTS AND AUTHORITIES
18		DATE: April 29, 1997 TIME: 1:30 p.m.
19		DEPT: H
20	20 21 COMES NOW Chino Basin Municipal Water District ("District") which, in opposition to the 22 Motion for the Appointment of the Honorable Don A. Turner as Interim Watermaster and to Modify	
21		
22		
23	Paragraph 18 of the Judgment to Provide for Compensation to the Interim Watermaster submits the	
24	following points and authorities.	
25	//	
26	//	
27	//	
28	//	
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THE COURT HAS ALREADY RULED ON THE INTERIM WATERMASTER

On March 11, 1997, the court clearly and unequivocally appointed the District as the Interim Watermaster in this case. At that time, counsel for the State of California suggested that a new Interim Watermaster be appointed in lieu of the District. The court refused to consider that motion and, likewise, should refuse to consider the motion presently before the court.

In reading the moving papers, it is difficult to discern what the precise basis for appointment 8 9 of Judge Turner is. It seems that counsel is arguing that over the last fourteen months the District, 10 among others, have employed delay tactics to remain in the position of Watermaster. Those alleged delay tactics include suggesting to the court that an independent Watermaster such as a retired Judge 11 and perhaps even Judge Turner be appointed to take over for the District in position of Watermaster. 12 13 Counsel seems to believe that they can now beat the parties at their own game by prodding the court 14 to in fact appoint Judge Turner to act as Interim Watermaster. If the District and other parties who 15 have argued to the court for the appointment of an independent Watermaster, including perhaps Judge Turner, now object to the motion presently before the court, their true motives will have been 16 17 revealed that in fact they wish nothing more than to retain power themselves.

Whatever the motivation of the moving parties, the District believes that to appoint Judge 18 Turner on an interim basis at this time would not be wise. Initially, it is readily apparent that the 19 court is taking affirmative steps in the right direction by referring this matter to a special master who 20 has the experience and ability to perform an independent evaluation of the Watermaster. Presumably 21 the special master's recommendations will assist the court in making a fully informed decision with 22 respect to the appointment of a new Watermaster. The appointment of Judge Turner at this time 23 would simply not make sense. Judge Turner would have to educate himself as to the history of the 24 Watermaster as well as the issues presently facing the parties involved. Substantial administrative 25 changes will be required and the full transition, including payment for the Judge's time, seems to be 26 27 an inordinate expense for the appointment of an Interim Watermaster.

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P&A's in Opp. To Motion of Advisory Committee, etc.

NO GROUNDS ARE OFFERED FOR REPLACEMENT OF THE DISTRICT AS INTERIM WATERMASTER

The moving parties offer no valid grounds to support the replacement of the District as the 4 Interim Watermaster. The declarations in support of the motion seem to suggest that District 5 employees assigned to Watermaster Services have not been treated fairly and in some instances been 6 publicly humiliated. If indeed the working environment for these individuals is so hostile, why 7 weren't these complaints made previously? A review of the supporting declarations are really of no 8 assistance in establishing why Judge Turner should be appointed as interim Watermaster. The 9 declaration of Ms. Staula states, in general terms, that her work load has increased and she has been 10 under additional stress and even humiliation as a result. It does not seem that the appointment of 11 Judge Turner on an interim basis will reduce her workload. With respect to the declaration of Ms. 12 Lauffer, it provides nothing more than a history of the Watermaster through the declarant's eyes, 13 dating back to 1990. When considering the issue of appointing an interim Watermaster, the 14 declarations are really of no relevance. 15

Finally, the declarations supporting the moving papers would suggest that the District
employees who are not assigned to Watermaster staff are being obstrepherous to those District
employees who are assigned to Watermaster staff and are attempting to complete their self-initiated
"transition".

Although the supporting declarations would tend to indicate that the District is making this purported transition very difficult on Watermaster Services employees, correspondence received by the District from Watermaster Services would demonstrate just the opposite. Attached hereto collectively as "Exhibit A" and incorporated herein by this reference are the following correspondence:

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Correspondence dated March 13, 1996 from Dr. Robb Quincey of Chino Basin Municipal Water District to Thomas Shollenberger;

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P&A's in Opp. To Motion of Advisory Committee, etc.

