FEE EXEMPT

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SPECIAL REFEREE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA DIVISION

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

v.

THE CITY OF CHINO, et al.

Defendants.

CASE NO. RCV 51010

Judge: Honorable J. Michael Gunn

RESPONSE TO CUCAMONGA VALLEY WATER DISTRICT'S NOTICE OF MOTION AND MOTION TO DISCONTINUE THE APPOINTMENT OF THE SPECIAL REFEREE

Hearing Date: August 21, 2008
Time: 2:00 p.m.
Dept: R8

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SPECIAL REFEREE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA DIVISION

CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff, v. THE CITY OF CHINO, et al. Defendants.	CASE NO. RCV 51010 Judge: Honorable J. Michael Gunn **RESPONSE TO CUCAMONGA VALLEY WATER DISTRICT'S NOTICE OF MOTION AND MOTION TO DISCONTINUE THE APPOINTMENT OF THE SPECIAL REFEREE** Hearing Date: August 21, 2008 Time: 2:00 p.m. Dept: R8

I. INTRODUCTION

Cucamonga Valley Water District ("CVWD") filed a Motion to Discontinue the Appointment of the Special Referee ("Motion") that is replete with material misrepresentations and omissions regarding the role of the Special Referee in these proceedings and specific acts undertaken by the Special Referee. Accordingly, while the Special Referee ordinarily would not respond to such a Motion, given the offensive nature of the allegations raised in the Motion, the Special Referee is compelled to respond.

The Motion is based on three principle arguments. First, CVWD argues that the Special Referee has exceeded her authority as defined in the initial April 27, 1997 Ruling and Order of

Special Referee. Second, CVWD asserts that certain conflicts of interest exist which preclude the Special Referee from continuing to serve as Special Referee. These arguments lack any basis in law or in fact. Finally, CVWD argues that a special referee is no longer necessary because the Watermaster now is in a position to act independently. This is a matter for the Court to decide, and the Court did resolve this issue in December and held that there is a legitimate and continuing need for a Special Referee in this case.

II. ARGUMENT

A. The Role of the Special Referee Is Defined Not Only by the Initial 1997 Ruling but Also by Subsequent Orders of the Court Referring Matters to the Special Referee.

CVWD would have this Court believe that the only order defining the work of the Special Referee that should be recognized is the April 27, 1997 Ruling and Order of Special Reference ("1997 Ruling"). CVWD argues that the role of the Special Referee is, or should be, measured by the initial 1997 Ruling appointing the Special Referee.[1] As CVWD is well aware, however, that is only the first of many rulings from the Court which defined and expanded the role of the Special Referee beyond what was originally contemplated in the 1997 Ruling. The Court has adjusted the role of the Special Referee over time to meet the changing and ongoing needs of the Court. It has been addressed in numerous orders, up to and including the Court's December 2007 Order in which the history of the Special Referee's continued appointment was specifically addressed. That ruling stated, in part, as follows:

> "The role of the Special Referee is to (1) provide the court with as full and complete explanations as possible of what the Watermaster requests or of issues that have been brought to the court; and (2) to make recommendations to the court as appropriate." ...
>
> In this case, it was the parties who first suggested to the Court in the early 1990's that an order of reference be made to Anne Schneider ...
>
> *Since that appointment, the Special Referee has been providing expert advice and conducting workshops either at the Court's request or the request of the parties or Watermaster, as authorized in various court orders.* For example, Watermaster requested that a workshop be held to present to the Court through the Special Referee, the Interim Plan for Management of Subsidence. (See Order Scheduling

[1] *See* Motion, p. 2 , 3, 10, 15; *see also* Motion, p. 20 ("More than ten years ago, the Special Referee was appointed for a limited and temporary assignment. Somehow that temporary assignment has persisted and even expanded ...").

> Workshop, dated June 19, 2002, p. 2, lns. 6-10) The Special Referee also has been requested to monitor the Peace II process and the plan for future desalters and related activities. (Order Re-Appointing Nine-Member Board, dated Feb. 9, 2006, p.5, lns. 9-17).

Order Concerning Motion for Approval of Peace II Documents, p. 4-6 (December 21, 2007) (*emphasis added*).

The Special Referee has acted only pursuant to and consistent with the direction given to her by the Court. These efforts were recognized by the Court not only in the above quoted December 2007 Order, but in previous orders as well.[2] In the Order Re-Appointing Nine Member Board for Further Five Year Term, the Court acknowledged the continued efforts of the Special Referee as follows:

> The Special Referee also is to be commended for providing independent assessments of Watermaster's effectiveness in implementing the OBMP and managing the basin. The court is particularly interested in concerns regarding the potential impacts of Watermaster's plans for basin re-operation and hydraulic control, which were included in the most recent Special Referee's report ... The Court is also interested in Watermaster's answers to questions raised in the Special Referee's report and how Watermaster will address a number of issues, including those expressly reserved for Watermaster action under the Peace Agreement and Watermaster's Rules and Regulations ...The Court also directs Watermaster, its legal counsel, staff and consultants to ensure that in future reporting the reports are timely, transparent, and responsive to the question of whether Watermaster is implementing the Peace Agreement and the OBMP in a manner consistent with the Judgment and continuing Orders of this Court. The Special Referee's report is largely an effort to assist Watermaster in this regard.

Order Re-Appointing Nine member Board for Further Five Year Term, p. 3-4 (Feb. 9, 2006). All of the work of the Special Referee and the technical expert has been at either the direction of the Court or the Watermaster and the results not only have been accepted by the Court, but also commended.

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[2] In the December 21, 2007 Order, the Court noted the following: "This Court has said on many occasions that the assistance provided by the Special Referee is invaluable. It is the desire of the Court that the Special Referee continue to monitor the contents, implementation, effectiveness and shortcomings (if any) of the OBMP." Order Concerning Motion for Approval of Peace II Documents, p. 6 (December 21, 2007).

B. The Special Referee Has Neither a Financial Conflict of Interest nor Legal Conflict of Interest in this Case. [3]

1. CVWD Has No Basis to Assert that the Special Referee Either Has Impermissibly Expanded Her Role in this Case or that a Financial Conflict of Interest Exists.

CVWD argues at length that the Special Referee has a financial stake in her continued role in this case and, therefore, the Special Referee's position should be dissolved. The CVWD offered no support for this argument. It simply complains about the amount of fees billed by the Special Referee.

As a preliminary matter, while CVWD contests the legitimacy of the work performed in relation to the legal fees billed, it is telling that neither the CVWD nor the Watermaster have ever objected to the legal bills submitted by the Special Referee.[4] Each month, the Watermaster receives an itemized bill detailing the work performed by the Special Referee and corresponding fees for the legal work rendered. Also included is an accounts payable statement for work performed by Mr. Scalmanini, the technical expert employed in this case, and costs advanced. Each month the Watermaster has had a full and fair opportunity to question or contest the invoices submitted by the Special Referee, the work being performed by the Special Referee or the technical expert, and the fees charged for the time spent on each task. In the ten years since the Special Referee's appointment, the Watermaster never has questioned the legitimacy or amount of any of the charges, nor the particular work being performed by the Special Referee or

[3] As detailed herein, the allegations of conflicts of interest contained in CVWD's Motion completely lack any factual or legal basis. This runs afoul of California Rules of Professional Conduct Rule 5-200 which provides that in presenting a matter to a court, counsel "(A) Shall employ, for the purpose of maintaining the causes confided to the member such means only as are consistent with truth; (B) Shall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law."

[4] The Special Referee has taken great care to ensure that legal fees charged were fair and reasonable and, to that end, to make the most efficient use of staff resources available to her. Along those lines, it should be noted that while CVWD complains of the "financial obligations assumed by the stakeholders" as a result of the work performed by Ms. Judith Schurr as a contract research attorney for the Special Referee's law firm, this arrangement actually resulted in a net savings to the Watermaster as Ms. Schurr was able to provide research support to the Special Referee at a substantially reduced billing rate. Moreover, while the Motion alleges that "[t]here does not appear to have been any Court authorization for this retention," the exact opposite is true. *Id.* The Court was fully aware of, and sanctioned, Ms. Schurr's employment by the Special Referee. Ms. Schurr served as a research attorney employed by the Court and in that capacity, worked to assist this Court in the instant litigation. Ms. Schurr stopped working for the Court because the Court decided to have only full time employees and Ms. Schurr wanted to work part time. To ensure continuity and to capitalize on Ms. Schurr's knowledge of this case, it was with the Court's permission that the Special Referee contracted with Ms. Schurr to continue to work as a research attorney on this case.

the technical expert as described in detail in the invoices. Accordingly, the Watermaster's consent to both the nature of the work performed by the Special Referee and the amount charged for her services can be properly inferred from the acquiescence of the Watermaster and its failure to object, at any time, to the monthly statements. *See*, e.g., *Crane v. Stansbury* (1916), 173 Cal. 631, 636-637 (a delay of six months to object to an invoice for legal services is as a matter of law unreasonable).

The only "support" for the allegations that the Special Referee has inflated her role for financial gain are unsubstantiated assertions about the amount the Special Referee has billed to the Watermaster. CVWD has no authority whatsoever for its assertions – in fact, its numbers are not correct.[5] Even if the numbers were correct, however, they offer no support for the slanderous accusation that the Special Referee has, essentially, acted in an unethical and dishonest manner.[6]

The legal bills submitted by the Special Referee were proportionate to the nature and complexity of the work assigned to the Special Referee by the Court. To suggest otherwise, and in particular to state that the Special Referee's time has been spent providing "detailed analysis of typographical errors" is absurd.[7] The Special Referee has at all times acted pursuant to and

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[5] To support its argument that the Special Referee has artificially inflated her role for financial gain, CVWD flatly misstates and mischaracterizes the amounts billed to the Watermaster. CVWD contends that "[i]n the last three fiscal years, the Referee and her staff have billed a total of nearly $800,000 to Watermaster." Motion, p. 6. In reality, the total of the fees billed by the Special Referee for legal work performed in the years 2005, 2006, 2007, and 2008 combined totals $525,819. Similarly, CVWD asserts that "[s]ince July of last year alone, she and her staff have billed more than $300,000 to Watermaster." Motion, p. 6. In reality, $235,180 has been billed by the Special Referee for legal work performed, and of that, the amount billed for the first six months of 2008 totals only $23,328. Later in the Motion, CVWD contends that "[i]n 2006, the Special Referee and her staff incurred expenses of over $300,000." Motion, p. 9. Again, in 2006 the fees billed for legal work performed by the Special Referee and her staff totaled $144,854, a far cry from the "over $300,000" CVWD contends was charged.

Presumably, CVWD has included the fees billed by Mr. Scalmanini, a technical expert in this case, as part of the "Special Referee and her staff." Even so, looking at the year 2006 as an example, the combined total of the legal fees billed by the Special Referee and her staff, fees billed by Mr. Scalmanini, and costs advanced combined only total $243,744, not the "over $300,000" alleged in CVWD's Motion. Importantly, $97,735.00 of that $243,744, or approximately forty percent of the amount billed to the Watermaster in 2006, is attributable to work performed by Mr. Scalmanini including a significant amount of work performed by Mr. Scalmanini at the specific request of the Watermaster. In 2006, the Watermaster asked Mr. Scalmanini to peer review the model prepared by Wildermuth Environmental, Inc. This work, performed by Mr. Scalmanini, represents a good portion of the expert fees incurred in 2006.

Additional information is provided to the Court in the Declaration of Richard B. James, attached hereto Exhibit "A".

[6] These are baseless and outrageous accusations and CVWD's counsel should be held accountable for making them.

[7] CVWD contends that the Special Referee has submitted "[e]xpansive Referee Reports that provide detailed analysis of typographical errors." Motion, p. 16. No citation is provided to support this scurrilous statement. However, if one of the typographical errors referenced is the fact that the Watermaster submitted the wrong table in satisfaction of Condition Subsequent 2 of the Peace II Order, this is far from a typographical error; this was a

consistent with the Court's Orders.[8] Indeed, there is no authority for the CVWD's incredible assertion that "the Special Referee has become motivated to find fault with Watermaster, since to find that the Watermaster process is a success would imply that the Special Referee is no longer necessary." Motion, p. 15.

2. The Special Referee Does Not Have a Legal Conflict of Interest.

The CVWD argues that an impermissible conflict of interest exists, requiring the Special Referee's removal, arising out of a hearing on the Santa Ana Water Rights application process that was held by the State Water Resources Control Board ("SWRCB") over a year ago. It is telling, however, that the only support provided by CVWD for its argument is a list of hearing attendees appended to the Declaration of Jill Willis.[9] CVWD provided no substantive information about the procedural history of those proceedings, or the substantive matters at issue in that case. Had they done so, it would have been apparent that at no time has a conflict of interest existed arising out of those proceedings.

The Special Referee's law firm represents the San Bernardino County Flood Control

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substantive mistake affecting the Special Referee and Court's ability to assess the Watermaster's compliance with Condition Subsequent 2 of the Peace II Order. *See* Comments of Special Referee on Watermaster Compliance with December 21, 2007 Order Conditions 1 through 4 (April 17, 2008).

[8] Citing a single example involving a meeting held on October 3, 2007, CVWD argues that the Special Referee "appeared to be acting outside of the procedures or authorizations of the Court." Motion, p. 14. Once again, CVWD misrepresented the facts. By Order dated August 27, 2007, the Court continued a hearing on Watermaster's Motion for Approval of Long Term Plan to November 15, 2007, and requested that Watermaster schedule a Special Referee workshop on October 3, 2007, to receive evidence on the issue of whether Watermaster's proposed long-term plan for management of subsidence is a reasonable long-term approach in MZ-1.

The day before the scheduled Workshop, October 2, 2007, the Watermaster filed an ex parte request to cancel the October 3, 2007 Special Referee Workshop, and the Court signed an order canceling the workshop. While the formal workshop was cancelled, an informal meeting attended by the parties was held on October 3, 2007, to discuss questions the Special Referee and technical expert had regarding the long-term plan. The Special Referee reported this meeting to the Court in the Special Referee's Comments and Recommendations Concerning Motion for Approval of Watermaster's Long Term Plan for Management of Subsidence ("Special Referee's Comments") as follows:

> By order dated October 2, 2007, the workshop was cancelled. Because the Special Referee and Technical Expert had questions concerning the long-term plan and to expedite the evaluation of the plan, an informal technical meeting took place at Watermaster's office on October 3, 2007, instead of the formal workshop. The meeting was attended by Special Referee Anne Schneider, Technical Expert Joe Scalmanini and experts from City of Chino Hills, City of Chino, the State of California, and Watermaster.

Special Referee's Comments, p. 8 (October 15, 2007). Neither the Watermaster nor any other party raised any objections to this informal meeting with the Court in October 2007, or any time since prior to the filing of CVWD's motion.

