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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.

14 Plaintiff,

15 vs.

16 CITY OF CHINO, et al.

17 Defendants.

CASE NO. RCV 51010

CITY OF CHINO HILLS'
RESPONSE TO REQUEST OF
SPECIAL REFEREE ANNE
SCHNEIDER, ESQ. FOR
SUPPLEMENTAL BRIEFING

18 The City of Chino Hills ("City") responds to Referee
19 Anne Schneider's Request for Supplemental Briefing as follows:

20 I.

21 PRELIMINARY STATEMENT:

22 The City is a seemingly small player in this on-going
23 controversy; it currently holds 1.81 percent of the total voting
24 rights allocated to the Appropriative Pool of the Chino Basin, as
25 defined in the January 27, 1978 Judgment in the Chino Basin
26 Municipal Water District v. City of Chino, et al. case
27 ("Judgment"). Notwithstanding its minor interest, the City is
28 obligated to its approximately forty nine thousand water service
customers to effectively provide water service, and, therefore,
has a significant interest in the Watermaster acting fairly and

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1 equitably in administering the parties' water rights in the Chino
2 Basin ("Basin"). The City's sole objective in participating in
3 this on-going controversy is to ensure that its minority interest
4 is protected by a new Watermaster which will impartially and
5 fairly administer the scarce water resources within the Chino
6 Basin.

7 II.

8 THE COURT WOULD HAVE A "COMPELLING REASON" TO
9 REJECT A MOTION SUPPORTED BY A MAJORITY OF
10 THE ADVISORY COMMITTEE IF SUCH A MOTION WOULD
11 CREATE A PARTISAN, SELF-INTERESTED
12 WATERMASTER

13 The constant in-fighting between the major political and
14 economic players, e.g. the Watermaster dispute, the extended
15 disagreement over the Watermaster audit, the allegations of
16 conflict of interest of the Watermaster General Counsel, among
17 other issues, should be sufficient to indicate the importance of
18 maintaining a strongly independent Watermaster. The creation of
19 a self-interested Watermaster Board, consisting of persons with
20 adjudicated rights in the Chino Basin, as has previously been
21 proposed by the Advisory Committee, does not provide adequate
22 safeguards to protect the interests of water users and the
23 general public throughout the Chino Basin.

24 Pursuant to the Judgment, the Watermaster is authorized to
25 establish a legal and practical means for making the maximum
26 reasonable beneficial use of the water of the Chino Basin by
27 providing for the optimum economic, long-term, conjunctive
28 utilization of surface waters, grounds waters and supplemental

1 waters, to meet the requirements of water users having rights in
2 or dependent upon the Chino Basin. (Judgment, ¶ 39 emphasis
3 added). Thus, the Judgment specifically provides that the
4 Watermaster must equally serve the needs of producers and users
5 within the Basin.

6 The Watermaster, with the advice of the Advisory and Pool
7 Committees, is granted discretionary powers in order to develop
8 an optimum basin management program for the Chino Basin,
9 including both water quantity and quality considerations.
10 (Judgment, ¶ 41). A Watermaster Board consisting of producers
11 would return the parties to the contentious and litigious
12 situation that existed prior to the Judgment, where the parties
13 owning water rights determined the extraction and replenishment
14 of groundwater from the Chino Basin and were able to pass on
15 direct and indirect costs to the public free of any scrutiny.
16 The City believes the problems associated with a return to a
17 producer-dominated board would constitute a compelling reason for
18 the Court to reject a motion by Advisory Committee.

19 III.

20 NUMEROUS COMPELLING REASONS EXIST THAT
21 INDICATE THAT THE WATERMASTER AND ADVISORY
22 COMMITTEE SHOULD BE SEPARATE

23 In addition to the practical conflicts of interest issues
24 discussed above, perhaps the most compelling reason that the
25 watermaster should be separate and independent is the paramount
26 public interest in the distribution of water in a region where
27 water is in a short supply and serious potential water quality
28 problems exist. The interests of literally millions of people

1 are at stake with regard to ensuring a safe and adequate supply
2 of water. A truly independent Watermaster is the only way to
3 ensure that the public's interests are adequately represented.

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

20 IV.

21 CITY DOES NOT ADVOCATE ANY PARTICULAR DEGREE
22 OR FORM OF SEPARATION BETWEEN THE ADVISORY
23 COMMITTEE AND THE WATERMASTER

24 As this Court is aware, the Judgment authorizes this court
25 to appoint a new Watermaster on its own motion. (See Judgment
26 ¶ 16). As stated supra, City believes that the crucial issue is
27 that whatever form the new Watermaster takes it must be truly
28 independent and not comprised solely of producers within the

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Basin.


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CONCLUSION:

While the City is pleased to provide this supplemental briefing, the City urges the Referee to review the voluminous briefing that has already occurred and meet in person with interested parties to gain a more full understanding of the issues. This understanding will hopefully lead to a successful resolution of this controversy, which has dragged on for far too long.

DATED: August 13, 1997

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By: 
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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 West Sixth Street, Suite 2500, Los Angeles, California 90017.

On August 14, 1997 I served the foregoing document described as CHINO HILLS RESPONSE TO REFEREE'S REQUEST FOR SUPPLEMENTAL BRIEFING on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE SERVICE LIST ATTACHED

(BY MAIL) I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully paid. I am "readily familiar" with my employer's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of 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.

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Executed on August 14, 1997 at Los Angeles, 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.


ANNETTE KRAMER

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