1	2. Correspondence dated March 25, 1996 from Thomas Shollenberger at Chino Basin	
2	Watermaster to Dr. Quincey;	
3	3. Chino Basin Watermaster Memorandum dated April 3, 1996;	
4	4. Correspondence dated April 29, 1996 from Traci Stewart at Chino Basin Watermaster	
5	to Dr. Quincey;	
6	5. Correspondence dated September 12, 1996 from Traci Stewart at Chino Basin	
7	Watermaster to Dr. Quincey.	
8	All of the listed correspondence suggests that District employees are cooperating to the fullest	
9	extent with District employees at Watermaster Services. There is no suggestion of uncooperativeness	
10	nor are there are any assertions that the working conditions for Watermaster Services personnel have	
11	become unbearable.	
12	In short, the reason for the late breaking declarations outlining the intolerable working	
13	conditions of staff at Watermaster Services is readily apparent. At the March 11, 1997 hearing, the	
14	court made it clear that one of its chief concerns was the well-being of the employees of Watermaster	
15	Services. The court even went to the extent of issuing an order stating that all personnel matters will	
16	be held in abeyance until a special referee can evaluate the Watermaster issues. The District	
17	employees assigned to Watermaster Services seized the moment by concocting these declarations so	
18	as to demonstrate to the court the alleged deplorable working conditions to which these employees	
19	are exposed and, finally, to clearly argue to the court that the only way to protect the employees is to	
20	remove the District as Watermaster and, in this instance, replace it with Judge Turner.	
21	III	
22	CONCLUSION	
23	Based upon the foregoing arguments and authorities it is readily apparent that the moving	
24	papers offer no viable reason to support the appointment of an Interim Watermaster at this stage in	
25	the proceedings. The supporting declarations are irrelevant and not compelling. Therefore, the	
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	P&A's in Opp. To Motion of -4- Advisory Committee, etc.	

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1	District respectfully requests that the court deny the motion to appoint Judge Turner as Interim
2	Watermaster.
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4	Respectfully submitted,
5	Dated: April 21, 1997 CIHIGØYENETCHE, GROSSBERG & CLOUSE
6	Dated. April 21, 1997
7	By: JEAN CIHIGOYEXETCHE
8	Attorneys for Plaintiff CHINO BASIN MUNICIPAL WATER DISTRICT
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28	P&A's in Opp. To Motion of
	-5- Advisory Committee, etc

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9400 Cherry Ave, Bldg. A • Fontana, CA 92335 P.O. Box 697 • Rancho Cucarnonga, CA 91729 TEL (909) 357-0241 • FAX (909) 357-3884

March 13, 1996

Mr. Thomas Shollenberger Chairman, Watermaster Advisory Committee 9400 Cherry Ave., Bldg. A Fontana, CA 92335

Dear Mr. Shollenberger:

I am in receipt of your letter of February 29, 1996, to Chairman Hill, addressing issues regarding the replacement of Watermaster, and seeking an orderly transition of the associated financial and administrative duties to a new venue. While I cannot confirm your statement that "CBMWD is willing to be relieved of its duties as Watermaster", as the District's Board voted to oppose this action due in part to the proposal by the Advisory Committee appointing themselves as Watermaster, I can assure the Watermaster Advisory Committee that the Chino Basin Municipal Water District (District) staff will cooperate to the fullest extent possible in the orderly transition of the financial and administrative services.

To accomplish the orderly transition of services, the District makes the following suggestions:

- 1. All present arrangements, functions and terms will remain in place until the Watermaster staff is relocated to a new location.
- 2. All financial, accounting and payroll functions will be performed by the District through the remainder of the current, 1995/96 fiscal year, at the present contractual terms.
- 3. The Fiscal Year 1995/96 audit and annual financial statement preparation functions will be performed by the District.
- 4. The Watermaster Advisory Committee will make every reasonable effort to assume all post Fiscal Year 1995/96 financial, accounting and payroll functions commencing July 1, 1996.

Mr. Thomas Shollenberger March 13, 1996 Page Two

- 5. For payroll and fringe benefit purposes, the District will retain Watermaster staff as District employees through the last payroll paid in the second quarter of 1996, June 21, 1996. If the Watermaster has not secured a contract with the State of California Public Employees Retirement System (PERS) by June 30, 1996, the District will continue to retain Watermaster staff as District employees through the quarter in which such contract is obtained.
- 6. The District will provide the Watermaster originals or copies of all pertinent records retained by the District. Such records will be provided on a reasonable schedule, upon your specific delineation of those records in question.
- 7. If necessary, the District will provide insurance coverage on new premises secured by Watermaster for a reasonable time until Watermaster procures such insurance coverage.
- 8. The District will facilitate the transfer of signature authority and investment responsibility in a responsible manner dictated by the transfer of responsibilities as defined in this letter.

