

CHINO BASIN WATERMASTER

Case No. RCV 51010

Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On March 18, 2004 I served the following:

NOTICE OF ERRATA RE DECLARATION OF MARK KINSEY IN SUPPORT OF MONTE VISTA'S MOTION FOR ORDER COMPELLING WATERMASTER TO ESTABLISH A PROGRAM TO EQUITABLY ALLOCATE BENEFITS FROM WATER QUALITY MITIGATION MEASURES UNDER THE PHYSICAL SOLUTION

BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list:
Mailing List 1

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

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

Executed on March 18, 2004 in Rancho Cucamonga, California.



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5 Attorneys for Defendant
6 MONTE VISTA WATER DISTRICT

Exempt from Filing Fee Under
Government Code § 6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA DISTRICT

11 CHINO BASIN MUNICIPAL WATER DISTRICT,
12 Plaintiff,

13 v.

14 THE CITY OF CHINO,
15 Defendants.

) CASE NO. RCV 51010
) Assigned for All Purposes to
) Honorable J. MICHAEL GUNN
) Department R11
)
) NOTICE OF ERRATA RE
) DECLARATION OF MARK KINSEY
) IN SUPPORT OF MONTE VISTA'S
) MOTION FOR ORDER COMPELLING
) WATERMASTER TO ESTABLISH A
) PROGRAM TO EQUITABLY
) ALLOCATE BENEFITS FROM
) WATER QUALITY MITIGATION
) MEASURES UNDER THE PHYSICAL
) SOLUTION
)
) AND RELATED CROSS-ACTIONS.
)
) Hearing Date: April 22, 2004
) Time : 8:30 a.m.
) DEPT : R8
)

23 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:


24
25 PLEASE TAKE NOTICE that page 6 of the April 22, 2004 Monte Vista Motion for an
26 Order Compelling Watermaster to Establish a Program to Equitably Allocate Benefits from Water
27 Quality Mitigation Measures Under the Physical Solution, filed on March 11, 2004, and served on
28 March 12, 2004, accidentally omitted a portion of the text of the Mark Kinsey Declaration. Please

1 find attached hereto a corrected page 6. Please remove the prior page 6 and replace it with the
2 attached corrected page 6.

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DATED: March 16, 2004

MCCORMICK, KIDMAN & BEHRENS, LLP

By: 
ARTHUR G. KIDMAN
BOYD L. HILL
Attorneys for Defendant
MONTE VISTA WATER DISTRICT

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1 allowing the use of salt credits for reclamation. MVWD believes this
2 represents a material change in what was negotiated in the Peace Agreement.
3 Any potential offset for the funding subsidy will be eliminated, creating an
4 inequity due to the secondary benefit of reclamation through the use of salt
5 credits.

6 10. Monte Vista presented information during the August 28, 2003 Watermaster meeting
7 that Monte Vista will contribute nearly \$6 million dollars towards water quality mitigation measures
8 during the term of the Peace Agreement, but will receive *no benefit therefrom*. Waste dischargers,
9 however, will receive *very substantial benefits*. A true and correct copy of that presentation is
10 attached hereto and incorporated herein by this reference as Exhibit 4.

11 11. At all times herein mentioned, Watermaster has been able to establish such a
12 program. Notwithstanding such ability, and despite Monte Vista's request for such a program,
13 Watermaster has refused to and continues to refuse to undertake to establish such a program.
14 Watermaster has artfully dodged action on Monte Vista's request, referring the request to the pool
15 committees on one occasion and to a special committee on another occasion. Both times the request
16 died in committee without substantial report back to the Watermaster and without any formal or
17 definitive action by Watermaster.

18 12. Monte Vista has no means of recourse to cause Watermaster to establish such a
19 program other than by seeking the relief sought in this Petition pursuant to paragraph 15 of the
20 Judgment. Watermaster has not taken any action to equitably allocate benefits under the Physical
21 Solution that would provide a basis upon which damages could be calculated in an action at law or
22 to which a challenge could be made in a motion to this Court pursuant to paragraph 31 of the
23 Judgment.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 facts and documents are true and correct of my personal knowledge. Executed this 11th day of
26 March 2004 at Montclair, California.

27
28

MARK KINSEY

1 PROOF OF SERVICE

2
3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF ORANGE)

6 I am employed in the County of Orange, State of California. I am over the age of eighteen
7 (18) years and not a party to the within action; my business address is: 695 Town Center Drive,
8 Suite 400, Costa Mesa, California 92626.

9 On March 16, 2004, I instructed our process server First Legal Support Services to
10 personally serve a conformed copy of the foregoing document described as: **NOTICE OF**
11 **ERRATA RE DECLARATION OF MARK KINSEY IN SUPPORT OF MONTE VISTA'S**
12 **MOTION FOR ORDER COMPELLING WATERMASTER TO ESTABLISH A PROGRAM**
13 **TO EQUITABLY ALLOCATE BENEFITS FROM WATER QUALITY MITIGATION**
14 **MEASURES UNDER THE PHYSICAL SOLUTION** on the Chino Basin Watermaster with
15 instructions for the Watermaster to serve copies on all interested parties in this matter by placing a
16 true copy thereof enclosed in a sealed envelope addressed as follows:

17 Mr. John Rossi, Executive Director
18 CHINO BASIN WATERMASTER
19 9641 San Bernardino Road
20 Rancho Cucamonga, California 91730
21 909 484-3888 Ext. 228 Fax: 909 484-3890

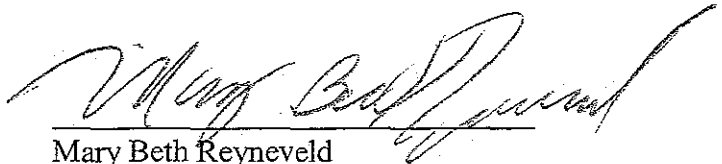
22 [] (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing
23 correspondence by mailing. Under that practice it would be deposited with U.S. postal
24 service on that same day with postage fully prepaid at Costa Mesa, California in the ordinary
25 course of business. I am aware that on motion of the party served, service is presumed
26 invalid if postal cancellation date or postage meter date is more than one day after date of
27 deposit for mailing in affidavit.

28 [] (BY OVERNIGHT MAIL) I caused such document to be delivered by overnight mail to the
offices of the addressee(s).

[X] (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the
offices of the addressee.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on March 16, 2004, 2002, at Costa Mesa, California.

26
27 
28 Mary Beth Reyneveld