

FEE EXEMPT

1 SCOTT S. SLATER (State Bar No. 117317)

sslater@bhfs.com

2 BRADLEY J. HERREMA (State Bar No. 228976)

bherrema@bhfs.com

3 KIMBERLY E. LEEFATT (State Bar No. 325332)

kleeftatt@bhfs.com

4 **BROWNSTEIN HYATT FARBER SCHRECK, LLP**

1021 Anacapa Street, 2nd Floor

Santa Barbara, CA 93101-2102

Telephone: 805.963.7000

Facsimile: 805.965.4333

7 Attorneys for

CHINO BASIN WATERMASTER

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 CHINO BASIN MUNICIPAL WATER
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, ET AL.,

16 Defendants.

Case No. RCV RS 51010

[Assigned for All Purposes to the
Honorable Stanford E. Reichert]

NOTICE OF ORDERS

17
18 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

19 **PLEASE TAKE NOTICE** that, on April 30, 2021, at 1:30 p.m., in Department S35 of
20 the above-entitled Court, Watermaster's Request for Court to Receive and File Watermaster
21 Semi-Annual OBMP Status Report 2020-02 and Request for the Court to Approve the
22 Intervention of Richard Anderson came on for hearing in the above-captioned matter. The Court
23 entered its Order Granting Request for Court to Receive and File Watermaster Semi-Annual
24 OBMP Status Report 2020-2 and Order Re Chino Basin Watermaster's Request for the Court to
25 Approve the Intervention of Richard Anderson, copies of which are attached to this Notice as
26 **Exhibit A** and **Exhibit B**, respectively.

27 At that time, the Court additionally received a report from Chino Basin Watermaster
28 ("Watermaster") legal counsel regarding the status of the Local Storage Limitation Solution. The

1 Court ordered that, notwithstanding Paragraph 15 of the Restated Judgment, a motion regarding
2 the Local Storage Limitation Solution to be heard at the June 25, 2021 hearing may be served on
3 May 27, 2021 and filed with the Court on May 28, 2021.

4 In regard to the Motion of Appropriative Pool Member Agencies Re Agricultural Pool
5 Legal and Other Expenses, the Court ordered that the Overlying (Agricultural) Pool may brief the
6 issue of the applicability of the Court's February 19, 1998 order, with its brief to be served no
7 later than 4:00 p.m. on May 14, 2021 and filed with the Court no later than 12:00 p.m. on May
8 17, 2021. The Overlying (Agricultural) Pool's brief shall be limited to 15 pages, not including
9 exhibits. Any briefs in response to the Overlying (Agricultural) Pool's brief shall be served no
10 later than 4:00 p.m. on May 21, 2021 and filed with the Court no later than 12:00 p.m. on May
11 24, 2021. Such responsive briefs shall be limited to 15 pages, not including exhibits.

12 The Overlying (Agricultural) Pool's brief and any responsive briefs shall be heard on May
13 28, 2021, at 1:30 p.m., in Department S35 of the above-entitled Court. There shall be no reply
14 briefs. The moving parties may submit a proposed order for the Court's consideration at the
15 hearing.

16 Copies of the Court's February 19, 1998 order, as well as the December 1997 Report and
17 Recommendation of Special Referee to Court Regarding: (1) Motion for Order that Audit
18 Commissioned by Watermaster is not a Watermaster Expense, and (2) Motion to Appoint a Nine-
19 Member Watermaster Board, which that order incorporates by reference, are attached hereto as
20 **Exhibit C**, for the parties' convenience.

21 Dated: May 5, 2021

BROWNSTEIN HYATT FARBER
SCHRECK, LLP


22
23
24 By: 
25 SCOTT S. SLATER
26 BRADLEY J. HERREMA
27 KIMBERLY E. LEEFATT
28 Attorneys for
CHINO BASIN WATERMASTER

Exhibit A

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FEE EXEMPT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 01 2021

BY Amber Bouchard
AMBER BOUCHARD, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendant.

Case No. RCV RS 51010

[Assigned for All Purposes to the Honorable
Stanford E. Reichert]


~~PROPOSED~~ ORDER GRANTING
REQUEST FOR COURT TO RECEIVE
AND FILE WATERMASTER SEMI-
ANNUAL OBMP STATUS REPORT 2020-2

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PROPOSED ORDER

On April 30, 2021, in Department S35 of the above-entitled Court, the Chino Basin Watermaster's ("Watermaster") Request for Court to Receive and File Watermaster Semi-Annual OBMP Status Report 2020-2 came on regularly for hearing in the above-captioned matter. Having read and considered the papers and heard the arguments of counsel, if any, the Request is **GRANTED**. The Court hereby receives and files the Semi-Annual OBMP Status Report 2020-2.

Dated: 4-1-21



Hon. Stanford E. Reichert
Judge of the Superior Court

Exhibit B

DEEM AS ORIGINAL

FEE EXEMPT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 30 2021

BY Amber Bouchard
AMBER BOUCHARD, DEPUTY

COURTESY
COPY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendants.

Case No. RCV RS 51010

[Assigned for All Purposes to the Honorable Stanford E. Reichert]

~~PROPOSED~~ ORDER RE CHINO BASIN WATERMASTER'S REQUEST FOR THE COURT TO APPROVE THE INTERVENTION OF RICHARD ANDERSON

Date: ~~June 25, 2021~~ 04-30-21
Time: 1:30 p.m.
Dept: S35

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(PROPOSED) ORDER

4-30.

On ~~June 29~~, 2021, Chino Basin Watermaster's ("Watermaster") Request that the Court approve the intervention of Richard Anderson into the Overlying (Agricultural) Pool came on regularly for hearing in the above-captioned matter. Having read and considered the papers and heard the arguments of counsel, the Request is **GRANTED**. It is **HEREBY ORDERED** that:

1. The Court grants the intervention request of Richard Anderson. Effective as of the date upon which the Watermaster Board recommended approval of the intervention, Richard Anderson shall be a member of the Overlying (Agricultural) Pool and shall be bound by all benefits and burdens of the Restated Judgment.

IT IS SO ORDERED.

Dated: 4-30-21



Richard

 Hon. Stanford E. Reichert
 Judge of the Superior Court

Exhibit C

1 RICHARDS, WATSON & GERSHON
A Professional Corporation
2 JAMES L. MARKMAN, State Bar #43536.
1 Civic Center Circle
3 Post Office Box 1059
Brea, California 92822-1059
4 Telephone: (714) 990-0901
Fax: (714) 990-6230
5
6 Attorneys for CHINO BASIN WATERMASTER
ADVISORY COMMITTEE

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

10
11 CHINO BASIN MUNICIPAL WATER)
DISTRICT,) Case No. RCV 51010
12)
Plaintiff,) NOTICE OF RULING
13)
vs.)
14)
CITY OF CHINO,)
15)
Defendant.)
16)
17)

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20 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:
21 PLEASE TAKE NOTICE that on February 19, 1998, the Court
22 ruled (a) on the pending motions to appoint a nine member board as
23 Watermaster herein and to determine whether the cost of an audit
24 constituted a Watermaster expense, and (b) on related matters. A
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1 true and correct copy of said ruling is attached hereto as Exhibit
2 "A."

3 Respectfully submitted,

4 RICHARDS, WATSON & GERSHON,
5 Attorneys for Chino Basin
6 Watermaster Advisory Committee

7
8 Dated: February 23, 1999. By James L. Markman
9 James L. Markman

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FILED - West District
San Bernardino County Clerk

FEB 19 1998

Wanda DeVinney

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

**CHINO BASIN MUNICIPAL
WATER DISTRICT,**

Plaintiff,

vs.

CITY OF CHINO, et al.,

Defendants.

CASE NO. RCV 51010

RULING

Introduction

This is an adjudication of groundwater rights in the Chino Basin. For at least five years before the filing of the amended complaint in July 1976, the annual production from the Chino Basin had exceeded the safe yield, resulting in a continuous state of overdraft of the basin. Concern for the future of the basin prompted the filing of the original complaint in 1975. After three years of negotiations, judgment was entered on January 27, 1978. Chino Basin Municipal Water District was appointed "Watermaster" to administer and enforce the provisions of the judgment and any subsequent order of the Court (Judgment ¶ 16.)

Chino Basin Municipal Water District has served as Watermaster for the past twenty years. A motion is presently before the court to relieve the District of its Watermaster duties and substitute in its place a nine-member board. The motion was

1 precipitated, at least in part, by the District's action calling for a special audit of certain
2 Watermaster administrative matters. The action was taken in contravention of an
3 asserted "mandate" by the Advisory Committee, which prompted the motion for an order
4 declaring that the cost of the audit (\$35,000) is not a "Watermaster" expense.

5 On April 29, 1997, the court issued an Order of Special Reference to receive a
6 report and recommendation on these two motions from Anne J. Schneider, a recognized
7 water law expert. The court requested Special Referee Schneider to consider and give
8 an opinion on the meaning of Paragraph 38(b) of the Judgment and its relationship to
9 Paragraph 41 of the Judgment. The court also requested Special Referee Schneider to
10 consider the checks and balances contained in the 1978 Judgment and the advantages
11 or disadvantages of a public entity watermaster versus a private entity watermaster. On
12 December 12, 1997, Special Referee Schneider issued her Report and
13 Recommendation. The court has considered the Report and Recommendation and
14 hereby issues its ruling accepting the Report and adopting the Recommendation of Anne
15 Schneider. The court hereby incorporates herein by reference the entirety of Special
16 Referee Schneider's Report and Recommendation.

17 Motion to Appoint Nine-Member Board as Watermaster

18 Unless there are compelling reasons to the contrary, upon noticed motion the
19 court must grant a request to change the Watermaster if the motion is supported by a
20 majority of the voting power of the Advisory Committee. (Judgment, ¶16.) In other
21 words, to deny such a motion, the court must find reasons that "force" or "compel" denial
22 of the motion.

23 A review of the Judgment reveals that the Watermaster's function is to administer
24 and enforce the provisions therein and subsequent instructions or orders of the court.
25 (*Ibid.*) The Watermaster operates on the one hand as an administrator and on the other
26 hand as an extension of the court. When functioning as an extension of the court the
27 Watermaster acts as a steward of the groundwater resources in the Chino Basin. The
28 Watermaster must protect the interests of the public as well as the interests of the

1 producers. Consequently, the Watermaster may find it necessary to take positions
2 adverse to the Advisory Committee.

3 With respect to replacing the existing Watermaster, automatic rejection of the
4 proposed change can only be based on one of two assumptions: (1) the status quo is
5 perfect; or (2) the choice we face is between reform and no action at all; if the proposed
6 reform is imperfect, we presumably should take no action at all, while we wait for a
7 perfect proposal. But the real choice is between the nine-member board and the status
8 quo. The court finds that the status quo Watermaster is imperfect and does not in and of
9 itself warrant finding of a compelling reason. Absent a compelling reason, the court must
10 appoint the nine-member board as Watermaster.

11 However, if the appointment of a nine-member board would permit the Advisory
12 Committee to control the Watermaster; and/or deprive the Watermaster of its ability to
13 administer the Judgment independently and objectively, surely it would be a compelling
14 reason to deny the motion. Therefore, it is significant that the proposed nine-member
15 board would include the following:

- 16 1. Three members selected by the Overlying Pools;
- 17 2. Three members selected by the Appropriative Pool; and
- 18 3. The remaining three members would be nonpumper water districts: (a) Chino
19 Basin Municipal Water District, (b) Western Municipal Water District, and (c)
20 Three Valleys Municipal Water District.

21 Thus, the majority of the board members would represent the interests of producers, but
22 the court finds the proposed nine-member board to be the best of the alternatives
23 considered by the court, and the court, in considering compelling reasons, did consider
24 all forms of Watermaster listed on Exhibit "A" attached hereto and herein incorporated by
25 reference.

26 Although there is no evidence that the pecuniary interests of the board members will
27 control their voting, to ensure that the board is carrying out the function of the
28 Watermaster, Special Referee Schneider recommends that the appointment of the nine-

1 member board be of a limited duration to determine whether or not it will function
2 independently from the Advisory Committee. The court agrees with the recommendation
3 and chooses to appoint the nine-member board as Interim Watermaster, with the
4 limitations listed in the order below.

5 At the end of the interim appointment, if it appears to the court that the proposed
6 nine-member board is unable to function as an independent extension of the court, the
7 court ~~will~~^{may} appoint the Department of Water Resources as Watermaster for a five-year
8 appointment, as provided in the Judgment. The parties are hereby informed that one of
9 the measures that will be used by the court in determining whether or not the Nine-
10 member Board is able to function independently is the progress made on the adoption of
11 an optimum basin management program, which is discussed *infra*.