[9] This is the only subject of the Jill Willis Declaration, and no other declarations were attached to CVWD's Motion.

District, Riverside County Flood Control and Water Conservation District, and Orange County Flood Control District (collectively "Local Sponsors") on limited issues related to the federally constructed Seven Oaks Dam flood control facility as to its potential use for water conservation. Exhibit "B": Declaration of Mr. Peter Kiel, ¶¶ 2, 5. In that capacity, Ellison Schneider & Harris filed protests with the State Water Resources Control Board to four water right applications: Application Nos. 31165 and 31370 filed by the San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County, Application No. 31371 filed by the San Bernardino Valley Water Conservation District, and Application No. 31174 filed by the Orange County Water District. Exhibit "B": Declaration of Mr. Peter Kiel, ¶ 3. The Watermaster and CVWD did not protest these applications.

Separate and apart from the above Applications, the Watermaster filed Application No. 31369 to appropriate storm water from four stormwater channels tributary to the Santa Ana River for purposes of recharging the Chino groundwater basin. Declaration of Mr. Peter Kiel, ¶ 4. The Local Sponsors represented by Ellison Schneider & Harris did not file a protest to the Watermaster's Application. Exhibit "B": Declaration of Mr. Peter Kiel, ¶ 4.

In the interest of economy, the SWRCB exercised its discretion to hold a joint hearing to consider all of the pending Santa Ana River water right applications rather than hold individual hearings. Exhibit "B": Declaration of Mr. Peter Kiel, ¶ 6. The hearing on the various applications took place on May 2 and 3, 2007. While the list of individuals and parties entering appearances at the hearing attached to Ms. Willis' Declaration correctly reflects that Ellison Schneider & Harris entered an appearance on behalf of the Local Sponsors, what Ms. Willis' Declaration and CVWD's Motion fail to mention is that the Local Sponsors did not protest the Watermaster's Application, the Local Sponsors did not present evidence at the hearing regarding the Watermaster's Application, and the Local Sponsors took no position with respect to the Watermaster's Application.[10] In sum, the Local Sponsors had no interest in the Watermaster's

[10] In advance of the hearing, Watermaster sought stipulations from parties who would be participating in the hearing but had not protested the Watermaster's Application stating that they would not present evidence or cross-examine witnesses concerning Watermaster's Application. The Local Sponsors, as well as several other hearing participants, signed the requested stipulations in advance of the hearing, agreeing that they would "not present evidence concerning (Watermaster) Application 31369, nor will they cross-examine any witness as to his or her direct

Application and but for the SWRCB's decision to hold the hearings on the various applications at the same time, counsel for the Local Sponsors and counsel for the Watermaster never would have been in the same room.

Even if there were any conceivable basis for CVWD's position that the Special Referee should be removed as a result of an alleged conflict of interest, that position is undermined given the time that has passed since the above hearings and the CVWD's failure to raise the alleged conflict of interest before now. As early as March 20, 2007, Watermaster knew that the Special Referee's firm would be appearing at the Santa Ana water rights hearing. Declaration of Mr. Peter Kiel, ¶ 9.[11] At no time either during the hearing or after in proceedings before this Court has the Watermaster, CVWD, or any other party ever raised allegations that a conflict of interest might exist. As unsubstantiated as the CVWD's allegations are, if they wanted to raise them, the time for doing so has long passed. *See Trust Corp. of Montana v. Piper Aircraft Corp.* 701 F.2d 85, 87 (9th Cir. 1983); *Wooley v. Superior Court of Stanislaus County* (1937) 19 Cal.App.2d 611, 619 (party estopped from claiming disqualification of judge when party knew of facts constituting the ground of disqualification, failed to raise them, and in the interim permitted the judge to proceed in the case).[12]

3. The Special Referee's Representation of San Bernardino County Flood Control District Was Disclosed to the Parties in 1997.

The CVWD's arguments that an impermissible conflict of interest exists are particularly unfounded given the fact that in 1997, immediately upon her appointment as Special Referee, the undersigned sent a letter to all interested parties in the Chino Basin advising them that the

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testimony presented by Chino Basin Watermaster in support of Application 31369." Exhibit "B": Declaration of Mr. Peter Kiel, ¶ 11. Even prior to signing this stipulation, the Local Sponsors had no intention of, and no interest in, examining Watermaster's witnesses relating to Watermaster's Application. Exhibit "B": Declaration of Mr. Peter Kiel, ¶ 7.

[11] The law firm of Best Best & Krieger also was on this service list.

[12] The timing of the filing of CVWD's Motion and the allegations of a conflict of interest are suspect. About six months ago, the Special Referee was given, anonymously, two copies of the draft CVWD Motion at issue herein, and there was no apparent reason, beyond tactics, for CVWD to refrain from filing prior to now. Such delay not only undermines the allegations raised by CVWD, it also calls into question their motive. *See Central Milk Producers Co-Op v. Sentry Food Stores*, 573 F.2d 988, 992 (8th Cir. 1978); *Redd v. Shell Oil Co.* 518 F.2d 311, 315 (10th Cir. 1975) (A party with knowledge of an attorney's conflict of interest will not be allowed to delay the disqualification motion for tactical reasons).

Special Referee represents the Local Sponsors, one of which is the San Bernardino County Flood Control and Water Conservation District. The service list for this letter included the law firm of Best Best & Krieger, the same firm who filed the Motion at issue herein on behalf of CVWD. The letter from the Special Referee to the Chino Basin interested parties stated:

> I have received a copy of the court's order appointing me special referee ... It has been brought to my attention that certain "interested parties" also wish to be informed of any meeting scheduled in this matter. We have added such "interested parties" to our service list. However, please be advised that this office represents Metropolitan Water District of Southern California (an "interested party") on unrelated manners. (sic) We also currently represent San Bernardino County Flood Control and Water Conservation District with regard to unrelated issues related to Seven Oaks Dam. San Bernardino also appears on the list as an "interested party". These "interested parties" have not to our knowledge filed briefs on the motions. Please advise me immediately if our representation of these "interested parties" raises any concern to any party to the motions.

Exhibit "C": June 5, 1997 Letter from Special Referee Anne Schneider. At no time since the distribution of the June 1997 letter has anyone raised any concerns regarding the Special Referee's separate representation of the Local Sponsors, and for good reason. As outlined in additional detail, below, there simply is no conflict of interest arising out of the Special Referee's representation of the Local Sponsors on other, unrelated matters.

The CVWD alleges that there may be a conflict of interest arising from the Special Referee's representation of the Local Sponsors and the "potentially increased role for the SBCFCD in the future management of the Basin under Basin Re-Operation, and . . . continued and expanded investment by Watermaster in infrastructure at SBCFCD facilities." Motion, p. 17. Critically absent from CVWD's discussion is the fact that the Special Referee's representation of Local Sponsors, including San Bernardino County Flood Control and Water Conservation District, is significantly limited and in no way involves the representation of Local Sponsors in matters affecting either Watermaster or Basin Re-Operation. Special Referee is aware of no disputes between Local Sponsors and Watermaster, and Special Referee is not aware of or involved in any way in any negotiations or contracts (current or contemplated) between the Local Sponsors and Watermaster. Special Referee is keenly aware of the Code of Judicial Ethics and of her obligation to ensure that no conflict of interest exists that would result in either

impartiality or the appearance of impartiality. There is simply no such conflict in this case. If one should arise in the future, Special Referee will voluntarily recuse herself from these proceedings. "A judge should not be disqualified lightly or on frivolous allegations or mere conclusions." *Mackie v. Dyer* (1957), 154 Cal.App.2d 395, 400. Under that standard, there remains no basis for the disqualification of the Special Referee.

Counsel and their clients have a legal and ethical obligation to ensure that motions filed with the Court are truthful, are not misleading, and are not filed for improper purposes. Cal. Code Civ. Proc. §128.7; Cal. Rules of Prof. Conduct, Rule 5-200. By signing a motion or any other pleading, counsel, by affixing her signature, is representing to the Court that the motion:

> (1) ... is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
> (2) The claims, defenses, and other legal contentions therein are warranted by existing law ...
> (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

Cal. Code Civ. Proc. §128.7(b)(1) – (3). If a motion is filed in violation of those provisions, the Court has the authority to impose sanctions.[13] Cal. Code Civ. Proc. §128.7(c). Rules requiring attorneys to certify papers filed with the Court serve a critical purpose and that is to create an affirmative duty of investigation as to both law and facts alleged to deter frivolous actions and costly, meritless legal maneuvers. *See Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.*, 498 U.S. 533, 543-550 (1991). The allegations leveled by CVWD are outrageous and untruthful and never should have been brought to this Court.

C. The Court Already Has Ruled that There Is an Ongoing Need for a Special Referee, Particularly Given the Complexity of This Water Case and the Overriding Public Interests Involved.

The CVWD's Motion is in effect the re-litigation of an issue that already has been ruled upon by the Court. Watermaster raised the issue of whether to continue to use a Special Referee

[13] But for undersigned's position as the Special Referee in this action, a motion for sanctions would be filed with the Court given the baseless and inflammatory accusations against the Special Referee contained in CVWD's Motion.

in its Response to Special Referee's Preliminary Comments and Recommendations filed in December 2007. Watermaster alleged that "the traditional role of Watermaster and its interaction with the Court is made more complex in Chino Basin by the existence of a Special Referee." Watermaster stated that no other adjudicated groundwater basin has both a Watermaster and a Special Referee and notes that the Judgment does not provide for a referee. Order Concerning Motion For Approval of Peace II Documents, p. 4 (Dec. 21, 2007).

In Judge Gunn's December 21, 2007 Order, the Court detailed the continued need for a Special Referee to address some of these ongoing issues in this case:

> Since that (initial) appointment, the Special Referee has been providing expert advice and conducting workshops either at the Court's request or the request of the parties or Watermaster, as authorized by various court orders ... The Court has said on many occasions that the assistance provided by the Special Referee is invaluable. *It is the desire of the Court that the Special Referee continue to monitor the contents, implementation, effectiveness and shortcomings (if any) of the OBMP.*

Order Concerning Motion For Approval of Peace II Documents, p. 5-6 (Dec. 21, 2007) (emphasis added). Only after Watermaster's motion was denied in December did CVWD decide to file its Motion, which only restates Watermaster's arguments, which were rejected by the Court, and couples these with unsubstantiated allegations that the Special Referee has a conflict of interest or has been improperly motivated by the prospect of pecuniary gain.

It has been recognized, both by this Court and the California Supreme Court, that the use of special referees is particularly important in cases affecting the public interest, and most especially cases involving water resources. As stated by this Court, "The recommendation that trial courts obtain expert advice in water law decisions was recognized by the California Supreme Court long ago: '...in view of the complexity of the factual issues in water cases and the great public interests involved, [it has been recommended] that the trial courts seek the aid of the expert advice and assistance provided for in that section [former Water Code Section 24, now Water Code Section 2000].'" *Order Concerning Motion for Approval of Peace II Documents*, p. 4-5 (December 21, 2007), *quoting City of Pasadena v. City of Alhambra* (1949) 33 Cal.2d 908, 917. Undoubtedly, there will be a time in this case when the services of a special referee will no longer be needed to fulfill this role, but it certainly seems that that time has not yet come.

While CVWD argues that the Special Referee's work amounts to a "duplication" of Watermaster's efforts,[14] this is far from the case. The Court has relied on the expertise of the Special Referee and technical expert to oversee this process to ensure that the Peace Agreement and OBMP are being implemented in a manner that is consistent with the Judgment and other orders of the Court, to monitor the implementation and effectiveness of the OBMP, and to provide to the Court full, complete, unbiased and understandable assessments of the implementation of the Peace Agreement and OBMP. The work of the Special Referee and the technical expert in this case have combined to provide the Court with an independent analysis of the complex issues presented in this basin. These efforts are not duplicative; they are necessary to ensure that the record before the Court is complete, that the Court remains fully informed about the actions being taken and their potential ramifications, and that the public interest is served.

III. CONCLUSION

The Chino Basin Judgment is an extraordinary document that has served this basin well. However, the Court has a duty to ensure its proper implementation in order to protect the long-term interests of the parties and the public at large. Given the complexity of the matters at issue in this case, this is a very substantial burden for the Court to carry on its own. It is suggested that without the legal and technical expertise that a Special Referee provides, it would be difficult for the Court to carry this burden. Accordingly, whether the role of the Special Referee is filled by the undersigned or another individual, it will continue to be vitally important to have an independent referee assigned to this case.

Dated: July 31, 2008

Respectfully submitted,

Anne J. Schneider

Anne J. Schneider, Special Referee

[14] Motion, p. 7.

EXHIBIT "A"

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SPECIAL REFEREE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA DIVISION

CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff, v. THE CITY OF CHINO, et al. Defendants.	CASE NO. RCV 51010 Judge: Honorable J. Michael Gunn **DECLARATION OF RICHARD B. JAMES IN SUPPORT OF RESPONSE TO CUCAMONGA VALLEY WATER DISTRICT'S NOTICE OF MOTION AND MOTION TO DISCONTINUE THE APPOINTMENT OF THE SPECIAL REFEREE** Hearing Date: August 21, 2008 Time: 2:00 p.m. Dept: R8

I, Richard B. James, declare as follows:

1. I am a bookkeeper with Ellison, Schneider & Harris L.L.P. (the "Firm"). I have personal knowledge of the matters set forth in this Declaration and, if called to testify, will testify competently thereto.

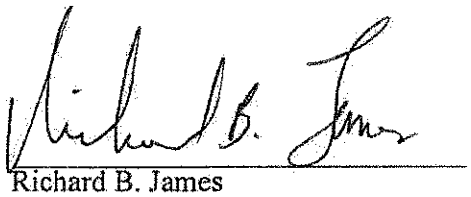
2. In my position as bookkeeper, I am responsible for all accounting matters for the Firm including outgoing bills to clients, accounts receivable, and Firm financial reports.

3. Attached to my Declaration as Exhibit 1 is a spreadsheet reflecting all outgoing billings, by year, relating to the Chino Basin matter between January 2005 and June 2008. The

column "Legal Fees" accurately reflects the legal fees billed by the Firm in each year in the Chino Basin matter. The column "Costs" accurately reflects the amount of costs billed in the Chino Basin Matter. The column "LSCE" represents fees billed by an outside technical expert in this case, Mr. Scalmanini and his company Luhdorff & Scalmanini Consulting Engineers. The final column on the right captioned "Total" accurately reports the combined legal fees, costs and technical expert fees billed in the Chino Basin matter in each given year.

4. Attached to my Declaration as Exhibit 2 is a spreadsheet accurately reflecting the hours, legal fees, costs, and outside expert fees billed between July 1, 2007 and December 31, 2007 and between January 1, 2008 and June 30, 2008.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and that this Declaration was executed this 30th day of July, 2008 in Sacramento, California.