Beginning July 1, 1996, the District would propose to bill the Watermaster for the actual wage and burden costs incurred by the District for the Watermaster staff. In addition, all services performed by the District, on behalf of Watermaster, would be billed to Watermaster at the actual costs incurred by the District, plus 1.5% for a general and administrative fee, associated with the maintenance of the benefit package and the processing of the biweekly payroll.

Again, please rest assured that my staff and I will do whatever we can to assist in an efficient and orderly transition, including those items above, as well as any items that have yet to be identified by yourself or the District.

Very truly yours,

CHINO, BASIN MUNICIPAL WATER DISTRICT

to blivey

Dr. Robb D. Quincey Chief Executive Officer General Manager

Bill Hill, Chairman CBMWD;
 Larry Rudder, CBMWD; Lee Penrice, CBMWD;
 Patricia Andrews, CBMWD; Patrick King, CBMWD; Mark Kinsey, CBMWD

Υ,



CHINO BASIN WATERMASTER

9400 Cherry Ave., Bildg. A., Fordana, CA 92335 * P.O. Baz 697, Rancha Cucamonga, CA 91729-0697 TEL: (909) 357-0241 + FAX[.] (909) 337-3870

TRACI STEWART Chief of Wolfermation Services

March 25, 1996

Dr. Robb D. Quincey CEO/General Manager Chino Basin Municipal Water District 9400 Cherry Ave., Bidg. A Fontana, CA 92335.

Dear Dr. Quincey:

Thank you for your response to my letter regarding the transition of Watermaster. The District's suggestions in this regard help demonstrate the District's commitment to make the transition as orderly as possible and are acceptable to the Advisory Committee.

After evaluating several locations and proposals, we anticipate moving Watermaster Services Staff and activities to offices located at 8632 Archibald Avenue for an initial lease period of five years. The property management company has proposed to lease us the existing office space for \$1200.00 per month until minor tenant improvements are completed, at which time we will pay \$0.80 per square foot for a modified full service gross lease (subject to C.P.I. Increases). Watermaster Services Staff will begin moving records and transitioning activities as early as April 3, 1996.

I appreciate the cooperative attitude assumed by you and your staff and look forward to continued good relations with the District.

Sincerely,

Thomas E. Shollenberger

Chairman, Advisory Committee

cc: Watermaster Services Staff (for distribution to Advisory and Pool Committee Members)

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CHINO BASIN WATERMASTER MEMORANDUM

DATE: April 3, 1996

TO: Lee Penrice Manager of Accounting

FROM: Traci Stewart Chief of Watermaster Services

SUBJECT: Accounts Payable and Accounts Receivable Current and Historical Files

As a result of action taken by the Advisory Committee on March 7, 1996 to relocate the Chino Basin Watermaster staff, all Watermaster accounting records, current and historical, will need to be released or copied to the Watermaster staff. Please refer to Robb Quincey's letter of March 13, 1996 to Tom Shollenberger, Item No. 6 (copy attached).

Your cooperation and timeliness in providing the Watermaster accounting records to the Watermaster staff shortly after the close of the current fiscal year will be greatly appreciated! We also want to thank you and your staff for assisting us to facilitate an efficient and orderly transition.

Attachment

c: L. Rudder R. Quincey

mis:memos/records.acc 04/03/96 12:23 PM



CHINO BASIN WATERMASTER

8632 Archibald Ave., Suite 109, Rancho Cucamonga, CA 91730 TEL: (909) 484-3888 + FAX; (909) 484-3890

TRACI STEWART Chief of Bialermoster Services

April 29, 1996

Dr. Robb D. Quincey Chief Executive Officer/General Manager Chino Basin Municipal Water District P.O. Box 697 Rancho Cucamonga, CA 91729

Re: Facilities and Services Agreement

Dear Dr. Quincey, R. 46

On April 24, 1996, the Advisory Committee took unanimous action to terminate the existing Facilities and Services Agreement with Chino Basin Municipal Water District and to accept your letter dated March 13, 1996, as an interim facilities and services agreement during the transition period. Additionally, the committee wished me to express thanks to you and your staff for your willingness to cooperate and to assist in an efficient and orderly transition.