12 **Order Appointing Nine-Member Board as Interim Watermaster**

13 The court hereby sets aside its previous order appointing the Department of Water
14 Resources as Interim Watermaster and instead appoints the Nine-member Board as
15 Interim Watermaster for a twenty-six-month period commencing March 1, 1998, and
16 ending June 30, 2000. Thus, commencing March 1, 1998, the position of Chino Basin
17 Watermaster shall be filled by a nine-member board selected and organized as
18 follows:

19 The Nine-member Watermaster Board shall consist of (1) two members from the
20 Overlying (Agricultural) Pool appointed by the Overlying (Agricultural) Pool; (2) one
21 member from the Overlying (Non- Agricultural) Pool appointed by the Overlying (Non-
22 Agricultural) Pool; (3) three members from the Appropriative Pool appointed by the
23 Appropriative Pool; (4) one member appointed by the Board of Three Valleys
24 Municipal Water District; (5) one member appointed by the Board of Western
25 Municipal Water District; and (6) one member appointed by the Board of Chino Basin
26 Municipal Water District. The members of the Watermaster Board will vote on a one-
27 person, one-vote basis.

28 //

1 If one of the three municipal water districts elects not to serve on the Nine-
2 member Watermaster Board, a representative from the State of California will be
3 seated in its place. Any member of the Appropriative Pool which owns or has a
4 controlling interest in another member of the Appropriative Pool will not be allowed to
5 serve concurrently with said other member of the Appropriative Pool on the
6 Watermaster Board.

7 No individual will be allowed to serve concurrently on the Watermaster Board
8 while serving as a member of the Advisory Committee and/or the respective Pool
9 Committee, with the exception of representatives from the Overlying (Non-Agricultural)
10 Pool. This shall not prevent the same member agency or entity with a representative
11 on the Chino Basin Advisory Committee from appointing a different representative to
12 the Watermaster Board. Additionally, participating agencies with governing bodies are
13 strongly encouraged to have elected officials serve as their representative on the
14 Watermaster Board.

15 Except as to members of the first Watermaster Board, Watermaster Board
16 members shall serve staggered three-year terms. The appointments by the Municipal
17 Water District boards, the Appropriative Pool and the Overlying (Non-Agricultural) Pool
18 shall be made on a rotating basis with all members afforded an equal opportunity to
19 serve. Appointments by the Overlying (Agricultural) Pool shall be rotated among
20 categories of agricultural producers with each category of producers having an equal
21 opportunity to serve. The State of California shall be included as one of the categories
22 of producers rotating from the Overlying (Agricultural) Pool, unless the State of
23 California is currently serving in a vacant municipal water district position.

24 Except as otherwise provided in this paragraph, the first Nine-member
25 Watermaster Board shall serve until June 30, 2000. Assuming the Nine-member
26 Board in the future is appointed Watermaster for a full five-year term, then the
27 following actions shall be performed: At least 60 days prior to June 30, 2000, the
28 Appropriative Pool shall extend the term of one of its then current Watermaster Board

1 representatives to June 30, 2001, and shall extend the term of another of its then
2 current Watermaster Board representatives to June 30, 2002. At least 60 days prior to
3 June 30, 2000, the Overlying (Agricultural) Pool and the Overlying (Non-Agricultural)
4 Pool shall jointly extend the term of one of the three then-current Watermaster Board
5 representatives of the two pools to June 30, 2001, and shall extend the term of
6 another of the three then-current Watermaster Board representatives of the two pools
7 to June 30, 2002. At least 60 days prior to June 30, 2000, the three Municipal Water
8 Districts shall jointly extend the term of one of the three then-current Watermaster
9 Board representatives of those three districts to June 30, 2001, and shall extend the
10 term of another of the three then-current Watermaster Board representatives of those
11 three districts to June 30, 2002.

12 The court hereby orders the Chief of Watermaster Services to file the names
13 of the representatives, including any alternates thereto, with the court and to serve a
14 copy of the names of the representatives and any such alternates on the active parties
15 by not later than March 15, 1998. The Chief of Watermaster Services is encouraged
16 to provide the same information to the public through print and electronic media.
17 (See discussion *infra* concerning Watermaster's use of the Internet.)

18 Should any member of the Watermaster Board resign therefrom, become
19 ineligible to serve thereon, or lack the mental or physical capacity to serve thereon, as
20 determined by the court, the appointing authority shall appoint a replacement member
21 of the Watermaster Board to serve through the unexpired period of the term of the
22 replaced member.

23 The current Watermaster, Chino Basin Municipal Water District, is hereby
24 ordered to take all steps necessary and proper to ensure a smooth and orderly
25 transition to the new Watermaster Board including, but not limited to, any required
26 actions, resolutions and/or agreements which will transition all of the present
27 Watermaster staff members from their status as Chino Basin Municipal Water District
28 employees to their status as employees of the Watermaster while maintaining all of

1 their employment credits and benefit programs. Not later than March 15, 1998, the
2 Chief of Watermaster Services shall file with the court a list of the names of all
3 Watermaster employees and their respective positions.

4 The Watermaster shall notice a hearing to occur on or before October 28, 1999,
5 to consider all parties' input as to the continuance of the nine-member board as
6 Watermaster after June 30, 2000. To ensure that the California Department of Water
7 Resources is in a position to assume the duties of Watermaster at the end of the interim
8 appointment, the court directs the parties to resume negotiations with the Department
9 related to its takeover of Watermaster operations, should the nine-member board fail to
10 operate independently and effectively. The Interim Watermaster shall notice a hearing no
11 later than September 30, 1999, to report on the status of negotiations. The court further
12 orders that, without prior court approval, the Interim Watermaster shall not enter into any
13 agreement that the Department of Water Resources will be obligated to assume, which
14 means no contracts signed from this day forward wherein payment and/or performance
15 of any kind whatsoever will be after June 30, 2000. The current Watermaster employees
16 are hereby advised that if the court appoints the California Department of Water
17 Resources as Watermaster at the end of the interim appointment, their positions will
18 terminate on June 30, 2000, without further order of the court. Further, the Department of
19 Water Resources will not be required to hire current Watermaster employees upon its
20 appointment; rather, current Watermaster employees may be rehired at the discretion of
21 the Department and on such terms as the California Department of Water Resources
22 deems appropriate. Finally, the California Department of Water Resources should be
23 added to the parties' mailing list to ensure that the Department receives notice of all
24 proceedings.

25 It should be apparent that timely filing of all reports with the court and
26 development of an optimum basin management program are of significant interest to the
27 court in the continuation of the nine-member board as Watermaster. The court is very
28 aware that the parties hereto desire local control of the Watermaster function, and the

1 court has no desire to transfer control from the nine-member board provided that
2 Watermaster professionally performs its responsibilities under the judgment.¹

3 Motion to Determine Audit Expense was not a Watermaster Expense

4 Special Referee Schneider found that the special audit was ordered in response
5 to (1) substantial increases in Watermaster's annual budget expenditures, (2) allegations
6 of fraud or theft (even though the audit itself did not address theft), and (3) recognition
7 that the District had lost control of the Watermaster services staff. In addition, one of the
8 purposes of the audit was to advise the District board members of the activities occurring
9 at the Watermaster staff level. Special Referee Schneider further found that the special
10 audit does not fit within the definition in the Judgment of a discretionary act, nor does it
11 fall into the category of things subject to Advisory Committee recommendation or
12 approval. The court hereby adopts the findings of Special Referee Schneider along with
13 the recommendation that the court determine that the special audit was made in the
14 general course of Watermaster business; therefore, it is a proper Watermaster expense.

15 Court Monitoring of Optimum Basin Management Program

16 The judgment grants to the Watermaster discretionary powers to develop an
17 optimum basin management program for Chino Basin, which is to include both water
18 quantity and water quality considerations. Special Referee Schneider discovered that the
19 current Watermaster has not completed an optimum basin management program,
20 despite Judge Turner's recommendation in 1989 that the plan be completed within two

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24 ¹ However, one is reminded of the passage in "The tragedy of the commons Revisited" by Beryl Crowe (1969) with
25 reference to administrators of the commons: "... one writer postulated a common life cycle for all attempts to
26 develop regulatory bodies. The life cycle is launched by an outcry so widespread and demanding that it generates
27 enough political force to bring about establishment of a regulatory agency to insure the equitable, just, and rational
28 distribution of the advantages among all holders of interest in the commons. This phase is followed by the symbolic
reassurance of the offended as the agency goes into operation, developing a period of political quiescence among
the great majority of those who hold a general but unorganized interest in the commons. Once this political
quiescence has developed, the highly organized and specifically interested groups who wish to make incursions
into the commons bring sufficient pressure to bear through other political processes to convert the agency to the
protection and furthering of their interests. In the last phase even staffing of the regulating agency is accomplished
by drawing the agency administrators from the ranks, of the regulated." Reprinted in "Managing the Commons" by
Garrett Hardin and John Baden. W.H. Freeman, 1977.

1 years and despite the fact that the water quality in the basin has deteriorated in recent
2 years.

3 The Chino Basin Water Resources Management Task Force issued its report in
4 1995, which has been identified as the initial step in the development of a management
5 plan for the basin. (Chino Basin Water Resources Management Task Force, Chino Basin
6 Water Resources Management Study Final Summary Report (September, 1995),
7 hereinafter "the task force report".) Special Referee Schneider recommends that as part
8 of the court's continuing jurisdiction and obligation to oversee, control, and direct the
9 Watermaster, the court appoint an independent person to take a look at the work that's
10 been done on the program to date, to determine what remains to be accomplished, and
11 to make a complete report to the court.

12 Anne J. Schneider hereby is appointed as the court's Special Referee to report
13 and make recommendations to the court concerning the contents, implementation,
14 effectiveness, and shortcomings of the optimum basin management plan. Further, Joe
15 Scalmanini hereby is appointed to provide Anne J. Schneider with technical assistance
16 as required by Ms. Schneider to provide said report and recommendations.

17 **Order Concerning Development of Optimum Basin Management Program**

18 The court hereby makes the following orders related to the development of an
19 optimum basin management program, which encompasses the implementation plan
20 elements identified in the task force report and at the recent hearing conducted by
21 Special Referee Schneider.

22 On or before June 1, 1998, each party to this action desiring to do so shall
23 submit recommendations to the Watermaster as to the scope and level of detail of the
24 optimum basin program. On or before June 30, 1998, the Watermaster, having first
25 provided a copy of the scope and level of detail plan to the Advisory Committee for its
26 review and/or action, shall file with the court its written recommendation as to the
27 scope and level of detail of the program, together with a duly noticed motion seeking
28 court approval of said recommendation. Special Referee Schneider shall review the

1 Watermaster's recommendations for technical and legal sufficiency, using Joe
2 Scalmanini as a consultant on technical issues, if necessary, and make a progress
3 report to the court by July 30, 1998. Special Referee Schneider and Mr. Scalmanini
4 are cautioned not to duplicate the work completed by the task force in making their
5 report to the court; but instead, supplement and modify the previous work where
6 appropriate. Hopefully, the aforementioned procedure will enhance and elucidate
7 work already performed, and, at the same time, save money.

8 The court further orders the Watermaster to develop an optimum basin
9 management program, which encompasses the elements of the implementation
10 program recommended by the task force and the implementation elements discussed
11 at the recent hearing conducted by Special Referee Schneider. The Watermaster, in
12 consultation with Special Referee Schneider, is to make quarterly progress reports to
13 the court. The Special Referee is authorized to conduct hearings, if necessary, to
14 ensure the development of all essential elements of the program. The Watermaster is
15 to submit the optimum basin management program first to the Advisory Committee for
16 review and/or action, then to the court no later than September 30, 1999, or show
17 cause why it cannot do so. Thereafter, the court will hold a hearing on October 28,
18 1999, at 1:30 p.m. to consider whether to approve and order full implementation of the
19 program or consider why the program has not been completed.

20 Finally, in order to facilitate greater communication with the public, in addition to
21 notices required in newspapers of general circulation, Watermaster shall have installed
22 and maintained a so-called "web site" or such new Internet technologies as may be
23 equal to or better than the World Wide Web, similar to those established by the Main
24 San Gabriel Basin Watermaster and the Mojave Basin Area Watermaster, and keep it
25 up-to-date with notice of meetings, agenda items, minutes of meetings, and such other
26 items and such other information as Watermaster deems appropriate to inform the

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1 public of Watermaster's functions.² The public has a right to know if, as previously
2 alleged, some board members are routinely absent from meetings, and a web page
3 with minutes of the meetings, among other things, seems an appropriate means of
4 communication with the public in order to keep them informed on Watermaster issues.