Richard B. James

EXHIBIT 1

ELLISON, SCHNEIDER & HARRIS L.L.P.
CHINO BASIN BILLINGS
JANUARY 2005-JUNE 2008

YEAR OF:	TOTAL HOURS	TOTAL LEGAL FEES	COSTS	LSCE	TOTAL
2005	287.00	86,108.00	664.94	31,807.40	118,580.34
2006	452.10	144,854.00	1,154.85	97,735.15	243,744.00
2007	851.60	271,529.00	2,331.91	162,416.51	436,277.42
2008	71.50	23,328.50	477.53	21,054.90	44,860.93
TOTAL	1,662.20	525,819.50	4,629.23	313,013.96	843,462.69

EXHIBIT 2

ELLISON, SCHNEIDER & HARRIS L.L.P.
CHINO BASIN BILLINGS
JULY 2007-JUNE 2008

PERIOD	TOTAL HOURS	TOTAL LEGAL FEES	COSTS	LSCE	TOTAL
07/07-12/31/07	660.20	211,852.00	1,985.15	78,965.23	292,802.38
01/01-06/30/08	71.50	23,328.50	477.53	21,054.90	44,860.93
TOTAL	**731.70**	**235,180.50**	**2,462.68**	**100,020.13**	**337,663.31**

EXHIBIT "B"

ELLISON, SCHNEIDER & HARRIS L.L.P.
Anne J. Schneider, Esq. (Bar No. 72552)
2015 H Street
Sacramento, California 95814-3109
Telephone: (916) 447-2166
Facsimile: (916) 447-3512

SPECIAL REFEREE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO, RANCHO CUCAMONGA DIVISION

CHINO BASIN MUNICIPAL WATER DISTRICT, Plaintiff, v. THE CITY OF CHINO, et al. Defendants.	CASE NO. RCV 51010 Judge: Honorable J. Michael Gunn **DECLARATION OF PETER J. KIEL IN SUPPORT OF RESPONSE TO CUCAMONGA VALLEY WATER DISTRICT'S NOTICE OF MOTION AND MOTION TO DISCONTINUE THE APPOINTMENT OF THE SPECIAL REFEREE** Hearing Date: August 21, 2008 Time: 2:00 p.m. Dept: R8

I, Peter J. Kiel, declare as follows:

1. I am an attorney with Ellison, Schneider & Harris L.L.P. I have personal knowledge of the matters set forth in this Declaration and, if called to testify, will testify competently thereto.

2. My firm serves as special water counsel for the San Bernardino County Flood Control District, Riverside County Flood Control & Water Conservation District, and Orange County Flood Control District, collectively referred to as the "Local Sponsors", for water rights

and related matters pertaining to the Santa Ana River Mainstem Project. Ellison, Schneider & Harris L.L.P. has represented the Local Sponsors since 1995. The Santa Ana River Mainstem Project is a federally-authorized flood control project that includes Seven Oaks Dam, Prado Dam, and other flood control facilities along the Santa Ana River. The Local Sponsors are responsible for operating and maintaining the flood control facilities in the Santa Ana River Mainstem Project.

3. A number of applications to appropriate water from the Santa Ana River are pending before the State Water Resources Control Board ("State Water Board"). The Local Sponsors filed Protests with the State Water Board regarding the San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County ("Muni/Western") Application Nos. 31165 (filed March 21, 2001) and 31370 (filed November 4, 2002); Orange County Water District Application No. 31174 (filed April 26, 2001); and San Bernardino Valley Water Conservation District Application No. 31371 (subsequently withdrawn). True and correct copies of the cover pages of the Muni/Western, Orange County Water District and San Bernardino Valley Water Conservation District applications are attached hereto as Exhibits 1, 2 and 3, respectively. The protests require the applicants to enter into access agreements with the Local Sponsors if the applicants propose to use, access or affect the Santa Ana River Mainstem Project facilities, including Seven Oaks Dam, or related Local Sponsors' lands. True and correct copies of the form Protests to the Muni/Western, Orange County Water District and San Bernardino Valley Water Conservation District applications are attached hereto as Exhibits 4, 5 and 6, respectively.

4. The Chino Basin Watermaster filed Application No. 31369 to appropriate storm water from four stormwater channels tributary to the Santa Ana River for purposes of recharging the Chino groundwater basin. The Local Sponsors did not protest the Chino Basin Watermaster application.

5. Ellison, Schneider & Harris L.L.P. has not provided legal representation to the Local Sponsors regarding the Chino Basin Watermaster application, the recharge project, nor any other matter pertaining to the Chino Basin or Chino Basin Watermaster.

6. The State Water Board exercised its discretion to hold a joint administrative hearing to consider all of the pending Santa Ana River water right applications rather than holding individual hearings. On February 17, 2007, the State Water Board issued a Notice of Public Hearing for a joint hearing on five pending water right applications and one wastewater change petition within the Santa Ana River. A revised Notice was issued March 1, 2007. The Notice scheduled the following applications for joint hearing: Applications 31165 and 31370 of Muni/Western; Application 31369 of Chino Basin Watermaster; Application 31174 of Orange County Water District; Application 31371 of San Bernardino Valley Water Conservation District; and Application 31372 for the City of Riverside. The wastewater change petition to be considered in the hearing was Wastewater Change Petition WW-0045 of the City of Riverside. A true and correct copy of the Notice of Public Hearing is attached hereto as Exhibit 7. A true and correct copy of the Revised Notice of Public Hearing is attached hereto as Exhibit 8.

7. The Local Sponsors filed a Notice of Intent to Appear at the hearing in order to present testimony in the portion of the hearing regarding the applications Muni/Western, Orange County Water District, and San Bernardino Valley Water Conservation District only. The Local Sponsors did not intend to present evidence regarding any other application in the joint hearing. A true and correct copy of the Notice of Intent to Appear is attached hereto as Exhibit 9.

8. The State Water Board accepted the Local Sponsors' timely Notice of Intent to Appear and deemed the Local Sponsors a "Party" for the joint hearing. A true and correct copy of the March 26, 2007 letter from the State Water Board entitled, "Service List of Parties to Exchange Information: Water Right Hearing on Santa Ana River Water Right Applications and Wastewater Change Petition" is attached hereto as Exhibit 10.

9. The Local Sponsors served a copy of the Notice of Intent to Appear on all other parties to the joint hearing, including the Chino Basin Watermaster. A true and correct copy of the proof of service for the Notice of Intent to Appear is attached hereto as Exhibit 11.

10. The Chino Basin Watermaster did not express any objection to Ellison, Schneider & Harris L.L.P's representation of the Local Sponsors before or at the joint hearing.

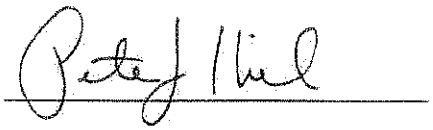
///

11. The Watermaster requested that all non-applicant parties in the hearing, including the Local Sponsors, stipulate to not oppose or present evidence regarding the Chino Basin Watermaster application. There were no protests against the Chino Basin Watermaster application and the Local Sponsors and other parties informed the Watermaster that they did not oppose the Watermaster application. On April 17, 2007, I entered into a stipulation on behalf of the Local Sponsors with the Chino Basin Watermaster whereby the Local Sponsors reiterated their position that they would not present evidence concerning the Watermaster's water right application or cross-examine any witness as to his or her direct testimony presented by Chino Basin Watermaster in support of Application 31369. The three other non-applicant parties submitted similar stipulations. The Chino Basin Watermaster submitted these stipulations to the State Water Board on April 17, 2007. A true and correct copy of the Chino Basin Watermaster letter enclosing the stipulations is attached hereto as Exhibit 12.

12. On May 2, 3, 4, and 8, 2007, the SWRCB conducted the Santa Ana River hearing. I represented the Local Sponsors in the hearing.

13. Consistent with the Stipulation, the Local Sponsors did not present evidence concerning the Watermaster's application and did not cross-examine any witness regarding the Watermaster's application. The Local Sponsors presented evidence solely regarding the Muni/Western applications.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and that this Declaration was executed this 30th day of July 2008, in Sacramento, California.



PETER J. KIEL

Exhibit 1

Working Copy
MSM

MINIMUM FILING FEE: $100.00
FILE ORIGINAL & ONE COPY
TYPE OR PRINT IN BLACK INK
(For explanation of entries required, see booklet "How to File an Application to Appropriate Water in California")

STATE OF CALIFORNIA
State Water Resources Control Board
DIVISION OF WATER RIGHTS
901 P Street, Sacramento
P. O. Box 2000, Sacramento, CA 95812-2000

2001 MAR 21 AM 9:51
DIVISION OF WATER RIGHTS SACRAMENTO
STATE WATER RESOURCES CONTROL BOARD

[X] APPLICATION TO APPROPRIATE WATER BY PERMIT
(Check one box only)
or
[ ] REGISTRATION OF SMALL DOMESTIC USE APPROPRIATION

(If this form is used to register a small domestic use appropriation, the terms "application" and "applicant" herein, and in related forms, shall mean "registration" and "registrant".)

Application No. 31165 (Leave blank)

1. APPLICANT See ATTACHMENT ONE

San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County (Name of applicant)

(909) 367 - 9211 (Telephone number where you may be reached between 8 a. m. and 5 p. m. - include area code)

P O Box 5906 (Mailing address) San Bernardino (City or town) CA (State) 92412-5906 (Zip code)

2. SOURCE

a. The name of the source at the point of diversion is Santa Ana River and certain tributaries (If unnamed, state that it is an unnamed stream, spring, etc.)

tributary to Pacific Ocean

b. In a normal year does the stream dry up at any point downstream from your project? YES [X] NO [ ] If yes, during what months is it usually dry? From July to November

What alternate sources are available to your project should a portion of your requested direct diversion season be excluded because of a dry stream or nonavailability of water? 1) Groundwater extractions from underground storage
2) State Water Project

3. POINTS of DIVERSION and REDIVERSION

a. The point(s) of diversion will be in the County of San Bernardino

b.

List all points giving coordinate distances from section corner or other tie as allowed by Board regulations i. e. California Coordinate System	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
	1/4 of 1/4				
See ATTACHMENT ONE	1/4 of 1/4				
	1/4 of 1/4				

c. Does applicant own the land at the point of diversion? YES [ ] NO [X]

d. If applicant does not own the land at point of diversion, state name and address of owner and what steps have been taken to obtain right of access: See ATTACHMENT ONE

4. PURPOSE of USE, AMOUNT and SEASON

a. In the table below, state the purpose(s) for which water is to be appropriated, the quantities of water for each purpose, and the dates between which diversions will be made. Use gallons per day if rate is less than 0.025 cubic foot per second (approximately 16,000 gallons per day). Purpose must only be "Domestic" for registration of small domestic use.*

PURPOSE OF USE (Irrigation, Domestic, etc.)	DIRECT DIVERSION: QUANTITY: RATE (Cubic feet per second or gallons per day)	DIRECT DIVERSION: QUANTITY: AMOUNT (Acre-feet per year)	DIRECT DIVERSION: SEASON OF DIVERSION: Beginning Date (Mo. & Day)	DIRECT DIVERSION: SEASON OF DIVERSION: Ending Date (Mo. & Day)	STORAGE: AMOUNT: Acre-feet per annum	STORAGE: COLLECTION SEASON: Beginning Date (Mo. & Day)	STORAGE: COLLECTION SEASON: Ending Date (Mo. & Day)
Municipal;	400 cfs	100,000	Oct. 1	Sep. 30	50,000	Oct. 1	Sep. 30
Industrial Irrigation Heat control Frost Protect Recreation	Direct Diversion and Rediversion				Surface reservoir storage at Seven Oaks Dam		
(Underground Storage)	400 cfs	100,000	Oct. 1	Sep. 30	100,000	Oct. 1	Sep. 30
	Direct Diversion and Rediversion to Underground Storage				Underground Storage See SUPPLEMENT 1 to WR1		
		100,000	TOTAL AMOUNT		100,000	TOTAL AMOUNT	

b. Total combined amount taken by direct diversion and storage during any one year will be 100,000 acre-feet.

* Not to exceed 4,500 gallons per day by direct diversion or 10 acre-feet per annum by storage.

Exhibit 2

Working Copy

MINIMUM FILING FEE: $100.00
FILE ORIGINAL & ONE COPY
TYPE OR PRINT IN BLACK INK
(For explanation of entries required, see booklet "How to file an Application to Appropriate Water in California")

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

STATE WATER RESOURCES CONTROL BOARD
DIV. OF WATER RIGHTS SACRAMENTO
2002 NOV -4 PM 3:04

APPLICATION TO APPROPRIATE WATER

APPLICATION No. 31370
(Leave Blank)

1. APPLICANT SEE ATTACHMENT ONE

San Bernardino Valley Municipal Water District (909) 387-9211
(Name of applicant) (Telephone - between 8 a.m. and 5 p.m.)

Western Municipal Water District of Riverside County

P.O. Box 5906 San Bernardino CA 92412-5906
(Mailing address) (City or town) (State) (Zip code)

2. SOURCE

a. The name of the source at the point of diversion is Santa Ana River & certain tributaries
(If unnamed, state that it is an unnamed stream, spring, etc.)

tributary to Pacific Ocean, SEE ATTACHMENT ONE

b. In a normal year does the stream dry up at any point downstream from your project? YES [X] NO [ ]
If yes, during what months is it usually dry? From July to November
What alternate sources are available to your project should a portion of your requested direct diversion season be excluded because of a dry stream or nonavailability of water? 1. Groundwater extractions from underground storage
2. State Water Project

3. POINTS of DIVERSION and REDIVERSION

a. The point(s) of diversion will be in the County of San Bernardino
and within Assessor's Parcel Number (APN #)

b.

List all points giving coordinate distances from section corner or other tie as allowed by SWRCB regulations i.e. California Coordinate System	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
	¼ of ¼				
SEE ATTACHMENT ONE	¼ of ¼				
	¼ of ¼				

c. Does applicant own the land at the point of diversion? YES [ ] NO [X]

d. If applicant does not own the land at point of diversion, state name and address of owner and what steps have been taken to obtain right of access: SEE ATTACHMENT ONE

"The energy challenge facing California is real. Every California needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov".
Additional copies of this form and water right information can be obtained at www.waterrights.ca.gov.

Amended Copy
a/o August 24, 1998 MSH

MINIMUM FILING FEE: $100.00
FILE ORIGINAL & ONE COPY
TYPE OR PRINT IN BLACK INK
(For explanation of entries required, see booklet "How to File an Application to Appropriate Water in California")

STATE OF CALIFORNIA
State Water Resources Control Board
DIVISION OF WATER RIGHTS
901 P Street, Sacramento
Mail: P. O. Box 2000, Sacramento, CA 95810

2001 APR 20 AM 9:44
STATE WATER RESOURCES CONTROL BOARD
DIV. OF WATER RIGHTS SACRAMENTO

(Check one box only)

[X] *APPLICATION TO APPROPRIATE WATER BY PERMIT*
or
[ ] *REGISTRATION OF SMALL DOMESTIC USE APPROPRIATION*

(If this form is used to register a small domestic use appropriation, the terms "application" and "applicant" herein, and in related forms, shall mean "registration" and "registrant".)