One item that was not specifically identified in our initial letter or subsequent discussion is the transfer of title for the Watermaster Truck. I spoke to Larry Rudder regarding this, and he indicated we would probably need to pay the remaining lease payments in full before title can transfer. This can probably be done right after the first of the new fiscal year, and the transfer can be made immediately thereafter. I will retain automobile insurance for the truck effective July 1, 1996.

Thanks again to you and your staff for all the help during this transition period. If there's any way we can be of assistance to you, please do not hesitate to call.

Sincerely,

The Stant

Traci Stewart Chief of Watermaster Services



CHINO BASIN WATERMASTER

NATER DISTOSTATChibald Ave., Svile 109, Rancho Cucamonga, CA 91730 TEL: (909) 484-3888 + FAX: (909) 484-3890

September 12, 1996

Robb D. Quincey Chief Executive Officer/General Manager Chino Basin Municipal Water District P. O. Box 697 Rancho Cucamonga, CA 91729-0697

1 - C - C - H

Subject

Watermaster Services Transition Vehicle ID No. 1FTEF15Y7NPA80810

Dear Mr. Quincey;

Transition activities relating to the Watermaster Services staff are moving forward, but not without the help and cooperation of many Chino Basin Municipal Water District employees. We would like to express a special thanks to the staffs of Human Resources, Finance and Accounting for answering our questions and for being so patient with us as we learn.

A recent attempt to bring closure to some outstanding items relating to the transition of Watermaster brought our attention to the fact that a transfer of ownership of Watermaster's truck has not been filed with the DMV. Watermaster made the final payment for the purchase of Vehicle ID No. 1FTEF15Y7NPA60610, 1992 Ford Pick-up License No. 374748, to Chino Basin Municipal Water District as of the invoice for June, 1996 services. The truck was physically relocated with the Watermaster Services staff in April, 1996.

A copy of the current registration is attached. Please take whatever action necessary to process and mail the paperwork to transfer the title of the vehicle identified above to "Chino Basin Watermaster". Also, please notify us when the transfer paperwork is mailed to DMV so we can calendar any incidental follow-up that might become necessary. We plan to contact Jerry Baldwin for the service records and maintenance information pertaining to this vehicle and let him know that staff will no longer be reporting the mileage.

Your prompt attention to this matter is greatly appreciated. Thank you once again for helping foster a smooth transition of activities.

Sincerely

Traci Stewart Chief of Watermaster Services

mis/trucktra.com

Atlachment

Bill Hill Chekman George A. Borbs Hcc Chairman John L. Anderson Secretary/Treasure Anne W. Donalinee Momber Wysit L. Troxel Member

• • •		
1 2 3	CIHIGOYENETCHE, GROSSBERG & CLOUSE Jean Cihigoyenetche (Bar No. 105227) 3602 Inland Empire Boulevard, Suite C-315 Ontario, CA 91764 (909) 483-1850	
4 5 6 7	Attorneys for Plaintiff, CHINO BASIN MUNICIPAL WATER DISTRICT	
8 9	SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN BERNARDINO	
10 11 12 13 14 15 16	CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff(s), vs. CITY OF CHINO, et al., Defendant(s).	
10 17 18 19 20 21 22 23 24 25 26 27 28	I am employed in the County of San Bernardino, State of California and am over the age of 18 years. I am not a party to the within action. My business address is 3602 Inland Empire Boulevard, Suite C315, Ontario, California. On or before April <u>22</u> , 1997, I served the documents described as: MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION OF ADVISORY COMMITTEE AND CITY OF ONTARIO FOR THE APPOINTMENT OF THE HONORABLE DON A. TURNER AS INTERIM WATERMASTER AND TO MODIFY PARAGRAPH 18 OF THE JUDGMENT TO PROVIDE FOR COMPENSATION TO THE INTERIM WATERMASTER; MEMORANDUM OF POINTS AND AUTHORITIES on the interested parties to this action in the manner described below and addressed as indicated on the attached list.	
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I caused the documents to be enclosed in a sealed envelope with postage thereon fully paid,
 and to be deposited in the United States mail in Ontario, California. The documents were to be
 deposited with the United States Postal Service on the same day.

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. I declare under penalty of perjury that the foregoing is true and
correct, and that this declaration was executed on April <u>22</u>, 1997, at Ontario, California.

Proof of Service

RICHARD ADAMS II ALVAREZ-GLASMAN & CLOVEN 505 S GAREY AVENUE POMONA CA 91766

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