5 Guidelines for Watermaster and Advisory Committee

6 To provide guidance to the parties, Special Referee Schneider determined it is
7 necessary for the court to provide an outline of the roles of the Watermaster and
8 Advisory Committee. As noted in the Special Referee's Report and Recommendation,
9 routine administrative functions of the Watermaster are performed independently, without
10 review by the Advisory Committee. The Watermaster may acquire facilities and
11 equipment (subject to certain limitations delineated in the Judgment³), may employ
12 administrative, engineering, legal or other specialized personnel and consultants as it
13 deems appropriate, may borrow money, and may enter into contracts for the
14 performance of any powers granted in the Judgment. On the other hand, many
15 Watermaster actions are subject to the approval of the Advisory Committee. For
16 example, the Watermaster's annual budget is subject to Advisory Committee approval,
17 the Watermaster's rules and regulations may only be adopted upon recommendation by
18 the Advisory Committee, and the Watermaster may act jointly or in cooperation with State
19 or Federal agencies to carry out the physical solution only upon recommendation or
20 approval of the Advisory Committee. For further guidance as to the respective roles of
21 the Watermaster and the Advisory Committee, the parties are directed to Part III of
22 Special Referee Schneider's Report and Recommendation entitled "Watermaster Roles
23 and Review of Watermaster Actions", found on pages 10 through 22, which is hereby

24 //

25 //

26 ² Initial installation of a web site cost one local attorney less than five hundred dollars, and maintenance or training
27 of employees for updates costs approximately thirty-five dollars per hour. It would have been inappropriate for the
28 court to have contacted any water agencies regarding their costs; hence, the above-listed costs are only
informational, not limitations, but, clearly a multi-year contract is not warranted under the circumstances of the
interim appointment discussed herein.

³ Your attention is called to the special audit's findings regarding facilities and computer service contracts, among
other things.

1 adopted and approved by the court and incorporated herein by this reference.

2 Conclusion

3 The court does not presage a future intention to replace the nine-member board
4 with any other form of watermaster. On the contrary, if this court were not confident in
5 the ability of the Nine-member Board Watermaster to effectuate the intent of the
6 judgment, other conditions would have been imposed or another form of watermaster
7 would have been appointed. At the present time, this court is of the opinion that the
8 conditions of the appointment will insure the success and future five-year appointment
9 of the Nine-Member Board as Watermaster. However, this court is of the opinion that
10 some follow-up dates are necessary to vitiate the possibility of repeating the history of
11 missed filing dates⁴ and asserted inadequate management by Watermaster. None of
12 us wants the past to be prologue.

13 There was a request for benefit and salary increases. The court is of the opinion
14 that the Nine-member Board Watermaster should examine these requests in its initial
15 thorough review of the entire Watermaster budget. The court is not opposed to wage
16 and benefit increases if the Nine-member Watermaster Board deems an increase in
17 either or both of these categories appropriate, assuming Watermaster first sends its
18 proposed budget to the Advisory Committee and Advisory Committee has no
19 objection. Additionally, there was expressed some concern that the employees were
20 worried about their future employment. As you may recall, at the outset of this court's
21 handling of this case, all parties were warned not to fire employees out of spite or for
22 tactical reasons, because the employees were real people with real families to feed,
23 although the employees could be terminated for legitimate reasons. Additionally,
24 without voicing it, the court was of the opinion that most, if not all, employees could be
25 utilized by whatever form the Watermaster became. Some may have misconstrued
26 this as permanent judicial protection of employees beyond what law and decency

27 //

28

⁴ There was a nunc pro tunc order necessary to confirm the activities of Watermaster after its previous appointment expired, and yearly reports have been tardy.

1 require. This was not, nor is it the court's intention.⁵ The court does expect
2 Watermaster to have a social conscience, but most people have no more protection
3 than law and decency require, and Watermaster employees should be no different.
4 Watermaster employees should realize that their best efforts are necessary to ensure
5 the quality and quantity of water in the Chino Basin. If an employee cannot perform
6 his or her duties, then the people dependent on the quality and quantity of water suffer;
7 moreover, the continued existence of the Nine-member Board Watermaster is
8 jeopardized. It should be remembered that June 30, 2000, no-Board, no-job-
9 expectation. This is meant to be neither a flip statement nor a threat. It is meant to be
10 fair warning; the same concern, albeit a different vein, that the court had when it
11 conditioned the appointment of the California Department of Water Resources on
12 negotiation by the Advisory Board and the CBMWD. At the previous hearing when
13 asked why the negotiating parties were appointed, the attorneys were informed that
14 there were employees to consider; and there still are employees to consider, but the
15 employees interests have to be balanced against the greater good for all the people
16 affected by the judgment. So far, the employee's interests have prevailed, but at the
17 end of June 2000, the outcome could be different.

18 It should be mentioned that this court has been impressed with the
19 professionalism displayed recently by the attorneys involved in this litigation. When
20 this case initially came to my court, the level of vitriol was far more than was evident in
21 a reading of the transcript of the hearing held with the Special Referee. Furthermore,
22 although the attorneys have been very professional throughout these proceedings, it
23 seems as though the level of vitriol at recent hearings in court has subsided to an
24 imperceptible level, and the accelerated progress toward resolution of this case is
25 impressive. Thank you. Also, I want to thank all of the people, Gene Koopman,
26 among others, whose large presence, concern, and commitment did not go unnoticed
27 or unappreciated at the hearings in this matter.

28 //

⁵ Although the attorneys correctly interpreted my comments to mean err, if at all, on the side of restraint during the period of litigation

1 The Special Referee alluded to "the tragedy of the commons." Assuming she
2 meant to allude to Garrett Hardin's 1968 essay, "The Tragedy of the Commons,"⁶ it is
3 hoped that the appointment of the new Nine-member Board as Watermaster will result
4 in the triumph of the commons. The people of this area deserve it. Good Luck.

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DATED: FEB 19 1998

J. Michael Gunn
J. MICHAEL GUNN, Judge

28 ⁶ The article appeared in Science 162:1243-1248, December 13, 1968. The "commons" refers to the common resources that are owned or controlled by everyone or everyone in a subset having control of the common resource. The tragedy occurs when everyone has the freedom to exploit the commons, resulting in the destruction of the commons. The intent of the exploiter is irrelevant. A political solution, although problematical, is the only way to potentially save the commons, all must agree to conserve the commons.

EXHIBIT "A"

Adjudicated Basins and Watermasters in California

Court Name	Final Decision	Watermaster	Location
Central Basin	1965	Dept. of Water Resources -- Southern District	Los Angeles County
Chino Basin	1978	Five people, Chino Basin Municipal Water District	San Bernardino County
Cucamonga Basin	--	Not yet appointed; operated as part of Chino Basin	San Bernardino County
Cummings Basin	1972	Tehachapi-Cummings County Water District	Kern County
Main San Gabriel Basin	1973	Nine-member board nominated by water purveyors and water districts, appointed by Superior Court.	Los Angeles County
Mojave Water Agency	1996	Mojave Water Agency	San Bernardino County
Puente	1985	Three consultants	Los Angeles County
Raymond Basin	1944	Raymond Basin Management Board	Los Angeles County
San Bernardino Basin Area	1969	One representative each from Western Municipal Water District and San Bernardino Valley Municipal Water District	San Bernardino and Riverside Counties
Santa Margarita River Watershed	1966	U.S. District Court appointee	San Diego and Riverside Counties
Santa Paula Basin	1996	Three-person Technical Advisory Committee from United Water CD, City of Ventura, and Santa Paula Basin Pumpers Association	Ventura County
Scott River Stream System	1980	Two local irrigation districts	Siskiyou County
Upper Los Angeles River Area	1979	An individual hydrologist appointed by the Superior Court	Los Angeles County
Warren Valley Basin	1977	Hi-Desert Water District	San Bernardino County
West Coast Basin	1961	Dept. of Water Resources -- Southern District	Los Angeles County

Source: Calif. Dept. of Water Resources *Water Facts*, Number 3, Jan. 1996.

http://www.agwa.org/adjud_basins.html

TIMELINE

MAR. 1, 1998	MAR. 15, 1998	JUNE 1, 1998	JUNE 30, 1998	JULY 30, 1998	SEPT. 30, 1999	SEPT. 30, 1999 1:30 P.M.	OCT. 28, 1999 1:30 P.M.	JUNE 30, 2000
Interim Appointment Begins (Nine-member Board begins)	Names of Board Members and Employees filed with court	Scoping Recommendation filed with Watermaster.	Scoping Recommendation filed with court	Referee's Recommendation filed with court	OMBP filed with court	OSC Re: Status of Negotiations with Department of Water Resources.	OSC Re: Adoption and Implementation of OMBP & Continuance of Nine-member board	End of Interim Appointment (End of Nine-member Interim Water-master Board)

1 RICHARDS, WATSON & GERSHON
A Professional Corporation
2 JAMES L. MARKMAN, State Bar #43536
1 Civic Center Circle
3 Post Office Box 1059
Brea, California 92822-1059
4 Telephone: (714) 990-0901
Fax: (714) 990-6230

5 Attorneys for CHINO BASIN WATERMASTER
6 ADVISORY COMMITTEE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT
9

10
11 CHINO BASIN MUNICIPAL WATER)
DISTRICT,) Case No. RCV 51010
12)
Plaintiff,) NOTICE OF REPRESENTATIVES
13) APPOINTED TO NINE MEMBER
vs.) WATERMASTER BOARD
14)
CITY OF CHINO,)
15)
Defendant.)
16)
17)

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19
20 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that in accordance with the Court's
22 ruling entered on February 19, 1998, following are the names of
23 the representatives, including alternates, who have been appointed
24 to serve on the Nine Member Watermaster Board commencing on
25 March 1, 1998:

26 / / / / /
27 / / / / /
28 / / / / /

	<u>REPRESENTATIVES</u>	<u>ENTITIES</u>	<u>PERSONS</u>
1			
2	Over-lying (Non-	CSI	Steve Arbelbide
3	Agricultural) Pool		
4	Overlying (Agricultural) Vineyards		Paul Hofer
5	Pool		
6		Dairies	Geoffrey Vanden Heuvel
7	Appropriative Pool	Cucamonga County	Robert Neufeld
8		Water District	(Regular)
9			Jerome Wilson
10			(Alternate)
11		Monte Vista Water	Josephine Johnson
12		District	(Regular)
13			William C. Walker
14			(Alternate)
15		City of Ontario	Gus James Skropos
16			(Regular)
17	Municipal Water		Gerald A. DuBois
18	Districts	Chino Basin	(Alternate)
19		Municipal Water	John L. Anderson
20		District	(Regular)
21			Terry Catlin
22			(Alternate)
23		Three Valleys	A. A. Krueger
24		Municipal Water	(Regular)
25		District	
26		Western Municipal	Donald Schroeder
27		Water District	(Regular)
28			Donald Harriger
			(Alternate)
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Respectfully submitted,

RICHARDS, WATSON & GERSHON,
Attorneys for Chino Basin
Watermaster Advisory Committee

Dated: February 23, 1998 BY James L. Markman
James L. Markman

1 RICHARDS, WATSON & GERSHON
2 A Professional Corporation
3 JAMES L. MARKMAN, State Bar #43536
4 1 Civic Center Circle
5 Post Office Box 1059
6 Brea, California 92822-1059
7 Telephone: (714) 990-0901
8 Fax: (714) 990-6230

9 Attorneys for CHINO BASIN WATERMASTER
10 ADVISORY COMMITTEE

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

13 CHINO BASIN MUNICIPAL WATER)
14 DISTRICT,) Case No. RCV 51010
15 Plaintiff,) NOTICE OF NAMES AND POSITIONS
16 vs.) OF WATERMASTER SERVICES STAFF
17 CITY OF CHINO,)
18 Defendant.)