Application No. 30174
(Leave blank)

1. APPLICANT

Orange County Water District
(Name of applicant)

(714) 378-3200
(Telephone number where you may be reached between 8 a. m. and 5 p. m. - include area code)

10500 Ellis Avenue, P.O. Box 8300 (Mailing address) Fountain Valley (City or town) CA (State) 92728-8300 (Zipcode)

2. SOURCE

a. The name of the source at the point of diversion is Santa Ana River (All base and storm flows). (If unnamed, state that it is an unnamed stream, spring, etc.)
tributary to Pacific Ocean none.

b. In a normal year does the stream dry up at any point downstream from your project? YES[ ] NO[X] If yes, during what months is it usually dry? From _____ to _____
What alternate sources are available to your project should a portion of your requested direct diversion season be excluded because of a dry stream or nonavailability of water? N/A

3. POINTS of DIVERSION and REDIVERSION

a. The point(s) of diversion will be in the County of Orange and Riverside

b.

List all points giving coordinate distances from section corner or other tie as allowed by Board regulations i. e. *California Coordinate System*	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
See Attachment 3b. (Each attachment is numbered to ~~correspond to the section on this form to~~ which it relates.)	1/4 of 1/4				
	1/4 of 1/4				
	1/4 of 1/4				

See new attachment 3b 8/24/98

c. Does applicant own the land at the point of diversion? YES[X] NO[ ] except for diversion at Prado Dam

d. If applicant does not own the land at point of diversion, state name and address of owner and what steps have been taken to obtain right of access: N/A OCWD has agreement with Army COE to store water behind Dam. OCWD + Corps own land underlying the conservation pool.

attached stipulation agreement

4. PURPOSE of USE, AMOUNT and SEASON

All water stored in surface storage facilities or groundwater basins.

a. In the table below, state the purpose(s) for which water is to be appropriated, the quantities of water for each purpose, and the dates between which diversions will be made. Use gallons per day if rate is less than 0.025 cubic foot per second (approximately 16,000 gallons per day). Purpose must only be "Domestic" for registration of small domestic use.

PURPOSE OF USE (Irrigation, Domestic, etc.)	DIRECT DIVERSION: QUANTITY: RATE (Cubic feet per second or gallons per day)	DIRECT DIVERSION: QUANTITY: AMOUNT (Acre-feet per year)	DIRECT DIVERSION: SEASON OF DIVERSION: Beginning Date (Mo. & Day)	DIRECT DIVERSION: SEASON OF DIVERSION: Ending date (Mo. & Day)	STORAGE: AMOUNT: Acre-feet per annum	STORAGE: COLLECTION SEASON: Beginning Date (Mo. & Day)	STORAGE: COLLECTION SEASON: Ending date (Mo. & Day)
See Attachment 4a.							
			TOTAL AMOUNT			TOTAL AMOUNT	

emailed 8/24/98

b. Total combined amount taken by direct diversion and storage during any one year will be ~~614,600~~ 507,800 acre-feet.

see stipulation supplement

Not to exceed 4,500 gallons per day by direct diversion or 10 acre-feet per annum by storage.

WR 1 (12/88)

Exhibit 3

RUTAN & TUCKER, LLP
David B. Cosgrove (State Bar No. 115564)
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1998
Telephone: 714-641-5100
Facsimile: 714-546-9035

Attorneys for Petitioner
SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

STATE WATER RESOURCES CONTROL BOARD

OF THE STATE OF CALIFORNIA

In the Matter of the Petition of the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, Petitioner,	PETITION FOR AN ORDER REVISING THE DECLARATION THAT THE SANTA ANA RIVER STREAM SYSTEM IS FULLY APPROPRIATED TO PERMIT AN APPLICATION FOR APPROPRIATIVE RIGHTS

Petitioner SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT petitions the State Water Resources Control Board of the State of California as follows:

1. This Petition is presented pursuant to Title 23, California Code of Regulations, Section 871, following upon and in response to proceedings by the State Water Resources Control Board of the State of California ("Board") with respect to the applications of San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County, on the one hand, and the Orange County Water District, on the other. Hearings on these petitions were held on December 7 and 8, 1999, and led to Order No. WR2000-12, which revised the Fully Appropriated Stream Declaration for the Santa Ana River to accept the appropriative applications

MINIMUM FILING FEE: $104.00
FILE ORIGINAL & ONE COPY
TYPE OR PRINT IN BLACK INK
(For explanation of entries required, see booklet "How to file an Application to Appropriate Water in California")

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 657-2170, FAX: (916) 657-1485, Web: http://www.waterrights.ca.gov

APPLICATION TO APPROPRIATE WATER

APPLICATION No. _____
(Leave Blank)

1. APPLICANT (SEE ATTACHMENT)

San Bernardino Valley Water Conservation District (909) 793 - 2503
(Name of applicant) (Telephone - between 8 a.m. and 5 p.m.

1630 W. Redlands Blvd., Ste. A

PO Box 1839 Redlands CA 92373
(Mailing address) (City or town) (State) (Zip code)

2. SOURCE

a. The name of the source at the point of diversion is Santa Ana River and Mill Creek
(If unnamed, state that it is an unnamed stream, spring, etc.)

tributary to Pacific Ocean (SEE TABLE A AND FIGURE 2)

b. In a normal year does the stream dry up at any point downstream from your project? YES [X] NO [ ]
If yes, during what months is it usually dry? From _____ to (SEE ATTACHMENT)
What alternate sources are available to your project should a portion of your requested direct diversion season be excluded because of a dry stream or nonavailability of water? Can purchase state water
Project water

3. POINTS of DIVERSION and REDIVERSION

a. The point(s) of diversion will be in the County of San Bernardino

b.

List all points giving coordinate distances from section corner or other tie as allowed by SWRCB regulations i.e. California Coordinate System	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
(SEE TABLE A AND FIGURE 2)	¼ of ¼				
	¼ of ¼				
	¼ of ¼				

c. Does applicant own the land at the point of diversion? YES [X] and NO [X] (SEE ATTACHMENT)

d. If applicant does not own the land at point of diversion, state name and address of owner and what steps have been taken to obtain right of access: (SEE ATTACHMENT)

Exhibit 4

31165

ELLISON, SCHNEIDER & HARRIS L.L.P.

CHRISTOPHER T ELLISON
ANNE J. SCHNEIDER
JEFFERY D. HARRIS
DOUGLAS K. KERNER

ATTORNEYS AT LAW
2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

BARBARA A. BRENNER
ANDREW B. BROWN
ROBERT E. DONLAN
LYNN M. HAUG
JASON M. MILLER
CHRISTOPHER M. SANDERS
GREGGORY L. WHEATLAND

July 17, 2002

VIA HAND DELIVERY

Mr. Mitchell Moody
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

Re: San Bernardino Valley Municipal Water District
Water Right Application 31165

Dear Mr. Moody:

Attached please find the Protest of the Orange County Flood Control District, the San Bernardino County Flood control District, and the Riverside County Flood Control and Water Conservation District (collectively the "Santa Ana River Local Sponsors") to Water Right Application No. 31165 of the San Bernardino Valley Municipal Water District and the Western Municipal Water District of Riverside County ("Muni/Western"). By copy of this letter we have served Muni/Western's legal counsel and representative.

Please contact the undersigned if you have any questions or require additional information.

Very truly yours,

Robert E. Donlan

RED:rko
enc.

cc: Herb Nakasone (OCFCD)
Ken Miller (SBCFCD)
David Zappe (RCFCWCD)
David R.E. Aladjem, Muni/Western

State of California
State Water Resources Control Board

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST – APPLICATION

Based on Environmental Considerations, Public Interest, Public Trust, and Other Issues.
(Protests based on INJURY TO PRIOR RIGHTS should be completed on other side of form)

APPLICATION A031165

1. I, (We) Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, and San Bernardino County Flood Control District ("Santa Ana River Local Sponsors"),
Name of Protestant(s)
of See Attachment, (____) _____ have read carefully a copy
Mailing address and zip code of protestant(S) Telephone Number
of, or a notice relative to, Application 031165 of San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County to appropriate from Santa Ana River and Other Sources
Name of applicant Name of source
at a point at Seven Oaks Dam and other points of diversion.

2. ☒ I, (We) protest the above application on:

☐ ENVIRONMENTAL ISSUES, ETC.:
The appropriation will not best conserve the public interest, will have an adverse environmental impact and/or will adversely affect a public trust use of a navigable waterway. *
a. Public interest protests should clearly indicate how the appropriation will affect the public.
b. Environmental protest should identify specific impacts and provide supporting recitals on issues such as: plants, animals or fish affected, erosion, pollution, aesthetics, etc.
c. Public trust protests must identify the navigable waters to be affected and how the project will impact public trust values.
Protests of a general nature (not project specific) or opposed to constitutional or legislated state policy will not be accepted. A request for information or for studies to be conducted is not a protest.

☒ OTHER ISSUES, ETC.:
The appropriation will be contrary to law, will require access rights, will not be in the State Water Resources Control Board's jurisdiction, or concerns other issues.

Facts and, if applicable, points of law which support the foregoing allegations are as follows: Applicants do not have a right of access to Seven Oaks Dam.

3. Under what conditions may this protest be disregarded and dismissed?
(Conditions should be a nature that the applicant can address and either accept or submit mitigating measures.)
Execution of an Access Agreement with Local Sponsors, following or conditioned on receipt of all necessary Federal and State authorizations and approvals.

4. A true copy of this protest has been served upon the applicant by mail

* For the purpose of filing a protest, navigable waters include streams and lakes that may b e seasonably navigable in small recreational watercraft.

Date: July 17, 2002

Notes: Attach supplemental sheets as necessary. Protests must be filed within the time specified in the notice of application

Robert E. Dunn
Personally or by mail
Protestant(s) or authorized representative sign here
Robert E. Donlan, Esq.
Type or print name and title of representative, if applicable
Ellison, Schneider & Harris, L.L.P.
Street address
2015 H Street, Sacramento, CA 95814
City and State
(916) 447-2166
Telephone number

PRO-APP (1-00)

ELLISON, SCHNEIDER & HARRIS L.L.P.
ATTORNEYS AT LAW
2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

CHRISTOPHER T. ELLISON
ANNE J. SCHNEIDER
JEFFERY D. HARRIS
DOUGLAS K. KERNER
ROBERT E. DONLAN
ANDREW B. BROWN

BARBARA A. BRENNER
LYNN M. HAUG
JASON M. MILLER
CHRISTOPHER M. SANDERS
GREGORY L. WHEATLAND

March 27, 2003

VIA HAND DELIVERY

Mr. Mitchell Moody
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

2003 MAR 28 PM 1:43

Re: San Bernardino Municipal Water District and Western Municipal Water District of Riverside County (Water Right Application No. 31370)

Dear Mr. Moody:

Attached please find the Protest of the Orange County Flood Control District, the San Bernardino County Flood Control District, and the Riverside County Flood Control and Water Conservation District (collectively the "Santa Ana River Local Sponsors") to Water Right Application No. 31370 of the San Bernardino Municipal Water District and the Western Municipal Water District of Riverside County ("Muni/Western"). By copy of this letter we have served Muni/Western's legal counsel and representative.

Please contact the undersigned if you have any questions or require additional information.

Very truly yours,

Robert E. Donlan

enc.

cc: Herb Nakasone (OCFCD)
Ken Miller (SBCFCD)
Warren Williams (RCFCWCD)
David R.E. Aladjem, Muni/Western

State of California
State Water Resources Control Board

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST – APPLICATION

Based on Environmental Considerations, Public Interest, Public Trust, and Other Issues.
(Protests based on INJURY TO PRIOR RIGHTS should be completed on other side of form)

APPLICATION 31370

1. I, (We) Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, and San Bernardino County Flood Control District ("Santa Ana River Local Sponsors")
Name of Protestant(s)
of See Attachment A, (____) _____ have read carefully a copy
Mailing address and zip code of protestant(S) Telephone Number
of or a notice relative to, Application 31370 of San Bernardino Municipal Water District and Western Municipal Water District of Riverside County
Name of applicant
to appropriate from Santa Ana River and Tributary Sources
Name of source
at a point at Seven Oaks Dam and Other Points of Diversion

2. I, (We) protest the above application on:

☒ ENVIRONMENTAL ISSUES, ETC.:
The appropriation will not best conserve the public interest, will have an adverse environmental impact and/or will adversely affect a public trust use of a navigable waterway. *
a. Public interest protests should clearly indicate how the appropriation will affect the public.
b. Environmental protest should identify specific impacts and provide supporting recitals on issues such as: plants, animals or fish affected, erosion, pollution, aesthetics, etc.
c. Public trust protests must identify the navigable waters to be affected and how the project will impact public trust values.
Protests of a general nature (not project specific) or opposed to constitutional or legislated state policy will not be accepted. A request for information or for studies to be conducted is not a protest.

☒ OTHER ISSUES, ETC.:
The appropriation will be contrary to law, will require access rights, will not be in the State Water Resources Control Board's jurisdiction, or concerns other issues.

Facts and, if applicable, points of law which support the foregoing allegations are as follows:
Applicants do not have a right of access to Seven Oaks Dam. Also, see Attachment B regarding basis for environmental protest.

3. Under what conditions may this protest be disregarded and dismissed?
(Conditions should be a nature that the applicant can address and either accept or submit mitigating measures.)
Execution of an access agreement with local sponsors, following or conditioned on receipt of all necessary Federal and State authorizations and approvals.

4. A true copy of this protest has been served upon the applicant by U.S. Mail
Personally or by mail

* For the purpose of filing a protest, navigable waters include streams and lakes that may b e seasonally navigable in small recreational watercraft.

Date: March 27, 2003

Notes: Attach supplemental sheets as necessary. Protests must be filed within the time specified in the notice of application

Robert E. Donlan
Protestant(s) or authorized representative sign here
Robert E. Donlan, Esq.
Type or print name and title of representative, if applicable
Ellison, Schneider & Harris, L.L.P.
Street address
2015 H Street, Sacramento, CA 95814
City and State
(916) 447-2166
Telephone number

PRO-APP (1-00)

Exhibit 5

ELLISON, SCHNEIDER & HARRIS L.L.P.