19 TO: THE PARTIES HERETO AND THEIR ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE that in accordance with the Court's
21 ruling entered on February 19, 1998, following are the names and
22 positions of the Watermaster Services staff:

23	<u>NAME</u>	<u>POSITION</u>
24	Traci Stewart	Chief of Watermaster Services
25	Michelle Lauffer	Water Resources Specialist

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27 // // // //

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NAME

POSITION

Mary Staula

Administrative Assistant

Jim Theirl

Engineering Associate I

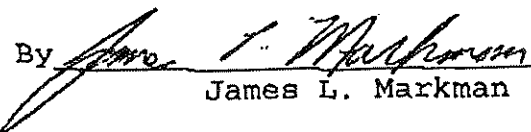
Dora Chavarin

Secretary II

Respectfully submitted,

RICHARDS, WATSON & GERSHON,
Attorneys for Chino Basin
Watermaster Advisory Committee

Dated: February 24, 1998

By 
James L. Markman

1 RICHARDS, WATSON & GERSHON
A Professional Corporation
2 JAMES L. MARKMAN, State Bar #43535
1 Civil Center Circle
3 Post Office Box 1059
Brea, California 92822-1059
4 Telephone: (714) 990-0901
Fax: (714) 990-6230
5
6 Attorneys for Chino Basin Watermaster
Advisory Committee
7
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN BERNARDINO - WEST DISTRICT

11 CHINO BASIN MUNICIPAL WATER)	
12 DISTRICT	)	Case No. RCV 51010
	)	(Formerly Case No. 164327)
13 Plaintiff,)	
	)	<u>PROOF OF SERVICE</u>
14 Vs.	)	1) NOTICE OF RULING
	)	2) NOTICE OF REPRESENTATIVES
15 CITY OF CHINO et al.,	)	APPOINTED TO NINE MEMBER
	)	WATERMASTER BOARD
16 Defendant.	)	3) NOTICE OF NAMES AND
	)	POSITIONS OF WATERMASTER
	)	SERVICES STAFF
17)	
18)	
19)	
20)	

21
22 I, Mary L. Staula, declare:
23 1. I am over the age of 18 and not a party to this action. My
24 business address is Chino Basin Watermaster, 8632 Archibald Avenue,
25 Suite 109, Rancho Cucamonga, California 91730.
26 / / / / /
27 / / / / /
28

AAA AALIST1
ATTORNEYS OF RECORD & INTERESTED
PARTIES
UPDATED 2/09/98

HAROLD ANDERSEN
MONTE VISTA IRRIGATION CO
2529 W TEMPLE ST
LOS ANGELES CA 90026-4819

CHET ANDERSON
SOUTHERN CALIFORNIA WATER CO
401 S SAN DIMAS CANYON RD
SAN DIMAS CA 91773

JOHN L. ANDERSON
CHINO BASIN WATERMASTER BOARD
12455 HOLLY AVE
CHINO CA 91710-2633

RICHARD ANDERSON
1365 W FOOTHILL BLVD STE 1
UPLAND CA 91786

RICHARD ANDERSON
BEST BEST & KRIEGER
P.O. BOX 1028
RIVERSIDE CA 92501

A W ARAIZA
WEST SAN BERNARDINO C W D
P.O. BOX 920
RIALTO CA 92376-0920

STEVE ARBELBIDE
CHINO BASIN WATERMASTER BOARD
417 PONDEROSA TR
CALIMESA CA 92320

RODNEY BAKER
P.O. BOX 438
COULTERVILLE CA 95311-0438

DANIEL BERGMAN
PYRITE CANYON GROUP INC
3200 C PYRITE ST
RIVERSIDE CA 92509

BOB BEST
NAT'L RESOURCES CONS SVS
25809 BUSINESS CENTER DR B
REDLANDS CA 92374

GERALD BLACK
FONTANA UNION WATER COMPANY
P.O. BOX 638
RANCHO CUCAMONGA CA 91729-06

PATTI BONAWITZ
CHINO BASIN MWD
P.O. BOX 697
RANCHO CUCAMONGA CA 91729-0697

GEORGE BORBA JR
7955 EUCALYPTUS AVE
CHINO CA 91710-9065

BEVERLY BRADEN
WEST END CONS WATER CO
P.O. BOX 460
UPLAND CA 91785

KATHRYN H K BRANMAN
MOBILE COMMUNITY MGMT CO
1801 E EDINGER AVE #230
SANTA ANA CA 92705-4754

WILLIAM J. BRUNICK ESQ
BRUNICK ALVAREZ & BATTERSBY
P.O. BOX 6425
SAN BERNARDINO CA 92412

RICK BUFFINGTON
STATE OF CALIFORNIA - CIM
P.O. BOX 1031
CHINO CA 91710

TERRY CATLIN
CHINO BASIN WATERMASTER BOARD
(ALT)
2344 IVY COURT
UPLAND CA 91784

CHIEF OF WATERMASTER SERVICES
CHINO BASIN WATERMASTER
8632 ARCHIBALD AVE STE 109
RANCHO CUCAMONGA CA 91730

JEAN CIHIGOYENETCHE
CIHIGOYENETCHE GROSSBERG &
CLOUSE FOR CBMWD
3602 INLAND EMPIRE BLVD STE C315
ONTARIO CA 91764

TERRY COOK
KAISER VENTURES INC
3633 E INLAND EMP BLVD STE 850
ONTARIO CA 91764

DAVID COOPER
SUNKIST GROWERS INC
760 E SUNKIST ST
ONTARIO CA 91761

GEORGE COSBY
CALMAT PROPERTIES CO
3200 N SAN FERNANDO RD
LOS ANGELES CA 90065

DAVE CROSLEY
CITY OF CHINO
5050 SCHAEFER AVE
CHINO CA 91710-5549

DULCIE CROWDER
COUNTY OF SAN BERNARDINO
777 E RIALTO AVE
SAN BERNARDINO CA 92415-0763

STEVE CUMMINGS
155 BUCKNELL AVE
VENTURA CA 93003-3919

RICK DARNELL
SOUTHERN CALIFORNIA EDISON
8996 ETIWANDA AVE
ETIWANDA CA 91739-9697

ROBERT DEBERARD
CHAIRMAN-AG POOL
P.O. BOX 1223
UPLAND CA 91785-1223

ROBERT DELOACH
CUCAMONGA COUNTY WATER DIST
P.O. BOX 638
RANCHO CUCA CA 91729-0638

GREG DEVEREAUX
CITY OF ONTARIO
303 E "B" ST
ONTARIO CA 91764

GERALD A. DUBOIS
CHINO BASIN WATERMASTER BOARD
(ALT)
303 E B ST
ONTARIO CA 91764

DICK DYKSTRA
10129 SCHAEFER
ONTARIO CA 91761-7973

RALPH FRANK
2566 OVERLAND AVE # 680
LOS ANGELES CA 90064-3398

IRA FRAZIER
CALIFORNIA STEEL INDUSTRIES INC
P.O. BOX 5080
FONTANA CA 92334-5080

SAM FULLER
SAN BERNARDINO VALLEY MWD
P.O. BOX 5906
SAN BERNARDINO CA 92412-5906

MARK GAGE P E
GEOMATRIX CONSULTANTS INC
100 PINE ST 10TH FL
SAN FRANCISCO CA 94111

JIM GALLAGHER
SOUTHERN CALIFORNIA WATER CO
2143 CONVENTION CTR WAY STE 110
ONTARIO CA 91764

ALLAN E GLUCK
N AMERICAN COMM REAL EST
123 S. FIGUEROA ST STE 190 B
LOS ANGELES CA 90012-5517

JOE GRINDSTAFF
MONTE VISTA WATER DISTRICT
P.O. BOX 71
MONTCLAIR CA 91763-0071

JACK HAGERMAN
CALIFORNIA INSTITUTION FOR MEN
4158 CENTER ST
NORCO CA 91760

DEBRA HANKINS
GENERAL ELECTRIC COMPANY
114 SANSOME ST 14TH FL
SAN FRANCISCO CA 94104

RICK HANSEN
THREE VALLEYS M W D
3300 N PADUA AVE
CLAREMONT CA 91711-2061

DONALD HARRIGER
CHINO BASIN WATERMASTER BOARD
(ALT)
P.O. BOX 5286
RIVERSIDE CA 92517-5286

CARL HAUGE
DEPT OF WATER RESOURCES
1020 9TH ST 3RD FL
SACRAMENTO CA 95814

SCOTT HENDRIX
ARROWHEAD WATER COMP
5772 JURUPA RD
ONTARIO CA 91761-3672

ATTORNEY AT LAW
HIGGS FLETCHER & MACK
401 W A STREET
SAN DIEGO CA 92101-7908

BOYD HILL
RICHARDS WATSON & GERSHON
333 S HOPE ST 38TH FL
LOS ANGELES CA 90071-1469

PAUL HOFER
CHINO BASIN WATERMASTER BOARD
MEMBER
11248 S TURNER AVE
ONTARIO CA 91761

EDWIN JAMES
JURUPA COMMUNITY SERVICES DIST
8621 JURUPA RD
RIVERSIDE CA 92509-3229

KENNETH JESKE
CITY OF FONTANA
8353 SIERRA AVE
FONTANA CA 92335-3598

JOSEPHINE JOHNSON
CHINO BASIN WATERMASTER BOARD
MEMBER
3635 RIVERSIDE DR
CHINO CA 91710

STEPHEN B JOHNSON
STETSON ENGINEERS INC
3104 E GARVEY AVE
WEST COVINA CA 91791

BARRETT KEHL
CHINO BASIN WATER CONS DIST
P.O. BOX 2400
MONTCLAIR CA 91763-0900

JEFFREY KIGHTLINGER
METROPOLITAN WATER DISTRICT
350 S GRAND AVE
LOS ANGELES CA 90071

VERN KNOOP
DEPT OF WATER RESOURCES
770 FAIRMONT AVE
GLENDALE CA 91203-1035

GENE KOOPMAN
CHAIRMAN-ADVISORY COMMITTEE
13898 ARCHIBALD AVE
ONTARIO CA 91761-7979

J KOPALD & L HAIT
KOPALD & MARK
8888 OLYMPIC BLVD
BEVERLY HILLS CA 90211

MANAGER
KRONICK MOSKOVITZ TIEDEMANN &
GIRARD
400 CAPITOL MALL 27TH FL
SACRAMENTO CA 95814-4417

A. A. KRUEGER
CHINO BASIN WATERMASTER BOA
MEMBER
3736 TOWNE PARK CR
POMONA CA 91767

KENNETH KULES
METROPOLITAN WATER DISTRICT
P.O. BOX 54153
LOS ANGELES CA 90054-0153

ARTHUR LITTLEWORTH
BEST BEST & KRIEGER
P.O. BOX 1028
RIVERSIDE CA 92501

ALAN MARKS
CTY OF SAN BRDO-CTY COUNSEL
157 W 5TH ST
SAN BERNARDINO CA 92415

MIKE MCGRAW
FONTANA WATER COMPANY
P.O. BOX 987
FONTANA CA 92334-0987

DAN MCKINNEY
REID & HELLYER
P.O. BOX 1300
RIVERSIDE CA 92502-1300

CINDI MILLER
METROPOLITAN WATER DISTRICT
P.O. BOX 54153
LOS ANGELES CA 90054-0153

BILL MILLS
ORANGE COUNTY WATER DIST
P.O. BOX 8300
FOUNTAIN VALLEY CA 92728-8300

RUBEN MONTES
SAN BERNARDINO CTY FLD CONT DIST
825 E THIRD ST
SAN BERNARDINO CA 92415

JIM MOODY
CITY OF UPLAND
P.O. BOX 460
UPLAND CA 91785-0460

CHRIS NAGLER
DEPT OF WATER RESOURCES
770 FAIRMONT AVE SUITE 102
GLENDALE CA 91203-1035

ROBERT NEUFELD
CHINO BASIN WATERMASTER BOARD
MEMBER
11217 TERRA VISTA "B"
RANCHO CU CAMONGA CA 91730

DANA OLDENKAMP
MILK PRODUCERS COUNCIL
3214 CENTURION PL
ONTARIO CA 91761

ROBERT OLISLAGERS
CNTY OF SAN BERNARDINO
7000 MERRILL AVE BOX 1
CHINO CA 91710-9027

BOB PAGE
DAILY BULLETIN
P.O. BOX 4000
ONTARIO CA 91761

HENRY PEPPER
POMONA - PUBLIC WORKS DEPARTM
P.O. BOX 660
POMONA CA 91769-0660

JEFFREY PIERSON
UNITEX MGMT CORP/CORONA FARMS
3090 PULLMAN ST STE 209
COSTA MESA CA 92626

ROBB D QUINCEY
CHINO BASIN MWD
P.O. BOX 697
RCHO CUCA CA 91729-0697

LEE R REDMOND III
KAISER VENTURES INC
3633 E INLAND EMP BLVD STE 850
ONTARIO CA 91764

BILL RICE
RWQCB - SANTA ANA REGION
3737 MAIN ST STE 500
RIVERSIDE CA 92501-3339

DAVID RINGEL
MONTGOMERY WATSON
P.O. BOX 7009
PASADENA CA 91109-7009

ARNOLD RODRIGUEZ
SANTA ANA RIVER WATER CO
10530 54TH ST
MIRA LOMA CA 91752-2331

GLEN ROJAS
CITY OF CHINO
P.O. BOX 667
CHINO CA 91708-0667

MICHAEL RUDINICA
RBF & ASSOCIATES
14725 ALTON PARKWAY
IRVINE CA 92619-7057

MANAGER
RUTAN & TUCKER
611 ANTON BLVD STE 1400
COSTA MESA CA 92626

PATRICK SAMPSON
P.O. BOX 660
POMONA CA 91769

JOE SCHENK
CITY OF NORCO
P.O. BOX 428
NORCO CA 91760-0428

ANNE SCHNEIDER
ELLISON & SCHNEIDER
2015 H ST
SACRAMENTO CA 95814

DONALD SCHROEDER
CHINO BASIN WATERMASTER BOARD
MEMBER
3700 MINTERN
RIVERSIDE CA 92509

DAVID SCRIVEN
KRIEGER & STEWART
3602 UNIVERSITY AVE
RIVERSIDE CA 92501

CHARLES SIHLER
CITY OF POMONA PUBLIC WORKS DE
P.O. BOX 660
POMONA CA 91769-0660

GUS JAMES SKROPOS
CHINO BASIN WATERMASTER BOARD
MEMBER