CHRISTOPHER T. ELLISON
ANNE J. SCHNEIDER
JEFFERY D. HARRIS
DOUGLAS K. KERNER

ATTORNEYS AT LAW
2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

BARBARA A. BRENNER
ANDREW B. BROWN
ROBERT E. DONLAN
LYNN M. HALIG
JASON M. MILLER
CHRISTOPHER M. SANDERS
GREGORY L. WHEATLAND

July 17, 2002

VIA HAND DELIVERY

Mr. Mitchell Moody
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

Re: Orange County Water District
Water Right Application 31174

Dear Mr. Moody:

Attached please find the Protest of the Orange County Flood Control District, the San Bernardino County Flood control District, and the Riverside County Flood Control and Water Conservation District (collectively the "Santa Ana River Local Sponsors") to Water Right Application No. 31174 of the Orange County Water District ("OCWD"). By copy of this letter we have served OCWD's legal counsel and representative.

Please contact the undersigned if you have any questions or require additional information.

Very truly yours,

Robert E. Donlan

RED:rko
enc.

cc: Herb Nakasone (OCFCD)
Ken Miller (SBCFCD)
David Zappe (RCFCWCD)
General Manager (OCWD)
Christopher J. McNevin (OCWD)

State of California
State Water Resources Control Board

DIVISION OF WATER RIGHTS

P.O. Box 2000, Sacramento, CA 95812-2000

Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST – APPLICATION

Based on Environmental Considerations, Public Interest, Public Trust, and Other Issues.
(Protests based on INJURY TO PRIOR RIGHTS should be completed on other side of form)

APPLICATION 31174

1. I, (We) Orange County Flood Control District
Name of Protestant(s)
of See Attachment, ( ) _____ have read carefully a copy
Mailing address and zip code of protestant(S) Telephone Number
of, or a notice relative to, Application 31174 of Orange County Water District
Name of applicant
to appropriate from Santa Ana River
Name of source
at a point at Prado Dam

2. I, (We) protest the above application on:

☒ ENVIRONMENTAL ISSUES, ETC.:
The appropriation will not best conserve the public interest, will have an adverse environmental impact and/or will adversely affect a public trust use of a navigable waterway. *
a. Public interest protests should clearly indicate how the appropriation will affect the public.
b. Environmental protest should identify specific impacts and provide supporting recitals on issues such as: plants, animals or fish affected, erosion, pollution, aesthetics, etc.
c. Public trust protests must identify the navigable waters to be affected and how the project will impact public trust values.
Protests of a general nature (not project specific) or opposed to constitutional or legislated state policy will not be accepted. A request for information or for studies to be conducted is not a protest.

☒ OTHER ISSUES, ETC.:
The appropriation will be contrary to law, will require access rights, will not be in the State Water Resources Control Board's jurisdiction, or concerns other issues.

Facts and, if applicable, points of law which support the foregoing allegations are as follows: Applicant will need an operations agreement with the Orange County Flood Control District.

3. Under what conditions may this protest be disregarded and dismissed?
(Conditions should be a nature that the applicant can address and either accept or submit mitigating measures.)
Execution of an operations agreement with Orange County Flood Control District following or conditioned on receipt of all necessary Federal and State authorizations and approvals.

4. A true copy of this protest has been served upon the applicant by U.S. Mail
Personally or by mail

* For the purpose of filing a protest, navigable waters include streams and lakes that may b e seasonally navigable in small recreational watercraft.

Date: July 17, 2002

Note: Attach supplemental sheets as necessary. Protests must be filed within the time specified in the notice of application

Robert E. Donlan
Protestant(s) or authorized representative sign here
Robert E. Donlan, Esq.
Type or print name and title of representative, if applicable
Ellison, Schneider & Harris, L.L.P.
Street address
2015 H Street, Sacramento, CA 95814
City and State
(916) 447-2166
Telephone number

PRO-APP (1-00)

Exhibit 6

ELLISON, SCHNEIDER & HARRIS L.L.P.

ATTORNEYS AT LAW

2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

CHRISTOPHER T. ELLISON
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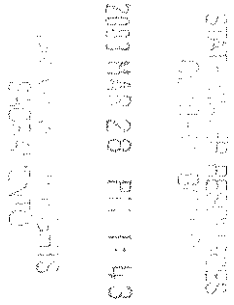
ANDREW B. BROWN

BARBARA A. BRENNER
LYNN M. HAUG
JASON M. MILLER
CHRISTOPHER M. SANDERS
GREGGORY L. WHEATLAND

March 27, 2003



VIA HAND DELIVERY

Mr. Mitchell Moody
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

Re: San Bernardino Valley Water Conservation District
(Water Right Application No. 31371)

Dear Mr. Moody:

Attached please find the Protest of the Orange County Flood Control District, the San Bernardino County Flood Control District, and the Riverside County Flood Control and Water Conservation District (collectively the "Santa Ana River Local Sponsors") to Water Right Application No. 31371 of the San Bernardino Valley Water Conservation District ("SBVWCD"). By copy of this letter we have served SBVWCD's legal counsel and representative.

Please contact the undersigned if you have any questions or require additional information.

Very truly yours,

Robert Donlan

Robert E. Donlan

enc.
cc: Herb Nakasone (OCFCD)
Ken Miller (SBCFCD)
Warren Williams (RCFCWCD)
David B. Cosgrove (SBVWCD)
D. Burnell Cavender (SBVWCD)

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

STATE WATER RESOURCES CONTROL BOARD
2003 MAR 28 PM 1:43
DIV OF WATER RIGHTS SACRAMENTO

PROTEST – APPLICATION

Based on Environmental Considerations, Public Interest, Public Trust, and Other Issues
(Protests based on INJURY TO PRIOR RIGHTS should be completed on other side of form)

APPLICATION 31371

1. I, (We) Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, and San Bernardino County Flood Control District ("Santa Ana River Local Sponsors")
Name of Protestant(s)
of See Attachment A, ( ) have read carefully a copy
Mailing address and zip code of protestant(S) Telephone Number
of, or a notice relative to, Application 31371 of San Bernardino Valley Water Conservation District
Name of applicant
to appropriate from Santa Ana River and Mill Creek
Name of source
at a point at Seven Oaks Dam and Other Points of Diversion

2. I, (We) protest the above application on;
☒ ENVIRONMENTAL ISSUES, ETC.:
The appropriation will not best conserve the public interest, will have an adverse environmental impact and/or will adversely affect a public trust use of a navigable waterway. *
a. Public interest protests should clearly indicate how the appropriation will affect the public.
b. Environmental protest should identify specific impacts and provide supporting recitals on issues such as: plants, animals or fish affected, erosion, pollution, aesthetics, etc.
c. Public trust protests must identify the navigable waters to be affected and how the project will impact public trust values.
Protests of a general nature (not project specific) or opposed to constitutional or legislated state policy will not be accepted. A request for information or for studies to be conducted is not a protest.

☒ OTHER ISSUES, ETC.:
The appropriation will be contrary to law, will require access rights, will not be in the State Water Resources Control Board's jurisdiction, or concerns other issues.

Facts and, if applicable, points of law which support the foregoing allegations are as follows:
Applicant does not have a right of access to Seven Oaks Dam. Also, see Attachment B regarding basis for environmental protest.

3. Under what conditions may this protest be disregarded and dismissed?
(Conditions should be a nature that the applicant can address and either accept or submit mitigating measures.)
Execution of an access agreement with local sponsors, following or conditioned on receipt of all necessary Federal and State authorizations and approvals.

4. A true copy of this protest has been served upon the applicant by U.S. Mail.
Personally or by mail

* For the purpose of filing a protest, navigable waters include streams and lakes that may b e seasonally navigable in small recreational watercraft.

Date: March 27, 2003

Notes: Attach supplemental sheets as necessary. Protests must be filed within the time specified in the notice of application

Robert E. Donlan
Protestant(s) or authorized representative sign here
Robert E. Donlan, Esq.
Type or print name and title of representative, if applicable
Ellison, Schneider & Harris, L.L.P.
Street address
2015 H Street, Sacramento, CA 95814
City and State
(916) 447-2166
Telephone number

PRO-APP (1-00)

Exhibit 7

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING
AND
PRE-HEARING CONFERENCE ON
WATER RIGHT APPLICATIONS AND WASTEWATER CHANGE PETITION

AND

NOTICE OF PETITION
FOR CHANGE IN PLACE OF USE, PURPOSE OF USE, AND DISCHARGE AMOUNT OF TREATED WASTEWATER
WASTEWATER CHANGE PETITION WW-0045

The State Water Resources Control Board will hold a Pre-Hearing Conference and Hearing to Consider Water Right Applications 31165 and 31370 of San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County; Application 31174 of Orange County Water District; Application 31369 of Chino Basin Watermaster; Application 31371 of San Bernardino Valley Water Conservation District; and Application 31372 and Wastewater Change Petition WW-0045 of the City of Riverside

Santa Ana River Watershed: Orange, San Bernardino, and Riverside Counties

A Pre-hearing Status Conference will commence on
Friday April 6, 2007, at 10:00 a.m.

The Hearing will commence on
Wednesday, May 2, 2007 at 9:00 a.m., and continue,
as necessary, on **Thursday, May 3, 2007** and **Friday, May 4, 2007** at 9:00 a.m.

The Conference and Hearing will take place at
Joe Serna Jr./Cal EPA Building, Coastal Hearing Room
1001 I Street, Second Floor, Sacramento, CA

SUBJECT OF THE HEARING

The State Water Resources Control Board (State Water Board or Board) intends to conduct an evidentiary hearing on the pending water right applications and the wastewater change petition described below beginning on May 2, 2007.

The purpose of this hearing is:

1) to receive evidence relevant to determining whether the State Water Board should approve, subject to terms and conditions, all or any of water right Applications 31165 and 31370, for the San Bernardino Valley Municipal Water District and Western

Municipal Water District of Riverside County (Muni/Western); 31174, for Orange County Water District; 31369, for the Chino Basin Watermaster; 31371, for San Bernardino Valley Water Conservation District; and 31372, for the City of Riverside; and

2) to receive evidence relevant to determining whether the State Water Board should issue an order approving Wastewater Change Petition No. WW-0045 for the City of Riverside's RWQCP and, if so, whether conditions are needed in the order to protect the environment, the public interest, and downstream water users.

NOTICE OF PETITION

Notice is hereby given that on December 1, 2006, the City of Riverside filed a petition for a change in the amount of discharge, place of use, and purpose of use of treated wastewater effluent from its Regional Water Quality Control Plant (RWQCP). This notice provides a description of the proposed project and also describes the procedure and requirements for submittal of protests against the petition.

PRE-HEARING CONFERENCE

The hearing officer will conduct a pre-hearing status conference to discuss the scope of the hearing, the status of protests, and any other appropriate procedural issues on **Friday, April 6, 2007, at 10:00 a.m.** The goal of the pre-hearing conference is to ensure that the hearing proceeds in an orderly and expeditious manner. The pre-hearing conference will not be used to hear arguments on or determine the merits of any hearing issues, other than procedural matters, unless the parties agree to resolve a hearing issue by stipulation. Following the pre-hearing conference, the State Water Board may at its discretion modify the hearing procedures or issues set forth in this notice in whole or in part. **All parties to the hearing must attend the pre-hearing conference.** Failure to attend the pre-hearing conference may result in exclusion from participation in the hearing.

BACKGROUND

Pending Water Right Applications

The Santa Ana River has been declared by the State Water Board to be a fully appropriated stream. However, following two hearings, the State Water Board revised the Declaration of Fully Appropriated Streams for the Santa Ana River to allow the applications that are the subject of the hearing to be filed.

The subject of surface water allocation on the Santa Ana River was also addressed in two stipulated judgments entered on April 17, 1969. (*Orange County Water Dist. v. City of Chino et al.* (Super. Ct. Orange County, 1969, No. 117628); *Western Mun. Water Dist. of Riverside County v. East San Bernardino County Water Dist.* (Super. Ct. Riverside County, 1969, No. 78426).) The Orange County judgment provided a basis for division of the water resources among the upper and lower portions of the Santa Ana River based upon specified flows at Prado Dam and Riverside Narrows but did not address the subject of whether parties hold water right permits or licenses pursuant to applicable provisions of the Water Code.

The California Environmental Quality Act (CEQA) requires the State Water Board, as a responsible agency with jurisdiction over the water rights and beneficial uses of water in the Santa Ana River, to consider the environmental effects of the projects identified in the

Environmental Impact Report certified by the lead agency prior to reaching a decision on whether or how to approve each project. The State Water Board is responsible for mitigating or avoiding the direct or indirect environmental impacts identified in the resource areas within the State Water Board's jurisdiction, specifically for the water right application and petition components of the projects. (Cal. Code Regs., tit. 14, §15096.)

For the applications and petition that are the subject of this hearing, each of the applicants and petitioner is the lead agency for its project or projects. The State Water Board will consider the extent to which the lead agency has analyzed each project under CEQA and will determine whether the lead agency addressed the water right application or petition component of the project with sufficient specificity for the State Water Board to issue a permit or approve the petition. Prior to issuing any permit or approving the petition, the State Water Board will make independent findings in each case and may require additional or different mitigation measures for impacts identified by the lead agency in resource areas within the State Water Board's jurisdiction.

San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County (Muni/Western); (Applications 031165 and 031370)

Muni/Western filed Application 31165 on March 21, 2001 and Application 31370 on November 4, 2002. Both applications were publicly noticed on January 11, 2002 and January 31, 2003, respectively. Under Applications 31165 and 31370, Muni/Western applied to divert water from the Santa Ana River, and from Bear Creek, Breakneck Creek, Keller Creek and Alder Creek, which are tributary to the Santa Ana River. The applicant proposes to operate the project as a combination of storage and direct diversion not to exceed 100,000 acre-feet per annum (afa) under each application, with a combined total diversion of 200,000 afa under the two applications.

Under Application 31165, Muni/Western proposes to divert up to 50,000 afa to storage at Seven Oaks Dam and up to 100,000 afa to 15 spreading facilities for underground storage and subsequent extraction and use. The applicant also proposes to directly divert up to 800 cubic feet per second (cfs) under Application 31165, not to exceed a total of 100,000 afa.

Under Application 31370, Muni/Western seeks a right to appropriate an additional 50,000 afa to surface storage at Seven Oaks Dam and up to 100,000 afa to existing spreading facilities for underground storage for subsequent extraction and use. The applicant also proposes to directly divert up to 1100 cfs under Application 31370, not to exceed 100,000 afa. The total seventeen points of diversion requested in the two applications are within Section 4, T1S, R2W, SBB&M, Section 19, T1N, R1W, SBB&M, and Section 26, T1N, R2W, SBB&M as shown on the map on file with the State Water Board. The points of diversion and place of use are within the County of San Bernardino.

Muni/Western proposes to divert water year-round for the purpose of municipal, industrial, irrigation, heat control, frost protection and recreational uses. Muni/Western proposes to use: existing and new facilities in the Seven Oaks Dam and reservoir construction area. Muni/Western also proposes construction of facilities immediately downstream of Seven Oaks Dam, and construction adjacent to the Devil Canyon Power Plant and afterbays of the State Water Project, in the area of lower Lytle Creek just north of the City of Rialto, and an area immediately south thereof.