303 E B ST
ONTARIO CA 91764

BILL STAFFORD
MARYGOLD MUTUAL WATER CO
9715 ALDER ST
BLOOMINGTON CA 92316-1637

ED STRAUB
CALIFORNIA SPEEDWAY
P.O. BOX 9300
FONTANA CA 92334-9300

GREG TAYLOR
METROPOLITAN WATER DISTRICT
P.O. BOX 54153
LOS ANGELES CA 90054-0153

JERRY THIBEAULT
RWQCB - SANTA ANA REGION
3737 MAIN ST STE 500
RIVERSIDE CA 92501-3339

SUSAN TRAGER
LAW OFFICES OF SUSAN M TRAGER
2100 MAIN ST STE 104
IRVINE CA 92714-6238

GEOFFREY VANDEN HEUVEL
CHINO BASIN WATERMASTER BOARD
MEMBER
7551 KIMBALL AVE
CHINO CA 92710-9269

JAMES WARD
THOMPSON & COLGATE
P.O. BOX 1299
RIVERSIDE CA 92502

RAY WELLINGTON
SAN ANTONIO WATER COMPANY
139 N EUCLID AVE
UPLAND CA 91786-6036

MARK WILDERMUTH
WATER RESOURCES ENGINEER
415 N EL CAMINO REAL
SAN CLEMENTE CA 92672

MARILYN SMITH
SECRETARY TO THE ONTARIO CITY
COUNCIL
303 E "B" STREET
ONTARIO CA 91764

DAVID STARNES
MOBILE COMMUNITY MGMT CO
1801 E EDINGER AVE STE 230
SANTA ANA CA 92705

SWRCB
DIVISION OF WATER RIGHTS
P.O. BOX 2000
SACRAMENTO CA 95809-2000

JIM TAYLOR
CITY OF CHINO HILLS
2001 GRAND AVE
CHINO HILLS CA 91709-4869

MICHAEL THIES
SPACE CENTER MIRA LOMA INC
3401 S ETIWANDA AVE BLDG 503
MIRA LOMA CA 91752-1126

HAROLD TREDWAY
10841 PARAMOUNT BLVD
DOWNEY CA 90241

ERICK VAUGHN
ANGELICA RENTAL SERVICE
P.O. BOX 1209
BREA CA 92822-1209

MARK WARD
AMERON INTERNATIONAL
13032 SLOVER AVE
FONTANA CA 92335-6990

CHARLES R. WHITE
DEPT WATER RESOURCES-SO DIST
770 FAIRMONT AVE
GLENDALE CA 91203-1035

JEROME WILSON
CHINO BASIN WATERMASTER BOARD
(ALT)
6035 FALLING TREE LN
ALTA LOMA CA 91737

MICHAEL SMITH
NICHOLS STEAD BOILEAU & KOSTOF
223 W FOOTHILL BLVD #200
CLAREMONT CA 91711-2708

MIKE STENBERG
PRAXAIR
5735 AIRPORT DR
ONTARIO CA 91761

LENNA TANNER
CITY CLERK - CITY OF CHINO
P.O. BOX 667
CHINO CA 91708-0667

MICHAEL TEAL
CITY OF ONTARIO
1425 S BON VIEW AVE
ONTARIO CA 91761-4406

JOHN THORNTON
PSOMAS AND ASSOCIATES
3187 RED HILL AVE, SUITE 250
COSTA MESA CA 92626

ARLAN VAN LEEUWEN
FAIRVIEW FARMS
6829 PINE AVE
CHINO CA 91709

WILLIAM C. WALKER JR.
CHINO BASIN WATERMASTER BOARD
(ALT)
3768 E GRAND AVE
POMONA CA 91766

DENNIS WEHSELS
STATE OF CA DEPT OF CORRECTION
P.O. BOX 942883
SACRAMENTO CA 95814

MICHAEL WHITEHEAD
SAN GABRIEL VALLEY WATER CO
P.O. BOX 6010
EL MONTE CA 91734

***** NOTICE OF RULING *****

TO: ALL ACTIVE CHINO BASIN PARTIES, CASE NO. RCV 51010
WHEN: February 19, 1998
WHERE: SAN BERNARDINO SUPERIOR COURT, DEPARTMENT H,
8303 N. HAVEN AVE, RANCHO CUCAMONGA, CA 91730-3862
WHAT: RULING ON MOTION TO APPOINT NINE-MEMBER BOARD AS WATERMASTER,
TO DETERMINE WHETHER THE COST OF AN AUDIT CONSTITUTED A
WATERMASTER EXPENSE, AND RELATED MATTERS
NOTICE OF REPRESENTATIVES APPOINTED TO NINE MEMBER WATERMASTER
BOARD

A COPY OF THE RULING MAY BE OBTAINED BY CONTACTING CHINO BASIN WATERMASTER.

TRACI STEWART (909) 484-3888 CHIEF OF WATERMASTER SERVICES

***** NOTICE OF RULING *****

TO: ALL ACTIVE CHINO BASIN PARTIES, CASE NO. RCV 51010
WHEN: February 19, 1998
WHERE: SAN BERNARDINO SUPERIOR COURT, DEPARTMENT H,
8303 N. HAVEN AVE, RANCHO CUCAMONGA, CA 91730-3862
WHAT: RULING ON MOTION TO APPOINT NINE-MEMBER BOARD AS WATERMASTER,
TO DETERMINE WHETHER THE COST OF AN AUDIT CONSTITUTED A
WATERMASTER EXPENSE, AND RELATED MATTERS
NOTICE OF REPRESENTATIVES APPOINTED TO NINE MEMBER WATERMASTER
BOARD

A COPY OF THE RULING MAY BE OBTAINED BY CONTACTING CHINO BASIN WATERMASTER.

TRACI STEWART (909) 484-3888 CHIEF OF WATERMASTER SERVICES

00020
ACTIVE PARTIES
MAILING LIST "2"
UPDATED 2/24/98

00060
A. B. & G. CATTLE COMPANY
6655 KIMBALL AVE
CHINO, CA 91710-9121

00360
ABBONA TRUST
JAMES & ANNA ABBONA
3150 CHINO HILLS PARKWAY
CHINO HILLS, CA 91709

00730
J.B.'S CALVES
JEAN AGUERRE
6655 KIMBALL AVENUE
CHINO, CA 91710-9130

00760
LOUIS AGUERRE
14022 CYPRESS AVE.
CHINO, CA 91710-9005

00970
ARROWHEAD MTN. SPRING WATER CO
SCOTT HENDRIX
5772 JURUPA
ONTARIO, CA 91761

01180
RAY ALBERS
8649 MERRILL AVENUE
CHINO, CA 91710-9234

01200
JAKE ALEWYN
14361 GROVE AVENUE
CHINO, CA 91710-9120

01720
STUEVE BROTHERS FARMS
EDGAR STUEVE
8300 PINE AVE
CHINO, CA 91710-9239

02200
ANDERSON FARMS
JOHN ANDERSON
12455 HOLLY AVE
CHINO, CA 91710-2633

02690
RUBEN ANGUIANO
613 WOOD STR
SANTA ANA, CA 92703

02760
XAVIER APHESSETCHE
7262 BICKMORE AVE
CHINO, CA 91710-9102

03440
LEWIS AUKEMAN
12391 SCHLEISMAN
MIRA LOMA, CA 91752-2725

03740
B & G HAY COMPANY, INC.
8775 E RIVERSIDE DR
ONTARIO, CA 91761-6703

03800
RAYMOND BACHOC
13331 WALKER AVE
ONTARIO, CA 91761-7978

04040
WARREN BAIN
6420 HARRISON AVE
CORONA, CA 91720-9634

04320
BANGMA DAIRY
ATTN - MARTIN BANGMA
8847 SCHAEFER AVE
ONTARIO, CA 91761-7974

04520
ANTHONY BARBA
4844 HAMNER ST
ONTARIO, CA 91761-7809

05080
SUNSHINE DAIRY
URSULA BARTEL
2774 MOUNTAIN VIEW DR
LA VERNE, CA 91750

05090
BARTH FARMS
ROBERT BARTH
13150 ARCHIBALD AVE
ONTARIO, CA 91761

05120
ROLAND BARTHELEMY
16500 CHINO-CORONA RD
CHINO, CA 91710

05160
BASQUE AMERICAN DAIRY
JEAN GASTELLUBERY
8484 SCHAEFFER AVE
ONTARIO, CA 91761-7947

05200
DONALD BASSLER
14 CHERRY HILL LN
NEWPORT BEACH, CA 92660

05260
MILDRED BATES
14867 WALTERS
CORONA, CA 91720-9645

06200
HANK BEKENDAM
13051 BAKER AVE
ONTARIO, CA 91761-7903

06360
EUGENE BELLO
500 N EUCLID AVE
UPLAND, CA 91786-4734

06490
MARVIN BELVILLE
1242 PROSPECT DR
POMONA, CA 91766-4216

06960
BERQUIST PROPERTIES, INC.
MICHAEL PERRY
6511A KIMBALL AVE
CHINO, CA 91710

07280
BEN BIDART
5452 RIVERSIDE DR
CHINO, CA 91710

07320
MICHAEL BIDART
600 S INDIAN HILL BLVD.
CLAREMONT, CA 91711-5440

07400
WESLEY BINNELL
1516 S CUCAMONGA AVE
ONTARIO, CA 91761-4511

08340
PETE BOERSMA
12531 SCHLEISMAN AVE
MIRA LOMA, CA 91752

08800
GARRET BOOTSMAN
7721 EDISON AVE
CHINO, CA 91710-9253

09080
GEORGE BORBA
7955 EUCALYPTUS AVE
CHINO, CA 91710-9065

09200
JOHN BORBA
65 HARFORD PLACE
UPLAND, CA 91786

09280
JOSEPH BORBA
14651 GROVE AVE
CHINO, CA 91710-9064

09330
PETE BORBA ESTATE
MARY BORBA PARENTE, EXECUTRIX
8559 EDISON AVE
CHINO, CA 91710-9242

09840
JOHN BORGES
13580 CLOVERDALE RD
CORONA, CA

09900
MANUAL BORGES
6821 HAMNER AVE
CORONA, CA 91720-9632

10120
JOHN BOS
28724 STOCKDALE HIGHWAY
BAKERSFIELD, CA 93312

10240
TONY BOS
P.O. BOX 1150
CLINT, TX 79836

10280
PETER BOSCH
13567 WHISPERING LAKES LN
ONTARIO, CA 91761-7968

10290
FRANK BOSCHMA
7171 CLEVELAND
CORONA, CA 91720-9625

10360
HENRY BOSCHMA
13350 HAVEN AVE
ONTARIO, CA 91761-7810

10440
JENNIE GOEDHART
7310 CLEVELAND AVE
CORONA, CA 91720-9625

10520
GERRIT BOSMA
13805 AVENUE 160
TIPTON, CA 93272

10560
JACOB BOSMA
318 SPRING COVE RD
BLISS, ID 833145010

10800
MARTIN BOSNYAK
20074 LIMECREST DR
COVINA, CA 91724

11120
BOUMA DAIRY
MARTIN BOUMA
1311 MONTICELLO ST
ONTARIO, CA 91762

11480
BOYS REPUBLIC
DALE MCDOWELL
3493 GRAND AVE
CHINO, CA 91709

11960
BRIANO BROTHERS
ALBERT BRIANO
13955 ROAD 80
TIPTON, CA 93272

12420
ROBERT BRINKERHOFF
8512 KIMBALL AVE
CHINO, CA 91710-9230

12600
MRS. WALTER BRITSCHGI
7812 CHINO AVE
ONTARIO, CA 91761-7919

14260
CABLE AIRPORT INC.
PAUL CABLE
1749 W 13TH ST
UPLAND, CA 91786-2199

14490
CALIFORNIA STEEL INDUSTRIES INC
STEVE ARBELBIDE
ENGINEERING
P.O. BOX 5080 14000 SAN BERNARDINO AVE
FONTANA, CA 92335

15080
CARDOZA TRUST/INVESTMENT
TONY CARDOZA, PARTNER
7475 ARCHIBALD AVE
CORONA, CA 91720

15180
DONALD CADLINI
6349 LEE COURT
CHINO, CA 91710-3724

15250
SWAN LAKE MOBILE HOME PARK
DAVID STARNES
MOBILE COMMUNITY MGMT
1801 E EDINGER AVE SUITE 230
SANTA ANA, CA 92705

15880
ROBERT & ELVIRA CHACON
P.O. BOX 105
CHINO, CA 917080105

16130
DAVID CHEZ
1735 KELLEY AVE
UPLAND, CA 91786

16330
CHINO BASIN MWD
DOUG DRURY
P.O. BOX 697 9400 CHERRY AVE BLDG A
RANCHO CUCAMONGA, CA 91729-0697

16510
CHINO VALLEY INVESTMENT
DENISE MIERSMA
15916 MOUNTAIN AVE
CHINO, CA 91710

16520
CHINO WATER COMPANY
WILLIAM BEACH, BOARD PRESIDENT
11910 BENSON
ONTARIO, CA 91762-4748

16560
CITY OF CHINO
GIL ALDACO
PUBLIC WORKS SERVICE CENTER
5050 SCHAEFER
CHINO, CA 91710

17000
PIERCE FAMILY, INC.
350 E 25TH ST
UPLAND, CA 91784

17240
ARTHUR CLARKE
8822 KIMBALL AVE
CHINO, CA 91710-9230

17290
CLASSIC DEVELOPMENT CORP.
MICHAEL HAXBY, V.P.
17682 MITCHELL NORTH STE. 200
IRVINE, CA 92714

17440
COELHO DAIRY
ISABEL COELHO
2930 WALKER AVE
ONTARIO, CA 91761-7125

17720
SHELBY COLLINSWORTH
10529 E EUCALYPTUS AVE
ONTARIO, CA 91761-7963

17840
CALMAT (CONROCK)
SCOTT J. WILCOTT
EXEC. VP, LAW AND PROPERTY
P.O. BOX 2950
LOS ANGELES, CA 90051

17860
CONSOLIDATED FREIGHTWAYS
11888 MISSION BLVD
MIRA LOMA, CA 91752-1099

18200
CORONA FARMS PARTNERS
JEFF PIERSON
3090 PULLMAN ST STE 209
COSTA MESA, CA 92626

18640
DIMAS COSTA
14451 BON VIEW
CHINO, CA 91710-9106

19060
WR CRAMER RANCH
JIM TRASK, MGR.
11418 68TH ST
MIRA LOMA, CA 91752-2701

19400
CROSSROADS AUTO DISMANTLERS
HANK CAMPBELL
12421 RIVERSIDE AVE
MIRA LOMA, CA 91752-1004

19760
CUCAMONGA COUNTY WATER DISTRICT
ROBERT DELOACH
P.O. BOX 638
RANCHO CUCAMONGA, CA 91729-0638

20160
JOAQUIM DA COSTA
23561 ROAD 168
TULARE, CA 93274

20720
DE BERARD BROS.
R.H. DE BERARD
P.O. BOX 1223
UPLAND, CA 91786-0918

20960
FRED DE BOER
9155 RIVERSIDE DR
ONTARIO, CA 91761-7301

21040
SIDNEY DE BOER
8865 KIMBALL AVE
CHINO, CA 91710-9230

21080
ANDREW DE BOS
14300 SCHLEISMAN RD
CORONA, CA 91720-9613

21200
DICK DE GROOT
7993 SCHAEFER
ONTARIO, CA 91761-7959

21320
ERNEST DE GROOT
7587 EDISON AVE
CHINO, CA 91710-9253

21440
JAKE DE GROOT
14080 HAVEN AVE
ONTARIO, CA 91761

21560
HENRY DE HAAN DAIRY
HENRY DE HAAN
9029 SCHAEFER AVE
ONTARIO, CA 91761-7975

21680
MARTIN DE HOOG
8311 EDISON AVE
CHINO, CA 91710-9212

21760
MITCH DE HOOG
8381 EDISON AVE
CHINO, CA 91710-9212

21840
GEORGE VANDER DUSSEN
6871 SUMNER AVE
CORONA, CA 91720

22080
JACK DE JONG
9811 EDISON AVE
CHINO, CA 91710-9249

22640
ABRAHAM DE VRIES
15524 GROVE AVE
CHINO, CA 91710-9222

22720
CASE DE VRIES
10869 EUCALYPTUS AVE
ONTARIO, CA 91761-7964

24000
DI TOMMASO RANCH
TONY DI TOMMASO
1317 N FIRST AVE
UPLAND, CA 91786

24450
CHARLES DIXON
9301 REMINGTON AVE
CHINO, CA 91710-9243

24720
MIKE DOLAN
2735 S CITRUS AVE
WEST COVINA, CA 91791-3407

24760
NELLIE DONKERS
7990 EDISON AVE
CHINO, CA 91710-9253

24840
DOTTA BROS.
3023 RIVERSIDE TERRACE
CHINO, CA 91710-2965

24960
DOUMA BROTHERS
FRED & HERM DOUMA
135 MAPLE AVE
RIPON, CA 953662327

25100
PHILLIP DOUMA
9983 HILLSIDE RD
ALTA LOMA, CA 91701

25400
LAUREN DUHALDE
9859 EUCALYPTUS AVE
CHINO, CA 91710-9218

25520
JOHN DUIITS
13450 S BON VIEW AVE
ONTARIO, CA 91761-7969

25760
WILLIAM DURRINGTON
8107 KIMBALL AVE
CHINO, CA 91710-9271

25880
DICK DYKSTRA
10129 SCHAEFER
ONTARIO, CA 91761-7973

25920
MRS. JOHN DYKSTRA
11111 EDISON AVE
ONTARIO, CA 91761-7824

25960
PETE AND JOHN DYKSTRA
11091 EDISON AVE
ONTARIO, CA 91761-7824

26020
ANDY DYT
6207 ARCHIBALD
CORONA, CA 917209600

26090
COR DYT TRUST
PATTI LEKKERKERKER
15950 EUCLID AVE
CHINO, CA 91710

26200
CARLOS ECHEVERRIA
9711 EUCALYPTUS AVE
CHINO, CA 91710-9218

26240
JUAN ECHEVERRIA DAIRY
JUAN ECHEVERRIA
8762 KIMBALL AVE
CHINO, CA 91710-9230

26280
PABLO ECHEVERRIA
7481 CLEVELAND AVE
CORONA, CA 91720-9624

26580
EL PRADO GOLF COURSE
DENNIS JOBERT
6555 PINE AVE
CHINO, CA 91710-9192

26880
ENGELSMA DAIRY
JAKE ENGELSMA
8011 KIMBALL
CHINO, CA 91710-9231

27480
EXCELSIOR FARMS
WALTER D RANNEY
7401 HAMNER AVE
CORONA, CA 91720-9630

27960
VELMA FERNANDEZ
8321 SCHAEFER AVE
ONTARIO, CA 91761-7947

28040
FRANK FERREIRA
13950 S HAVEN AVE
ONTARIO, CA 91761-2616

28080
JOE FERREIRA
14400 GROVE AVE
CHINO, CA 91710-9221

28120
NARCIE FERREIRA
5009 BRAMBLE CT
ALTA LOMA, CA 917372474

28180
BILL FIEN
2975 S 2200 E
WENDELL, ID 833553147

28440
JOSEPH & MARY FILIPPI TRUST
MARY FILIPPI
P.O. BOX 2
MIRA LOMA, CA 91752

28880
FLAMINGO DAIRY
VALERIE MC CUNE-OFFICE MGR
14970 CHANDLER AVE
CORONA, CA 91718-1295

28980
LEWELLYN FLORY
4800 STONE AVE
RIVERSIDE, CA 92509-4001

29180
FONTANA WATER COMPANY
MIKE MC GRAW
P.O. BOX 987
FONTANA, CA 92334

30050
FULLMER CATTLE COMPANY
DEBRA J. FULLMER, OWNER
16600 HELMAN AVE
CORONA, CA 91720

31410
GLEN GILSTRAP
8312 GRAPEWIN
CORONA, CA 91720-9633

32200
HENRY GORZEMAN
12586 SCHLEISMAN
CORONA, CA 91720-9627

33240
GERRITT GREYANUS
31 N ROLLING HILLS DR
POMONA, CA 91766

34440
JAMES HARADA
9490 EDISON AVE
CHINO, CA 91710-9214

34800
WILLIAM HARINGA
14842 E KEYES RD
PENAIR, CA 95316-9607

35780
MR. JIM HEIDA
6101 HARRISON ROAD
CORONA, CA 91720-9635

36720
WILBER HETTINGA
5240 HAMNER
ONTARIO, CA 91761-7809

37160
NORTHVIEW DAIRY
FRANK HILARIDES
10601 EAST RIVERSIDE DRIVE
ONTARIO, CA 91761-7819

29240
FOSS BROTHERS DAIRY
GERALD R. FOSS, PARTNER
6641 RIVERSIDE DR
CHINO, CA 91710-9098

30240
GALLEANO WINERY, INC
DONALD GALLEANO
4231 WINEVILLE AVE
MIRA LOMA, CA 91752-1412

31680
JOHN GODINHO
13380 CITRUS AVE
CORONA, CA 917209215

32240
GORZEMAN DAIRY
JOE GORZEMAN
12451 BELLEGRAVE AVE
MIRA LOMA, CA 91752-1548

34320
MARY HANSEN
235 OLD RANCH RD
SEAL BEACH, CA 90740

34720
HERMAN HARINGA
8552 KIMBALL
CHINO, CA 91710-7978

34970
JIMMY HARRIS
7360 SUMNER AVE
CORONA, CA 91720-9623

36520
HEIN HETTINGA
17094 CUCAMONGA
CORONA, CA 91720-9506

36730
HARVEY HETTINGA
11111 EAST EUCALYPTUS AVENUE
ONTARIO, CA 91761-7966

37240
ASTOR & PHILLIPS
ESTATE OF JOHN HILARIDES
800 WILSHIRE BLVD. SUITE 1500
LOS ANGELES, CA 90017-2612

29680
BEATRICE FREITAS
12940 HILLCREST DR
CHINO, CA 91710

30500
PETE GARCIA
13462 OAKS AVE
CHINO, CA 91710-5317

32130
INLAND EMPIRE DAIRY
CANDIDO & MARIA COSTA
7316 SCHAEFER AVE
CHINO, CA 91710

32440
ALBERT GOYENETCHE
16130 EUCLID AVE
CHINO, CA 91710

34400
HARADA BROS.
ATTN GEORGE & STEVE
12774 CLOVERDALE RD
CORONA, CA 91720-9615

34760
RUDY HARINGA
7322 CHINO AVE
ONTARIO, CA 91761-7913

35730
ELSIE HEIM
13456 S WALKER
ONTARIO, CA 91761-7978

36560
PETE HETTINGA DAIRY
PETE HETTINGA
11101 E. EUCALYPTUS AVE
ONTARIO, CA 91761-7966

36960
HIGGINS BRICK CO.
RON HIGGINS
15920 POMONA RINCON RD.
CHINO, CA 91710

37640
EDWARD HOEKSTRA
HILLCREST DAIRY
11255 BELLGRAVE
MIRA LOMA, CA 91752-9606

37800
HOFER RANCH
PAUL HOFER
11248 S TURNER AVE
ONTARIO, CA 91761-7688

38060
WARREN HOGG
8271 CHINO AVENUE
ONTARIO, CA 91761-7928

39000
HOOGENDAM DAIRY
MARVIN HOOGENDAM
12871 SCHLEISMAN ROAD
CORONA, CA 91720-9626

41540
JOHNSON BROTHERS, INC.
RON THOMAS
13610 SOUTH ARCHIBALD
ONTARIO, CA 91761-7999

42360
COW-WEST DAIRY
HAROLD JONGSMA
8050 HELLMAN AVE
CORONA, CA 91720-9610

42640
JURUPA COMM. SVCS. DIST.
EDWIN JAMES
8621 JURUPA ROAD
RIVERSIDE, CA 92509-3297

43760
KNEVELBAARD DAIRIES
JOHN KNEVELBAARD
15673 5 1/2 AVE
HANFORD, CA 93230

44400
J.N. KONING ESTATE
VICTOR KONING
1471 ELECTRA BAY
LAKE HAVASU CITY, AZ 86404-2407

44840
SILAS KOOPAL
16050 MOUNTAIN AVE
CHINO, CA 91710-9124

45400
KROES DAIRY
JAKE KROES
14561 S HAVEN AVE
CHINO, CA 91710-9223

37920
DICK HOFSTRA
4405 GETTYSBURG ST
CHINO, CA 91710-3211

38160
HAROLD HOHBERG
7716 CHINO AVE.
ONTARIO, CA 91761-7918

39840
WILLIAM IDSINGA
8391 PINE AVENUE
CHINO, CA 91710-9239

41800
OLD ENGLISH RANCHO
JOHNSTON, E.W., EXECUTOR
1550 EAST LOCUST STREET
ONTARIO, CA 91761-7798

42440
JOHN JONGSMA
9928 EDISON AVENUE
CHINO, CA 91710

42800
KAISER VENTURES, INC.
LEE REDMOND III
3633 INLAND EMPIRE BLVD, SUIT
ONTARIO, CA 91764-4922

43840
KNUDSEN BROTHERS
ROBERT KNUDSEN
13130 SOUTH BAKER AVENUE
ONTARIO, CA 91761-7903

44560
KONING TRUST
JOHN KONING
16656 HELLMAN AVE
CORONA, CA 917209722

44920
GENE KOOPMAN
13898 ARCHIBALD AVENUE
ONTARIO, CA 91761-7979

45760
PERRY KRUCKENBERG
130 NORTH GIRARD STREET
HEMET, CA 92544-4627

37960
MARIE HOFSTRA
13849 GROVE AVENUE
ONTARIO, CA 91761

38600
JEFF HOLMES
8087 EAST SCHAEFER AVENUE
ONTARIO, CA 91710

40200
MARCELINE INDABURU
15970 EUCLID
CHINO, CA 91710-9115

42200
JONGSMA DAIRY
HANK OR JORGE JONGSMA
1710 NORTH WARREN ROAD
SAN JACINTO, CA 92582-2093

42560
JAMES AND NONA JORRITSMA
8061 EDISON AVENUE
CHINO, CA 91710-9212

43040
KASBERGEN DAIRY
GEORGE KASBERGEN
12400 LIMONITE AVE
MIRA LOMA, CA 91752-2402

44200
GERRIT KOETSIER
1442 E DEERFIELD CT
ONTARIO, CA 917617134

44760
SOPHIE KOOLHAAS
14717 HAVEN AVENUE
CHINO, CA 91710-9223

44960
TENA KOOPMAN
26900 CALIFORNIA AVENUE
HEMET, CA 92545-9062

46250
RONALD V. LA BRUCHERIE
12953 S. BAKER AV.
ONTARIO, CA 91761

46450
KELLY LAM
123 WEST GARVEY
MONTEREY PARK, CA 91754

46820
MACLIN MARKETS INC
GREGORY HAHN
7407 RIVERSIDE DR
ONTARIO, CA 91761-6712

47320
CORONA DAIRY RANCH
6313 ARCHIBALD AVENUE
CORONA, CA 91720-9656

47600
TOM WORTHINGTON
7556 EUCALYPTUS AVE
CHINO, CA 91710-9011

47880
HENRIETTA LEE
8750 HILLCREST ROAD
BUENA PARK, CA 90621

48000
LEENDERT LEKKERKERK
15779 MOUNTAIN AVE
CHINO, CA 91710-9124

48080
WALT LEKKERKERKER
15822 EUCLID AVENUE
CHINO, CA 91710-9162

49360
MIGUEL GOMEZ
13134 SOUTH EUCLID AVENUE
ONTARIO, CA 91761-7943

49470
LOS SERRANOS COUNTRY CLUB
ATTN: KEVIN SULLIVAN
15656 YORBA AVENUE
CHINO, CA 91709

49480
CARLOS LOURENCO DAIRY
MARY LOURENCO
8681 ARCHIBALD
CORONA, CA 91720-9650

49600
C.P. LOURENCO ESTATE
MARY PEDRO
EXECUTOR
26017 ROAD 100
TULARE, CA 93274

50040
JOHN LUSK
17550 GELLETE AVENUE
IRVINE, CA 92713

50760
MARQUEZ DAIRY
ARTHUR MARQUEZ
7360 PINE AVENUE
CHINO, CA 91710

50880
MARQUINE TRUST
BERNARD BIDART
5452 RIVERSIDE DRIVE
CHINO, CA 91710

50940
FRANK MARTIN
7080 SUMNER AVE.
CORONA, CA 91720-9201

51320
TONY MARTIN
10129 EDISON AVENUE
CHINO, CA 91710-9213

51560
MARYGOLD MUTUAL WATER CO
BILL STAFFORD
9715 ALDER STREET
BLOOMINGTON, CA 92316-1602

52880
GOLDEN WEST DAIRIES
ENOS MELLO
2781 BLACK HORSE DRIVE
ONTARIO, CA 917619196

53400
LOUISE MICHEL
P.O. BOX 394
NORTHRIDGE, CA 91324

53560
HARRY MIERSMA
6828 ARCHIBALD AVENUE
CORONA, CA 91720-9665

53960
MARIE MINABERRY
8120 HARRISON
CORONA, CA 91720-9320

54040
SPACE CENTER MIRA LOMA, INC.
ATTN- MICHAEL THIES
3401 ETIWANDA AVE BLDG 503
MIRA LOMA, CA 91752-1133

54100
MIRA LOMA THOROUGHBRED FARM
12071 BELLEGRAVE AVENUE
MIRA LOMA, CA 91752-1547

54260
MOCHO AND PLAA INC
12421 BELLEGRAVE AVENUE
MIRA LOMA, CA 91752-1548

54280
MONTE VISTA WATER DISTRICT
JOE GRINDSTAFF
P.O. BOX 71
MONTCLAIR, CA 91763-0071