The State Water Board received protests to Applications 31165 and 31370 from: (1) Bear Valley Mutual Water Company, Lugonia Water Company, North Fork Water Company and Redlands Water Company (Bear Valley et. al.); (2) California Sportfishing Protection Alliance (CSPA); (3) City of Redlands (Redlands); (4) California Department of Fish and Game (DFG); (5) East Valley Water District (EVWD); (6) Santa Ana River Local Sponsors comprised of Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, and San Bernardino County Flood Control District (Local Sponsors); (7) San Bernardino Valley Water Conservation District (District); and (8) United States Forest Service (USFS). Table 1, below, lists the status of these protests.

Muni/Western is CEQA lead agency for the proposed project. On January 22, 2007, Muni/Western released the Final Impact Report, Santa Ana River Water Rights Applications for Supplemental Water Supply.

Table 1: Status of Active Protests Against Applications 31165 and 31370**

Protestant	Basis of Protest			
	Adverse Environmental Impact	Negative Impact on Prior Rights	Does Not Serve the Public Interest	Other
Bear Valley et. al.(1)	Conditionally withdrawn	Conditionally withdrawn	Conditionally withdrawn	
California Department of Fish and Game	Outstanding			
Calif. Sportfishing Protection Alliance	Outstanding			
City of Redlands	Conditionally withdrawn	Conditionally withdrawn		
East Valley Water District	Conditionally withdrawn	Conditionally withdrawn	Conditionally withdrawn	Conditionally withdrawn (Water Quality Degradation)
Santa Ana River Local Sponsors(2)	Outstanding			
San Bernardino Valley Water Conservation District		Outstanding		
United States Forest Service	Outstanding			

(1) Bear Valley et. al. includes Bear Valley Mutual Water Company, Lugonia Water Company, North Fork Water Company and Redlands Water Company.
(2) The Santa Ana River Local Sponsors includes Orange County Flood Control District, San Bernardino County Flood Control District, Riverside County Flood Control and Water Conservation District.

** In each of the tables in this notice, "conditionally withdrawn" means an applicant and a protestant have resolved their protest based on the inclusion of part of their agreement, and, in some cases, a Superior Court judgment, as a term or terms in the water right permit. At this time the State Water Board has not agreed to include any negotiated protest resolution terms in any water right permit. It will make a decision regarding the applicable permit terms after receiving evidence.

Orange County Water District (OCWD) (Application 31174)

OCWD filed Application 31174 on April 20, 2001. The application was publicly noticed on January 11, 2002. OCWD applied to divert 505,000 afa from the Santa Ana River and would use existing and new facilities to store water in the Orange County groundwater basin for beneficial use within the region. OCWD seeks to appropriate a maximum of 146,800 afa to storage in surface reservoirs (including Prado Dam) and various recharge facilities, and up to 505,000 afa to underground storage for subsequent extraction and use. OCWD also requests the right to appropriate up to 800 cfs by direct diversion. The project will be operated so that the total annual amount of water appropriated as a combination of storage and direct diversion does not exceed 505,000 acre-feet in any one year. In order to accomplish this, OCWD has identified a group of near-term and longer-term projects. The projects include expansion of an OCWD recharge basin known as Anaheim Lake and expansion of a recharge project in Santiago Creek. Near-term projects for diverting additional Santa Ana River flows, using existing diversion structures, include surface recharge basins, creek enhancements, and basin cleaning vehicles. Long-term recharge projects include surface recharge basins, subsurface recharge facilities, and additional basin cleaning vehicles, some of which would require additional diversion structures. Long-term surface storage projects for later release into recharge basins include raising the maximum elevation of the Prado Dam conservation pool and construction of offstream surface water storage reservoirs. The eight points of diversion requested in the application are within Sections 10 and 20, T3S, R7W, SBB&M, Sections 2, 3, 5 and 7, T4S, R9W, SBB&M, as shown on the map on file with the State Water Board. The points of diversion and place of use are within the Counties of Orange and Riverside. The applicant proposes to collect the water to storage and directly divert year-round for the purpose of municipal, irrigation, recreational, and industrial uses.

The State Water Board received protests to Application 31174 from: (1) CSPA; (2) City of Redlands; (3) City of Riverside; (4) City of San Bernardino Municipal Water Department; (5) DFG; (6) EVWD; (7) USFS; and (8) Local Sponsors. Table 2, below, lists the status of these remaining active protests.

OCWD is CEQA lead agency for the proposed project. In March 2006 OCWD released the Recirculated Draft Program Environmental Impact Report for the Orange County Water District Application to Appropriate Santa Ana River Water (PEIR). OCWD received and responded to public comments on the PEIR, and OCWD's Board of Directors certified it in July 2006.

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Table 2: Status of Active Protests Against Application 31174

Protestant	Basis of Protest			
	Adverse Environmental Impact	Negative Impact on Prior Rights	Does Not Serve the Public Interest	Other
Calif. Sportfishing Protection Alliance	Outstanding			
California Department of Fish and Game	Conditionally withdrawn			
City of Redlands	Outstanding	Outstanding		
City of Riverside				Conditionally withdrawn (Water right would allow OCWD to divert water contrary to the 1969 Judgment.)
City of San Bernardino Municipal Water District	Conditionally withdrawn		Conditionally withdrawn	Conditionally withdrawn (Water right would allow OCWD to divert water contrary to the 1969 Judgment.)
East Valley Water District		Conditionally withdrawn	Conditionally withdrawn	
Local Sponsors (2)	Outstanding			

(1) The Santa Ana River Local Sponsors includes Orange County Flood Control District, San Bernardino County Flood Control District, Riverside County Flood Control and Water Conservation District.

Chino Basin Watermaster (Application 031369)

Chino Basin Watermaster (Watermaster) filed Application 31369 on November 4, 2002. The application was publicly noticed on January 31, 2003. Under Application 31369, the Watermaster seeks to divert 97,000 afa of water from Deer Creek, Day Creek, Etiwanda Creek, San Sevaine Creek, Chino Creek, San Antonio Creek and Cucamonga Creek, all of which are tributaries to the Santa Ana River. The proposed points of diversion are within Sections 11, 15, and 27, T1S, R8W, SBB&M; Sections 17, 22, 23, and 33, T1S, R7W, SBB&M; Sections 21, 23, 27, 31, and 34, T1N, R6W, SBB&M; Sections 10, 21, 28, 31, and 35, T1S, R6W, SBB&M; and Section 3, T2S, R6W, SBB&M as shown on the map on file with the State Water Board. The points of diversion and place of use are within the Counties of San Bernardino and Riverside. The place of use is within the boundaries of the areas administered by the Watermaster. The Watermaster proposes to collect the water to storage year-round for the purpose of municipal, industrial, irrigation, and stockwatering (dairy) uses. Under Application 31369 the Watermaster proposes to utilize an existing system of channels, diversion structures and 31 percolation basins (basins) designed to capture storm flows and recycled water flows in the Chino Basin for the project.

The Watermaster also holds a water right permit for diversion from Day Creek and East Etiwanda Creek (Permit 19895, Application 28473) and a water right permit for diversion from East Etiwanda Creek, San Sevaine Creek, and an unnamed stream tributary to San Sevaine Creek (Permit 20753, Application A028996).

The State Water Board received protests to Application 31369 from (1) USFS, (2) EVWD, (3) Cucamonga Valley Water District (CVWD), and (4) DFG. Table 3, below, lists the status of remaining active protests against Application 31369.

The Watermaster is CEQA lead agency for the proposed project. The project was analyzed under the Optimum Basin Management Plan Programmatic Environmental Impact Report and the project level initial studies that support the negative declarations for the recharge basins.

Table 3: Status of Active Protests Against Application 31369

Protestant	Basis of Protest			
	Adverse Environmental Impact	Negative Impact on Prior Rights	Does Not Serve the Public Interest	Other
California Department of Fish and Game	Outstanding			
Cucamonga Valley Water District		Outstanding		

San Bernardino Valley Water Conservation District (SBVWCD) (Application 031371)

SBVWCD filed Application 31371 on November 4, 2002. The application was subsequently publicly noticed on January 31, 2003. Under Application 31371, San Bernardino Valley Water Conservation District seeks to divert a maximum of 41,772 afa from the Santa Ana River and 19,800 afa from Mill Creek, which is tributary to the Santa Ana River. The maximum combined diversion from both sources would be 55,464 afa. The water would be collected to storage year-round for the purposes of maintaining and enhancing groundwater recharge and quality in the Bunker Hill Groundwater Basin, as well as making water available for numerous municipalities, agricultural users and other users. SBVWCD currently holds two water right licenses to divert a combined total of 10,400 afa from the Santa Ana River, License 2831 (Application 2217) and License 2832 (Application 4807). SBVWCD also filed a Statement of Water Diversion and Use (S011471) for the Santa Ana River. Under Application 31371, SBVWCD proposes to use twelve points of diversion and rediversion within Sections 4, 18, and 21, T1S, R2W, SBB&M as shown on the map on file with the State Water Board. The points of diversion, rediversion, and place of use are within the County of San Bernardino.

The State Water Board received protests to Application 31371 from (1) DFG, (2) City of Redlands, (3) Local Sponsors, (4) USFS, (5) Muni/Western, (6) EVWD, and (7) CSPA. Table 4, below, lists the status of these protests.

SBVWCD is the CEQA lead agency for the proposed project. The project is described in the Draft Environmental Impact Report. San Bernardino Valley Water Conservation District. Santa Ana River and Mill Creek Water Rights Application and Groundwater Management Plan, released on June 29, 2004. The District expects to complete a final EIR in early 2007.

Table 4: Status of Active Protests Against Application 31371

Protestant	Basis of Protest			
	Adverse Environmental Impact	Negative Impact on Prior Rights	Does Not Serve the Public Interest	Other
California Department of Fish and Game	Outstanding			
Calif. Sportfishing Protection Alliance	Outstanding			
City of Redlands	Outstanding			
East Valley Water District		Outstanding	Outstanding	
Muni/Western	Outstanding			
Santa Ana River Local Sponsors (1)	Outstanding			
United States Forest Service	Outstanding			

(1) The Santa Ana River Local Sponsors includes Orange County Flood Control District, San Bernardino County Flood Control District, Riverside County Flood Control and Water Conservation District.

City of Riverside (Application 031372)

The City of Riverside (City) filed Application 31372 on November 6, 2002. The application was publicly noticed on January 31, 2003. Under Application 31372, the City seeks to divert water from the Santa Ana River year-round at a maximum rate of 75 cfs, with a maximum diversion of 41,440 afa. The purposes of use are municipal, industrial and irrigation of citrus and nursery crops. The application states that the water will be diverted from the City's Regional Water Quality Control Plant (RWQCP). The point of diversion was listed in the application and notice as being within Section 25, T2S, R6W, SBB&M. The point of diversion and place of use are within the County of San Bernardino. In a meeting with Division staff in November 2006, City representatives stated that the recycled water will not be discharged and then diverted from the Santa Ana River. Rather, the City plans to deliver the water directly from the RWQCP. Staff advised the City that if it did not plan to divert water from the river or another watercourse, it would not need a water right permit, but would need to file a wastewater change petition pursuant to Water Code sections 1210-1212. The City has not yet withdrawn Application 31372.

The State Water Board received protests to Application 31372 from (1) EVWD, (2) USFS, (3) DFG, and (4) CSPA. Table 5, below, lists the status of these protests.

The City of Riverside is the CEQA lead agency for the proposed project. On October 12, 2006, the City circulated the City of Riverside Public Utilities Department Recycled Water Program Draft Program EIR (DPEIR) for a 45-day public review period.

Table 5: Status of Active Protests Against Application 31372

Protestant	Basis of Protest			
	Adverse Environmental Impact	Negative Impact on Prior Rights	Does Not Serve the Public Interest	Other
Calif. Sportfishing Protection Alliance	Outstanding			
California Department of Fish and Game	Outstanding			
East Valley Water District		Outstanding	Outstanding	
United States Forest Service	Outstanding			

City of Riverside (Pending Wastewater Change Petition WW-0045)

Water Code section 1211(a) requires the owner of a wastewater treatment facility to receive approval from the State Water Board of any change in the purpose of use, place of use, or point of discharge of treated wastewater. On December 1, 2006, the City filed Waste Water Change Petition WW-0045 that describes the same project previously described in the City's water right application. Since the City's project involves a reduction in the discharge of treated wastewater from the RWQCP, it was required to file a petition for approval of the State Water Board pursuant to Water Code section 1211. The City has petitioned the State Water Board to change the point of discharge, place of use, and purpose of use of its treated wastewater effluent from the Santa Ana River. The petition indicates that the City presently discharges approximately 36,000 afa to the Santa Ana River at the RWQCP. It plans to increase the capacity of the RWQCP to 67,400 afa by the year 2050, but due to the City's plans to increase the use of recycled water, it will effectively decrease its discharge of treated wastewater to the river to approximately 26,000 afa. The minimum discharge to the Santa Ana River will be 25,000 afa, which is expected to occur in the year 2025. The City's point of discharge on the Santa Ana River is within Section 25, T2S, R6W, SBB&M, within the County of San Bernardino.

The City of Riverside is the CEQA lead agency for the proposed project. The City intends to use the DPEIR prepared for Application 31371 to comply with CEQA.

KEY ISSUES

The State Water Board's decision whether to approve Applications 31165, 31370, 31174, 31369, 31371, and 31372, and Wastewater Change Petition WW-0045, must be based upon the record developed at the hearing. Applicants, protestants, and interested parties should submit exhibits and testimony responsive to the following issues that will be considered during the hearing:

1. Is there water available for appropriation by each of the applicants? If so, when is water available and under what circumstances?

2. Will approval of any of the applications or the petition result in any significant adverse impacts to water quality, the environment or public trust resources? If so, what adverse impact or impacts would result from the project or projects? Can these impacts be avoided or mitigated to a level of non-significance? If so, how? What conditions, if any,

should the State Water Board adopt to avoid or mitigate any potential adverse impacts on fish, wildlife, or other public trust resources that would otherwise occur as a result of approval of the applications and petition?

3. Is each of the proposed projects in the public interest? If so, what conditions, if any, should the State Water Board adopt in any permits that may be issued on the pending applications, or in any order that may be issued on the wastewater change petition, to best serve the public interest?

4. Will any of the proposed appropriations by the applicants and/or the proposed change in treated wastewater discharge by the petitioner cause injury to the prior rights of other legal users of water?

5. What should be the relative priority of right assigned to any permits that may be issued on the pending applications?

6. What effect, if any, will the projects have on groundwater and/or movement of any contaminated groundwater plumes? Can the effects be mitigated? If so, how?

PROTEST OF WASTEWATER CHANGE PETITION WW-0045 AND HEARING PARTICIPATION

IF YOU WISH TO PROTEST the City of Riverside's wastewater change petition, you may submit a protest in accordance with the provisions of California Code of Regulations, Title 23, Division 3, Chapter 2, Article 9, commencing with section 745. Standard forms on which to submit protests may be obtained from the State Water Board's Division of Water Rights or downloaded form the Division of Water Rights website at http://www.waterrights.ca.gov/forms/pro_pet.pdf. Protests must be submitted in writing with a duplicate copy to the Petitioner, City of Riverside, and must be **received** by the State Water Board no later than **noon on Wednesday, March 21, 2007. Any correspondence directed to the petitioner should be mailed to:**

Kevin Milligan, Assistant Director
City of Riverside
Public Utilities Department
3901 Orange Street
Riverside, CA 92601

Nicholas F. Bonsignore
Wagner & Bonsignore Consulting Engineers
444 North Third Street, Suite 325
Sacramento, CA 95814

A person may file a protest based on any of the following factors: (1) Interference with prior water rights; (2) Adverse environmental impact; (3) Not in the public interest; (4) Contrary to law; and (5) Not within the jurisdiction of the State Water Board. All protests must clearly describe the objections to approval of the petition and the factual basis for those objections. For example, If the objection is based on injury to existing water rights, the protest must describe the specific Injury to the existing water right that would result from approval of the changes proposed by the petition. In addition, the party claiming interference with prior rights must

provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

The State Water Board intends to conduct a hearing on the wastewater change petition beginning on Wednesday, May 2, 2007, to receive evidence related to the petition and any unresolved protests. If you intend to participate in the hearing, you must submit a **Notice of Intent to Appear** indicating your intent to appear to present evidence in support of your protest, and you must comply with the other instructions below for those who wish to take part in the hearing.

HEARING PARTICIPATION

IF YOU WANT TO TAKE PART IN THE HEARING on the pending water right applications and wastewater change petition, you should carefully read the enclosure titled "Information Concerning Appearance at Water Right Hearings." As stated in that enclosure, parties intending to present evidence at the hearing must submit a **Notice of Intent to Appear**, which must be **received** by the State Water Board no later than **noon on Wednesday, March 21, 2007**. All parties to the hearing must attend the **pre-hearing conference on Friday, April 6, 2007, at 10:00 a.m.**

On or about **Monday, March 26, 2007,** the State Water Board will mail out a list of parties who have indicated intent to participate in the hearing in order to facilitate exchange of testimony, exhibits and witness qualifications. Copies of witnesses' proposed testimony, exhibits, list of exhibits, and qualifications must be **received** by the State Water Board and served on each of the parties who have indicated their intent to appear, no later than **noon on Monday, April 16, 2007.**

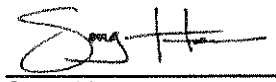
PARKING, ACCESSIBILITY, AND SECURITY

The enclosed maps show the location of the Joe Serna Jr./Cal-EPA Building and public parking sites in Sacramento. The Joe Serna Jr./Cal-EPA Building Coastal Hearing Room is accessible to persons with disabilities.

Due to enhanced security precautions at the Cal-EPA Headquarters Building, all visitors are required to register with security staff prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

IF YOU HAVE ANY QUESTIONS

State Water Board Chair Tam Doduc will preside as hearing officer over this proceeding. Other Board members may be present during the hearing. State Water Board staff hearing team members will include Erin Mahaney, Senior Staff Counsel, Jane Farwell, Environmental Scientist, Jean McCue, Water Resource Control Engineer, and Paul Murphey, Engineering Geologist. The hearing staff will assist the hearing officer and the other members of the State Water Board during the hearing. During the pendency of this proceeding and commencing no later than the issuance of this notice, there shall be no *ex parte* communications between State Water Board members or State Water Board hearing team staff and any of the other participants regarding substantive or controversial procedural matters within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) Questions regarding non-controversial procedural matters (Gov. Code, § 11430.20, subd. (b)) should be directed to Erin Mahaney, at (916) 341-5187 or Jane Farwell, at (916) 341-5349.



Song Her
Clerk to the Board

Date: February 16, 2007

Enclosures

Exhibit 8

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

REVISED

NOTICE OF PUBLIC HEARING AND PRE-HEARING CONFERENCE ON WATER RIGHT APPLICATIONS AND WASTEWATER CHANGE PETITION

AND

NOTICE OF PETITION FOR CHANGE IN PLACE OF USE, PURPOSE OF USE, AND DISCHARGE AMOUNT OF TREATED WASTEWATER WASTEWATER CHANGE PETITION WW-0045

The State Water Resources Control Board (State Water Board) will hold a Pre-Hearing Conference and Hearing to Consider Water Right Applications 31165 and 31370 of San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County; Application 31174 of Orange County Water District; Application 31369 of Chino Basin Watermaster; Application 31371 of San Bernardino Valley Water Conservation District; and Application 31372 and Wastewater Change Petition WW-0045 of the City of Riverside

Santa Ana River Watershed: Orange, San Bernardino, and Riverside Counties

CHANGES TO ORIGINAL NOTICE ISSUED ON FEBRUARY 16, 2007

The February 16, 2007 Notice available at
http://www.waterrights.ca.gov/Hearings/SantaAnaRiver.html
remains in effect except for the changes noted below:

1) The Pre-hearing Status Conference has been rescheduled and will now commence on **Thursday April 5, 2007, at 10:00 a.m.** All other dates in the February 16, 2007 Notice remain unchanged. (The Hearing will commence on **Wednesday, May 2, 2007 at 9:00 a.m.**, and continue, as necessary, on **Thursday, May 3, 2007 and Friday, May 4, 2007 at 9:00 a.m.** The Conference and Hearing will take place at Joe Serna Jr./ Cal EPA Building, **Coastal Hearing Room,** 1001 I Street, Second Floor, Sacramento, CA.)

2) State Water Board Member **Arthur G. Baggett, Jr.**, will preside as hearing officer over this proceeding. Other Board members may be present during the hearing.

3) The State Water Board will mail a service list of parties to exchange information to each hearing party who has submitted a Notice of Intent to Appear. The State Water Board will also post the service list on its website at: http://www.waterrights.ca.gov/Hearings/SantaAnaRiver.html. No later than **noon on Monday, April 16, 2007**, each party shall serve a copy of its Notice of Intent to Appear on each of the parties identified on the service list and shall also serve on the State Water Board and the parties on the service list a statement of service that indicates the manner of service.

4) Corrections to typographical errors in the February 16, 2007 Notice, shown in underline and strikeout, are as follows:

   a. On page 8, under the heading "City of Riverside (Application 031372)" the third sentence should read, "Under Application 31372, the City seeks to divert water from the Santa Ana River year-round at a maximum rate of 75 cfs, with a maximum diversion of ~~41,440~~ 41,400 afa." The seventh sentence should read, "The point of diversion and place of use are within the County of ~~San Bernardino~~ Riverside."

   b. On page 9, under the heading "City of Riverside (Pending Wastewater Change Petition WW-0045) the last sentence in the first paragraph should read, "The City's point of discharge on the Santa Ana River is within Section 25, T2S, R6W, SBB&M, within the County of ~~San Bernardino~~ Riverside." The second sentence in the second paragraph should read, "The City intends to use the DPEIR prepared for Application 3137~~4~~2 to comply with CEQA."

IF YOU HAVE ANY QUESTIONS

State Water Board staff hearing team members will include Erin Mahaney, Senior Staff Counsel, Jane Farwell, Environmental Scientist, Jean McCue, Water Resource Control Engineer, and Paul Murphey, Engineering Geologist. The hearing staff will assist the hearing officer and the other members of the State Water Board during the hearing. During the pendency of this proceeding, there shall be no *ex parte* communications between State Water Board members or State Water Board hearing team staff and any of the other participants regarding substantive or controversial procedural matters within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.)

Questions regarding non-controversial procedural matters (Gov. Code, § 11430.20, subd. (b)) should be directed to Erin Mahaney at (916) 341-5187, or Jane Farwell at (916) 341-5349.

Song Her
Clerk to the Board

Date: March 1, 2007

Exhibit 9

NOTICE OF INTENT TO APPEAR

Santa Ana River Mainstem Project Local Sponsors (Orange County Flood Control District, Riverside County Flood Control and Water Conservation District and San Bernardino County Flood Control District) plan to participate in the water right hearing regarding:

SANTA ANA RIVER HEARING
scheduled to commence
Wednesday, May 2, 2007

☒ I/we plan to participate in the portion of the hearing regarding water right Applications 31165, 31370, 31174, and 31371.

☒ I/we agree to accept electronic service of hearing-related materials.

☒ I/we plan to call the following witnesses to testify at the hearing:

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Vana Olson, Director (SBCFCD)	The panel will discuss the flood control districts' role as Local Sponsors for the U.S. Army Corps of Engineers' (USACE) Santa Ana River Mainstem (SAR) Project, including: a brief overview of the SAR project, with an emphasis on Seven Oaks Dam (SOD); the Sponsors' relationship with the USACE; the Sponsor's ownership and operational responsibilities with an emphasis on ownership and operation of SOD; and other issues related to the Sponsors' protests and CEQA comments.	These witnesses will be available to testify as a panel. Total time 1 hour.	No
Jim Borcuk, Chief, Federal Projects Division (SBCFCD)			No
Lance Natsuhara, Manager, Santa Ana River Project Section (OCFCD)			No
Nadeem Majaj, Manager, Flood Control Division (OCFCD)			No
Zully Smith, Senior Civil Engineer, Special Projects Section (RCFCWCD)			No
Thomas Rheiner, Associate Civil Engineer (RCFCWCD)			No

(If more space is required, please add additional pages or use reverse side)

Name, Address, Phone Number and Fax Number of Attorney or Other Representative

Signature: _____ Dated: March 20, 2007

Name (Print): Peter J. Kiel
Mailing Address: Ellison, Schneider & Harris LLP
2015 H Street
Sacramento, CA 95814-3109
Phone Number: (916) 447-2166 Fax Number: (916) 447-3512
E-mail Address: pjk@eslawfirm.com

Exhibit 10

Peter Kiel

From: Patty Slomski

Sent: Monday, April 16, 2007 12:34 PM

To: Patty Slomski; emahaney@waterboards.ca.gov; Jane Farwell; akeats@biological diversity.org; bherrema@hatchparent.com; waterlaw@pacbell.net; jill.willis@bbklaw.com; swilson@riversideca.gov; skennedy@bbmblaw.com; jim@city-attorney.com; joshua.rider@usda.gov; chrismcnevin@pillsburylaw.com; daladjem@downeybrand.com; kobrien@downeybrand.com; dcosgrove@rutan.com; mluesebrink@mannatt.com; cferrari@dfg.ca.gov; Peter Kiel; nino.mascolo@sce.com

Subject: RE: Santa Ana River Hearing

Attachments: Local Sponsors' Notice of Intent to Appear.pdf; POS (NOI).pdf

Please see the attached Notice of Intent to Appear and Proof of Service regarding the Notice of Intent to Appear on behalf of the Local Sponsors.

Patty Slomski, Paralegal
Ellison, Schneider & Harris
2015 H Street
Sacramento, CA 95814
(916) 447-2166
mailto:ps@eslawfirm.com

PROOF OF SERVICE

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is ELLISON, SCHNEIDER & HARRIS L.L.P.; 2015 H Street; Sacramento, California 95814-3109; telephone (916) 447-2166.

On April 16, 2007, I served the attached *Local Sponsors Notice of Intent to Appear* by electronic mail to each person shown on the attached service list and by personal service to the SWRCB.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 16, 2007, at Sacramento, California.

/S/
Patty Slomski

SANTA ANA RIVER HEARING
May 2, 2007 HEARING
SERVICE LIST

Adam Keats
Center for Biological Diversity
1095 Market Street, Suite 511
San Francisco, CA 94103
akeats@biologicaldiversity.org

Bradley J. Herrema
Chino Basin Watermaster
Hatch & Parent
21 East Carrillo Street
Santa Barbara, CA 93101
bherrema@hatchparent.com

Warren P. Felger, Esq.
City of Redlands
Felger & Associates
726 West Barstow Avenue, Suite 106
Fresno, CA 93704
waterlaw@pacbell.net

Jill Willis, The City of Riverside
Best Best & Krieger
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Riverside, CA 92501
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Susan Wilson, Deputy City Attorney
The City of Riverside
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Riverside, CA 92522
swilson@riversideca.gov

Steven M. Kennedy, Esq.
East Valley Water District
Brunick, McElhaney & Beckett
1839 Commercenter West
P.O. Box 6425
San Bernardino, CA 92412-6425
skennedy@bbmblaw.com

James L. Erickson, Esq.
City of Chino
Counsel to the City of Chino City Attorney
c/o Jimmy L. Gutierrez, APC
12616 Central Avenue
Chino, CA 91710
jim@city-attorney.com

Joshua S. Rider, Staff Attorney
Forest Service, USDA
33 New Montgomery, 17th Floor
San Francisco, CA 94105
joshua.rider@usda.gov

Christopher J. McNevin, Esq.
Orange County Water District
Pillsbury Winthrop Shaw Pittman LLP
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406
chrismcnevin@pillsburylaw.com

David R.E. Aladjem
San Bernardino Valley Municipal Water
District and Western Municipal Water
District of Riverside County
Downey Brand LLP
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
daladjem@downeybrand.com

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San Bernardino Valley Municipal Water
District and Western Municipal Water
District of Riverside County
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Sacramento, CA 95814
kobrien@downeybrand.com

David Cosgrove
San Bernardino Valley Water Conservation District
Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626-1931
dcosgrove@rutan.com

Marc Luesebrink
San Bernardino Valley Water Conservation District
Manatt, Phelps, and Phillips
11355 West Olympic Blvd.
Los Angeles, CA 90064
mluesebrink@mannatt.com

Nino Mascolo
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
nino.mascolo@sce.com

Erin Mahaney
Division of Water Rights
State Water Resources Control Board
PO Box 2000
Sacramento, CA 95812-2000
EMahaney@waterboards.ca.gov

Jane Farwell
Division of Water Rights
State Water Resources Control Board
PO Box 2000
Sacramento, CA 95812-2000
JFarwell@waterboards.ca.gov

Song Her
State Water Resources Control Board
PO Box 2000
Sacramento, CA 95812-2000
SHer@waterboards.ca.gov

PARTICIPANTS MAKING POLICY STATEMENTS ONLY

Kenneth L. Jeske, Director
Public Works and Community Services Agency
City of Ontario
1425 South Bon View Avenue
Ontario, CA 91761-4406
(VIA US MAIL)

Chandra Ferrari
Department of Fish and Game
1416 Ninth Street, 13th Floor
Sacramento, CA 95814
cferrari@dfg.ca.gov

Exhibit 11

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

March 26, 2007

VIA ELECTRONIC MAIL

TO: ENCLOSED SERVICE LIST

SERVICE LIST OF PARTIES TO EXCHANGE INFORMATION: WATER RIGHT HEARING ON SANTA ANA RIVER WATER RIGHT APPLICATIONS AND WASTEWATER CHANGE PETITION

In accordance with the State Water Resources Control Board's (State Water Board) combined Notice of Petition and Notice of Public Hearing dated February 16, 2007, as revised March 1, 2007, enclosed is a Service List of Parties To Exchange Information. These hearing participants have submitted a Notice of Intent to Appear (NOI) and have indicated intent to appear and present evidence during the above referenced hearing. Persons who intend to make policy statements are not required to exchange information and need not receive copies of testimony or exhibits from the parties. The hearing is scheduled for May 2, 2007, to be continued as necessary, on May 3 and May 4, 2007.

As instructed in section #4 of the notice's attachment entitled, "Information Concerning Appearance at Water Right Hearing", no later than **noon, April 16, 2006,** each participant shall submit to the State Water Board either: seven paper copies of each of its exhibits or six paper copies and one electronic copy of each of its exhibits (total email attachment limitation: <15 MB). (See section #5 for requirements for electronic submissions.) Each participant shall also serve a copy of each exhibit and a copy of its NOI on every participant on the service list. Participants may serve those parties who agree to electronic service with an electronic copy of exhibits. Participants must serve paper copies of exhibits on those participants who do not agree to electronic service.

The Notices of Intent to Appear and all other documents related to this hearing will also be posted on the "Hearings Program – Santa Ana River Hearing" web site: http://www.waterrights.ca.gov/Hearings/SantaAnaRiver.html

If you have any questions, please call me at (916) 341-5349 or email me at jfarwell@waterboards.ca.gov

Sincerely,

ORIGINAL SIGNED BY

Jane Farwell
Hearings and Special Projects Section

Enclosures

SANTA ANA RIVER HEARING
May 2, 2007 HEARING
SERVICE LIST
(March 26, 2007)

PARTIES TO EXCHANGE INFORMATION
(Note: The parties whose E-mail addresses are listed below agreed to accept electronic service, pursuant to the rules specified in the hearing notice.)

Adam Keats Center for Biological Diversity	1095 Market Street, Suite 511 San Francisco, CA 94103 akeats@biologicaldiversity.org
Bradley J. Herrema Chino Basin Watermaster	Hatch & Parent 21 East Carrillo Street Santa Barbara, CA 93101 bherrema@hatchparent.com
Warren P. Felger, Esq. City of Redlands	Felger & Associates 726 West Barstow Avenue, Suite 106 Fresno, CA 93704 waterlaw@pacbell.net
Jill Willis, The City of Riverside	Best Best & Krieger 3750 University Ave., Suite 400 Riverside, CA 92501 jill.willis@bbklaw.com
Steven M. Kennedy, Esq. East Valley Water District	Brunick, McElhaney & Beckett 1839 Commercenter West P.O. Box 6425 San Bernardino, CA 92412-6425 skennedy@bbmblaw.com
James L. Erickson, Esq. City of Chino	Counsel to the City of Chino City Attorney c/o Jimmy L. Gutierrez, APC 12616 Central Avenue Chino, CA 91710 jim@city-attorney.com
Joshua S. Rider, Staff Attorney Forest Service, USDA	33 New Montgomery, 17th Floor San Francisco, CA 94105 joshua.rider@usda.gov
Christopher J. McNevin, Esq. Orange County Water District	Pillsbury Winthrop Shaw Pittman LLP 725 South Figueroa Street, Suite 2800 Los Angeles, CA 90017-5406 chrismcnevin@pillsburylaw.com
David R.E. Aladjem, San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County	Downey Brand LLP 555 Capitol Mall, 10th Floor Sacramento, CA 95814 daladjem@downeybrand.com

Kevin M. O'Brien, San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County	Downey Brand LLP 555 Capitol Mall, 10th Floor Sacramento, CA 95814 kobrien@downeybrand.com
David Cosgrove, San Bernardino Valley Water Conservation District	Rutan & Tucker, LLP 611 Anton Blvd., 14th Floor Costa Mesa, CA 92626-1931 dcosgrove@rutan.com
Marc Luesebrink, San Bernardino Valley Water Conservation District	Manatt, Phelps, and Phillips 11355 West Olympic Blvd. Los Angeles, CA 90064 mluesebrink@mannatt.com
Peter J. Keil, Santa Ana River Mainstem Project Local Sponsors	Ellison, Schneider & Harris LLP 2015 H Street Sacramento, CA 95814-3109 pjk@eslawfirm.com
Nino Mascolo, Southern California Edison Company	Southern California Edison Company 2244 Walnut Grove Avenue Rosemead, CA 91770 nino.mascolo@sce.com

PARTICIPANTS MAKING POLICY STATEMENTS ONLY

Kenneth L. Jeske, Director
Public Works and Community Services Agency
City of Ontario
1425 South Bon View Avenue
Ontario, CA 91761-4406

Exhibit 12

21 East Carrillo Street
Santa Barbara, CA 93101
Telephone: (805) 963-7000
Fax: (805) 965-4333

HATCH & PARENT
A Law Corporation

Michael T. Fife

(805) 882-1453
MFife@HatchParent.com

April 17, 2007

Via E-mail and Regular Mail

Arthur G. Baggett, Jr.
State Water Resources Control Board
1001 "I" Street
Sacramento, CA 95814

Re: Stipulations Concerning Application 31369

Dear Mr. Baggett:

At the pre-hearing conference of April 5, 2007, Chino Basin Watermaster requested that you establish limitations on the presentation of evidence concerning Application 31369 and on the cross-examination of witnesses presented by Watermaster in support of Application 31369. This request was based on the fact that there are no outstanding protests against Application 31369, and that the Board has the discretion to grant an unprotested application without a hearing (*see* Water Code § 1351).

Some parties present at the pre-hearing conference joined in this request, and others affirmed that they will not be presenting evidence concerning Application 31369, nor will they be cross-examining any of Watermaster's witnesses. No party raised any objections to Watermaster's request as it applies to Application 31369. You instructed us to obtain written stipulations to this effect.

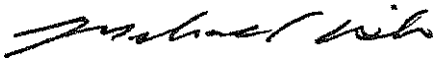
We have contacted the non-applicant parties who will be participating in the hearing and have obtained stipulations from each of them that they will neither present evidence concerning Application 31369, nor will they cross-examine witnesses presented in support of Application 31369. These stipulations are from: the Center for Biological Diversity, the U.S. Forest Service, the Santa Ana Mainstem Project Local Sponsors, Southern California Edison, East Valley Water District, and the City of Chino. Watermaster has an existing stipulation with the Department of Fish & Game which has already been submitted, and does not feel stipulations from the Applicant parties are necessary given the briefing regarding participation in the hearing filed on April 16, 2007, and given the fact that the Applicants are approaching the hearing in a cooperative spirit and utilizing joint witnesses.

In reliance on the stipulations, Watermaster has limited its presentation of evidence as indicated in its Notice of Intent to Appear in order to narrowly focus on the Key Issues raised in the February 16, 2007 Hearing Notice. This will allow the hearing to proceed more expeditiously by eliminating the presentation of corroborating testimony which will be unnecessary since the basic facts that will be presented concerning Application 31369 will be unchallenged by any of the parties.

Given that the Board need not even hold a hearing in order to issue a permit as to an unprotested application, Watermaster believes that the presentation of its case-in-chief can be further limited in order to streamline the hearing and save unnecessary time and expense for all parties involved.

In the discussion of the order of proceeding at the pre-hearing conference call on April 20, 2007, Watermaster will request guidance on how it can further limit its verbal presentation of evidence and instead rely on its uncontested written evidence as submitted on April 16, 2007.

Sincerely,



Michael T. Fife
For HATCH & PARENT
A Law Corporation

MXF:nr

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

As there are no protests against Chino Basin Watermaster 's Application 31369, the Center for Biological Diversity hereby stipulates that it will not present evidence concerning Application 31369, nor will it cross-examine any witnesses whose direct testimony is presented by Chin Basin Watermaster in support of Application 31369.

April 6, 2007

Adam Keats
~~Center~~ of Biological Diversity

SB 424132 v1:008.150 0001

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

As there are no protests against Chino Basin Watermaster's Application 31369, the Santa Ana River Mainstream Project Local Sponsors hereby stipulate that they will not present evidence concerning Application 31369, nor will they cross-examine any witness as to his or her direct testimony presented by Chino Basin Watermaster in support of Application 31369. The Local Sponsors' execution of this stipulation shall not be construed as an endorsement of or concurrence with the testimony offered by Chino Basin Watermaster in support of Application 31369.

April 17, 2007

Peter J. Kiel
Ellison, Schneider & Harris LLP
Santa Ana River Mainstream
Project Local Sponsors

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

As there are no protests against Chino Basin Watermaster 's Application 31369, and as Watermaster and the United States Department of Agriculture Forest Service resolved the Forest Service protest against Application 31369, the Forest Service hereby stipulates that it will not present evidence concerning Application 31369, nor will it cross-examine any witnesses whose direct testimony is presented by Chin Basin Watermaster in support of Application 31369.

April 6, 2007

Joshua S. Rider
Attorney for Forest Service, USDA

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

The Southern California Edison Company (SCE) hereby stipulates that it will not present evidence concerning the Chino Basin Watermaster 's Application 31369, nor will SCE cross-examine any witnesses, presented by Chino Basin Watermaster or others, whose direct testimony is related to Application 31369.

April 6, 2007

Nino Mascolo
Senior Attorney
Southern California Edison Co.

SB 424274 v1:008350000l

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

To the extent that the testimony, evidence, and argument presented by Chino Basin Watermaster in support of Application 31369 is consistent with the terms of the *Stipulation to Dismiss Protest by East Valley Water District to Notice of Application to Appropriate Water by Permit* entered into between East Valley Water District and Chino Basin Watermaster on or about March 30, 2005, and filed with the State Water Resources Control Board on or about April 25, 2005, East Valley Water District hereby stipulates that it will not present any direct testimonial evidence concerning Application 31369, nor will it cross-examine any witnesses whose direct testimony is presented by Chino Basin Watermaster in support of Application 31369.

April 16, 2007

Steven M. Kennedy
East Valley Water District

SB 425409 v1:008350.0001

Stipulation with Chino Basin Watermaster Regarding Testimony Relative to Application 31369

As there are no protests against Chino Basin Watermaster's Application 31369, the City of Chino hereby stipulates that it will not present any evidence concerning Application 31369 other than its Policy Statement, nor will it cross-examine any witnesses whose direct testimony is presented by Chino Basin Watermaster in support of Application 31369.

April 10, 2007

James Erickson
City of Chino

EXHIBIT "C"

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June 5, 1997

Arthur G. Kidman
McCormick, Kidman & Behrens
695 Town Center Drive, Suite 1400
Costa Mesa, CA 92626-1924

Dear Counsel:

I have received a copy of the court's's order appointing me special referee. In an attempt to gain a better understanding of the issues raised, I am requesting that all parties who have submitted briefs to the court provide a copy of their briefs to my office. At this time I am requesting only those briefs which have been submitted in 1997 and address the issues of the appointment of a nine-member Watermaster board and the expenditure of Watermaster funds on the special audit.

It is my understanding that the court has appointed the California Department of Water Resources as interim Watermaster subject to its acceptance. Further, I understand the Advisory Committee and Chino Basin Municipal Water District are jointly negotiating terms and conditions for the interim Watermaster appointment which are to be submitted to the court on June 18th. Please provide me a copy of this submittal and any other relevant information regarding the interim Watermaster appointment.

There is also some question as to who are the parties to these motions as distinguished from "interested parties". I intend to coordinate with the court and Counsel for those parties who have filed papers with the court regarding the Motion for Order that Audit Commissioned by Watermaster is not a Watermaster Expense and the Motion to Appoint a Nine-Member Watermaster Board. The attached service list has been provided, however please advise if you are aware of any modification to this list.

It has been brought to my attention that certain "interested parties" also wish to be informed of any meetings scheduled in this matter. We have added such "interested parties" to our service list. However, please be advised that this office represents Metropolitan Water District of Southern California (an "interested party") on unrelated manners. We also currently represent San Bernardino County Flood Control and Water Conservation District with regard to unrelated issues related to Seven Oaks Dam. San Bernardino County also appears on the list as an "interested party". These "interested parties" have not to our knowledge filed briefs on the

motions. Please advise me immediately if our representation of these "interested parties" raises any concern to any party to the motions.

I will review the briefs, and schedule a conference call to discuss how to proceed.

Yours very truly,

Anne J. Schneider

AJS:

cc: Honorable J. Michael Gunn
Judy Schurr
Service List (Attached)

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Jimmie Gutierrez 12616 Central Avenue Chino, CA 91710 (909) 591-6336	City of Chino
Dan G. McKinney Reid & Hellyer 3880 Lemon Street, 5th Floor Riverside, CA 92502-1300 (909) 682-1771	AG Pool Committee of Chino Basin
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James L. Markman Markman, Arczynsky, Hanson Number One Civic Center Circle PO Box 1059 Brea, CA 92822-1059 (714) 990-0901	City of Upland and Chino Basin Advisory Committee
Robert E. Dougherty Covington & Crowe, LLP 1131 West Sixth Street Ontario, CA 91762 (909) 983-9393	City of Ontario

Marilyn H. Levin Deputy Attorney General Office of the Attorney General 300 South Spring Street Los Angeles, CA 90013-1204 (213) 897-2612	State of California
Thomas H. McPeters McPeters, McAlearney, Shimoff & Hatt 4 West Redlands Blvd., 2nd Floor Redlands, CA 92373 (909) 792-8919	Fontana Union Company, Monte Vista Irrigation Company, San Antonio Water Company. and West End Municipal Water District
Timothy J. Ryan San Gabriel Valley Water Company 11142 Garvey Avenue El Monte, CA 91734 (818) 448-6183	Fontana Water Company
Arnold Alvarez-Glasman Alvarez-Glasman & Colvin c/o Pomona City Hall 505 South Garey Avenue Pomona, CA 91769 (909) 620-2071	City of Pomona
Gene Tanaka Best Best & Kreiger, LLP 3750 University Avenue Riverside, CA 92502 (909) 686-1450	
Jeffrey Kightlinger Deputy General Counsel PO Box 54153 Los Angeles, CA 90054	Metropolitan Water District of Southern California (Interested Party)

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 July 31, 2008 I served the following:

1) **RESPONSE TO CUCAMONGA VALLEY WATER DISTRICT'S NOTICE OF MOTION AND MOTION TO DISCONTINUE THE APPOINTMENT OF THE SPECIAL REFEREE**

/_x_/ 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.

/_x_/ 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 July 31, 2008 in Rancho Cucamonga, California.

Alex Perez
Chino Basin Watermaster

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