54320
MONTE VISTA IRRIGATION CO.
HAROLD ANDERSEN
2529 W TEMPLE STREET
LOS ANGELES, CA 900264819

54400
ELIZABETH MONTES
13172 S. BAKER
ONTARIO, CA 91761-7904

54440
JACK MOONS
6310 HELLMAN AVE
CHINO, CA 91710-9224

54500
JOHN MOORE
13315 S. BON VIEW AVE.
ONTARIO, CA 91761-7969

54790
LOUIS MORENO
16532 JOHNSON AVENUE
CHINO, CA 91710-9227

54890
MOTION PICTURES ASSOCIATES INC
HELEN COHEN
223 WEST ALAMEDA, #101
BURBANK, CA 91502-2575

56540
GEORGE NOBLE
10460 60TH STREET
MIRA LOMA, CA 91752-2633

57080
MARION OKUMURA
8010 SCHAEFFER AVE
ONTARIO, CA 917618218

57360
ANTON OMLIN
14739 ARCHIBALD AVE
CHINO, CA 917109201

57640
OOSTEN FAMILY TRUST
ATTN: RICHARD LORENZ
8405 ARCHIBALD AVENUE
CORONA, CA 91720-9648

58280
BERNARD ORTEGA
13512 CITRUS AVENUE
CORONA, CA 91720-9633

59210
JAY PARK
8406 CHINO AVENUE
ONTARIO, CA 91761

61040
VIRGINIA PINE
1306 FERNWOOD CIRCLE
CORONA, CA 91720-1288

61880
CITY OF POMONA
CHUCK SIHLER
PUBLIC WORKS
P.O. BOX 660
POMONA, CA 91769-0660

64760
JOHN ROCHA
7363 PINE AVENUE
CHINO, CA 91710-9258

55480
MUTUAL WATER COMPANY OF
TERRI HORN
GLEN AVON HEIGHTS
9643 MISSION BOULEVARD
RIVERSIDE, CA 92509-2691

56560
NORCO, CITY OF
ATTN - JOE SCHENK
P.O. BOX 428
NORCO, CA 91760-0428

57260
MARY OLIVEIRA
5009 YORKSHIRE DRIVE
CYPRESS, CA 90630

57420
ONTARIO CHRISTIAN SCHOOL ASSN
ELEANOR DEN HARTIGH
931 WEST PHILADELPHIA ST
ONTARIO, CA 91761-4997

57760
ORANGE COUNTY WATER DIST
BRYAN BAHARIE
541 N MAIN ST STE 104-363
CORONA, CA 91720

58360
OSTERKAMP DAIRY
JOSEPH OSTERKAMP
8301 ARCHIBALD AVE
CORONA, CA 91720-9649

59600
PAYNE RANCH
MARGO MCCANTY PAYNE
8800 MCCARTY ROAD
CORONA, CA 91720

61400
GEORGE PLANTENGA
6500 HAMNER AVENUE
CORONA, CA 91720-9632

63960
R & V DAIRY
LOUIS REITSMA
8007 CHINO AVE
ONTARIO, CA 91761-7924

65280
ELIZABETH ROHRS
113 GRAND CANAL STREET
BALBOA ISLAND, CA 92662

55960
HANS NEDEREND
13752 BON VIEW AVENUE
CHINO, CA 91710-9160

56960
JIM NYENHUIS
8711 REMINGTON AVE.
CHINO, CA 91710-9243

57320
ALBERT OLSON
15757 MOUNTAIN AVE
CHINO, CA 91710-9124

57440
ONTARIO, CITY OF
ATTN-MIKE TEAL
MUNICIPAL SERVICE CENTER
1425 SO. BON VIEW AVENUE
ONTARIO, CA 91761-4406

58240
ADELINE ORTEGA
13512 CITRUS AVENUE
CORONA, CA 917209633

58960
MARY PARENTE
8559 EDISON AVENUE
CHINO, CA 91710-9242

60720
PIERCE FAMILY CORPORATION
TERESA CORTEZ
3765 EUCALYPTUS AVENUE
CHINO HILLS, CA 91709

61760
POMONA CEMETERY ASSOCIATION
MELODY MCCLURE
P.O. BOX 1
POMONA, CA 91769-0001

64520
GEORGE RILEY
14330 BON VIEW AVENUE
CHINO, CA 91710-9106

66000
ANGELINE ROUKEMA
JOHN VANDER POEL
14780 SCHLEISMAN
CORONA, CA 91720

66280
BRAD LEAL
12741 CLOVERDALE ROAD
CORONA, CA 91720-9617

66560
PETE VERHOVEN
8790 AVENUE 152
TIPTON, CA 93272-9761

66960
SAN ANTONIO WATER COMPANY
RAY WELLINGTON
139 NORTH EUCLID AVENUE
UPLAND, CA 91786-6036

67000
COUNTY OF SAN BERNARDINO
JAMES JENKINS
DEPARTMENT OF AIRPORTS
7000 MERRILL AVE BOX 1
CHINO, CA 91710-9016

67001
S.B. CNTY. AIRPORTS DEPT
ROBERT OLISLAGERS
CHINO AIRPORT
7000 MERRILL AVENUE, BOX 1
CHINO, CA 91710-9016

67002
SAN BDNO. CO. GENERAL SVS.
MS. DULCIE CROWDER
DEPT OF COMMUNITY & CULTURAL
RESOURCES
777 EAST RIALTO AVENUE

67003
CITY OF CHINO HILLS
KEN HACKMAN
14575 PIPELINE AVENUE
CHINO, CA 91710-5699

67004
COUNTY OF SAN BERNARDINO
MS. CROWDER-COMM & CULT RES DIR
777 E RIALTO STREET
SAN BERNARDINO, CA 924150763

67040
EDMUNDO SANCHEZ
13115 S ONTARIO AVENUE
ONTARIO, CA 91761-7955

67120
SANTA ANA RIVER WATER CO.
ATTN: ARNOLD RODRIGUEZ
10530 54TH STREET
MIRA LOMA, CA 91752-2331

67260
LEGACY RANCH, INC.
PETE PARRELLA
15709 EUCLID AVENUE
CHINO, CA 91710-9291

67840
FRED SCHAKEL, SR.
5815 SUMNER AVENUE
CHINO, CA 91710

68520
MADELEINE SCHMIDT
2862 SOUTH CAMPUS AVENUE
ONTARIO, CA 91761-6707

68580
ESTHER SCHONEVELD
14683 RIVER ROAD
CORONA, CA 91720-9606

68640
JOHN SCHONEVELD, SR.
14058 ARCHIBALD AVENUE
ONTARIO, CA 91761-7999

68680
JOHN SCHONEVELD
10115 EUCALYPTUS AVENUE
CHINO, CA 91710-9218

68760
HAROLD SCHUH
14307 SAN ANTONIO
CHINO, CA 91710-9026

69080
RENE PEAUROI
12000 EAST END AVENUE
CHINO, CA 91710-1597

69120
STANDARD FEEDING CO.
JOHN DEJONG
13751 S. HAVEN STREET
ONTARIO, CA 91761-7810

69800
SHADY GROVE DAIRY FARM
MR. MIKE MUSSER
13485 S BON VIEW AVENUE
ONTARIO, CA 91761-7969

69860
BERT SHAMEL
11 SAN SIMEON
LAGUNA NIGUEL, CA 92677-2715

71080
JACK SILVEIRA
9261 ROYAL PALM BLVD
GARDEN GROVE, CA 928412025

71160
JOE SIMAS, SR.
6160 HARRISON AVENUE
CORONA, CA 91720

71440
JIM SINNOTT
7684 RIVERSIDE DRIVE
ONTARIO, CA 91761

71800
HUBERT SLEGGERS
6263 GARFIELD
CHINO, CA 91710-2729

71820
JAKE SLEGGERS
11400 HARREL STREET
MIRA LOMA, CA 91752-1406

71840
LENWOOD SLEGGERS
10401 S RIVERSIDE DRIVE
ONTARIO, CA 91761-7817

72960
SOUTHERN CALIF. EDISON CO.
RICHARD DARNELL
MANAGER OF OPERATIONS
8996 ETIWANDA
ETIWANDA, CA 91739-9697

73000
H.G. STARK YOUTH TRAINING SCH.
ANTHONY R. KOLATH
CHIEF ENGINEER
P.O. BOX 800
ONTARIO, CA 91761

73040
SOUTHERN CALIFORNIA WATER CO.
HELEN LONG
REGION III HEADQUARTERS
2143 CONVENTION CTR WY ST 110
ONTARIO, CA 91764

73100
ANGELICA RENTAL SERVICE
ERICK VAUGHN
P.O. BOX 1209
BREA, CA 928221209

74200
EVERETT STARK
7653 KIMBALL AVE
CHINO, CA 91710-9229

74360
CALIF. INSTITUTION FOR WOMEN
R. PETE HALL
CHIEF ENGINEER
16756 CHINO-CORONA ROAD
FRONTERA, CA 91720-9507

74770
STERLING BUILDERS, INC.
DAVE GILBERT
270 BRISTOL ST #101-236
COSTA MESA, CA 92626

75770
SUKUT CONSTRUCTION, INC
ED MARTIN, PROPERTY MANAGER
4010 WEST CHANDLER
SANTA ANA, CA 92704-5202

75960
GERBEN SWAGER
7945 CHINO-CORONA RD
CORONA, CA 91720-9502

77480
BERNARD TE VELDE
5821 W PROSPECT DR
VISALIA, CA 93291

77940
SUNSHINE GROWERS NURSERY
GARY TEED, MANAGER
13130 MILLIKEN AVENUE
ONTARIO, CA 91761

79000
FRED THOMMEN
53955 W NEES AVE
FIREBAUGH, CA 936229529

79400
TOLLMARK CORPORATION
HAROLD TOLLERUP
P.O. BOX 753
SOLANA BEACH, CA 92075

73280
FRANK SOUZA
16185 EUCLID AVENUE
CHINO, CA 91710-9114

74240
STATE DEPT OF FISH & GAME
GLENN F. BLACK
4775 BIRD FARM RD
CHINO, CA 91709-3175

74520
STELLINGWERF FAMILY TRUST
STAN STELLINGWERF, TRUSTEE
18022 SUMMER AVENUE
ARTESIA, CA 90701

74955
STEVE STILES
13608 SOUTH GROVE AVENUE
ONTARIO, CA 91761

75800
SUNKIST GROWERS, INC.
DAVID COOPER
760 E SUNKIST
ONTARIO, CA 91761

76240
FANNIE SWIERSTRA
25095 TEHAMA VINA ROAD #44
LOS MOLINOS, CA 960550124

77600
TEE VEE DAIRY FARMS
GEORGE TE VELDE
14744 ARCHIBALD AVE
CHINO, CA 91710-9201

78440
BERNARD TEUNISSEN
16754 HELLMAN AVENUE
CORONA, CA 91720-9609

79090
LEMON THRALL
14891 WALTERS
CORONA, CA 91720-9645

79620
ALFRED TOURIGNY
5990 DODD STREET
MIRA LOMA, CA 91752

73800
ZIPPORA STAHL
P.O. BOX 526
JEROME, ID 83338

74280
CALIF. INSTITUTE FOR MEN
L. JACK HAGERMAN
CHIEF OF PLANT 3
P.O. BOX 128
CHINO, CA 91710-0128

74680
STERK FAMILY TRUST
6683 CHINO AVENUE
CHINO, CA 91710-9003

75520
HENRY STRUIKMANS
8535 EDISON AVENUE
CHINO, CA 91710-9212

75920
JOHANNA SWAGER
8485 EDISON AVENUE
CHINO, CA 91710

76720
ALBERT SYTSMAN
8331 NOOKSACH ROAD
EVERSON, WA 98247

77680
H & T TRUST
GEORGE PHILLIPS
800 WILSHIRE BLVD. 15TH FLOOR
LOS ANGELES, CA 90017-2619

78800
ALMA HERMANS
14123 SOUTH EUCLID AVE
CHINO, CA 917109082

79200
HAROLD TILLEMA
6848 ARCHIBALD AVENUE
CORONA, CA 91720-9665

80000
TROOST, FRED & ANNIE NO 2 INC
FRED TROOST
11561 BELLGRAVE
MIRA LOMA, CA 91752-1603

80080
HARRY TUINHOUT
14741 CARPENTER
CHINO, CA 91710-9252

80570
UNITEX CORPORATION
JEFF PIERSON
6101 CHERRY AVENUE
FONTANA, CA 92336

81320
MARIE BINGGELI
16451 MOUNTAIN AVE
CHINO, CA 91710-9124

81640
MARVIN VAN DEN BERG
2459 N OAKS ST #97
TULARE, CA 932741365

82560
WILLIAM VAN FOEKEN
22338 SHORT AVENUE
WILMAR, CA 953249311

83240
FAIRVIEW FARMS
ARLAN VAN LEEUWEN
6829 PINE AVE.
CHINO, CA 91710

83660
WILLIAM VAN LEEUWEN
13000 CITRUS STREET
CORONA, CA 91720-9633

84120
HUGO VAN VLIET
12151 HIGHWAY 95
PARMA, ID 83660

84320
H & R DAIRY
HARRY AND RONALD MIERSMA -L-
15916 MOUNTAIN AVENUE
CHINO, CA 91710-9124

84640
B. VANDER DUSSEN FAMILY TRUST
ALVIN FIKSE
8919 CHINO AVENUE
ONTARIO, CA 91761

80240
JAKE TULS
950 SOUTH MOUNTAIN AVE., #49
ONTARIO, CA 91762

80540
CITY OF UPLAND
ROB TURNER
DIRECTOR OF PUBLIC WORKS
P.O. BOX 460
UPLAND, CA 91785-0460

81400
BAS VAN DAM
2726 SOUTH PALM AVENUE
ONTARIO, CA 91761

82000
STANLEY VAN DER LINDEN
3830 PILGRAM WAY
CHINO, CA 91710

82680
STEVE VAN HOFWEGEN
15913 MOUNTAIN AVENUE
CHINO, CA 91710-9124

83440
GERALDINE SWOPE
7545 VINEYARD AVE
HAGERMAN, NM 88232

83880
VAN RYN DAIRY
DICK VAN RYN
14487 SCHLEISMAN ROAD
CORONA, CA 91720-9613

84160
MRS. KLAAS VAN VLIET
16931 JOHNSON AVENUE
CHINO, CA 91710-9227

84400
GERTIE VANDEN BERGE
6715 WINEVILLE AVENUE
MIRA LOMA, CA 91752-2452

84920
RENE VANDER DUSSEN
8045 MAKAH-BERCH BAY VILLAGE
BLAINE, WA 98230

80440
PRAXAIR INC.
R.WAYNE SALMI
5735 EAST AIRPORT DRIVE
ONTARIO, CA 91761

81000
VALLEY HAY
JOHN RESSEGUE
1281 MAYAPAN RD
LA HABRA, CA 906318425

81520
DON VAN DAM
7225 EDISON AVENUE
CHINO, CA 91710-9253

82280
BART VAN DYK
13628 S HAVEN STREET
ONTARIO, CA 91761-7810

83000
ALBERT VAN KLAVEREN
15113 MONTE VISTA
CHINO, CA 91710-9621

83560
JOHN VAN LEEUWEN
16311 MOUNTAIN AVENUE
CHINO, CA 91710-9124

84040
JOHN VAN VEEN
9581 CHINO AVENUE
ONTARIO, CA 91761-7938

84170
NICK VAN VLIET
8571 MERRILL AVENUE
CHINO, CA 91710

84480
GRACE DE JONG
2218 BASELINE AVE
LA VERNE, CA 917502229

85000
SYBRAND VANDER DUSSEN
10573 EDISON AVENUE
ONTARIO, CA 91761

85080
CASE VANDER EYK, JR.
13661 HAVEN STREET
ONTARIO, CA 91761-7810

85360
BEN VANDER LAAN
8755 CHINO-CORONA ROAD
CORONA, CA 91720-9501

85760
DICK VANDER MEER
6851 HARRISON AVENUE
CORONA, CA 91720-9634

86120
JOHN VANDER SCHAAF
7849 SCHAEFER AVENUE
ONTARIO, CA 91761-7859

86520
CORNELIUS VANDERHAM
13920 HAMNER AVENUE
ONTARIO, CA 91761-7806

87240
ELEANOR VASQUEZ
3233 GRAND AVENUE
CHINO HILLS, CA 91709

87760
JACK VERBURG
15743 EL PRADO ROAD
CHINO, CA 91710-9155

88240
PAT VERNOLA
12080 BELLEGRAVE AVENUE
MIRA LOMA, CA 91752-1546

89240
GERTRUDE VOORTMAN
8025 SCHAEFER AVE.
ONTARIO, CA 91761-7959

89980
LEON WEAVER
4032 WEST CROWLEY COURT
VISALIA, CA 93291

85120
CASE VAN DER EYK DAIRIES
CASE VAN DER EYK
17400 HELLMAN AVE
CORONA, CA 91720-9609

85480
JAMES VANDER LAAN
8800 CHINO CORONA ROAD
CORONA, CA 91720-9501

85810
JOHN VANDER POEL
14726 SCHLEISMAN
CORONA, CA 91720

86160
TED VANDER SCHAAF
7777 SCHAEFER AVENUE
ONTARIO, CA 91761-8219

86580
CORRIE VANDERHAM
4860 WINEVILLE AVENUE
MIRA LOMA, CA 91752-1415

87360
VEENENDAAL DAIRY
JOHN VEENENDAAL
13566 SOUTH BON VIEW AVENUE
ONTARIO, CA 91761-7969

87960
MARTIN VERHOEVEN
6718 EUCALYPTUS AVENUE
CHINO, CA 91710-9010

88720
HENRY VISSER
6841 BICKMORE AVE
CHINO, CA 91710-9101

89260
EDWIN VOORTMAN
13960 GROVE AVENUE
CHINO, CA 91710-9221

90240
DANIEL WEEDA DAIRY
DANIEL WEEDA
15708 POMONA RINCON ROAD
CHINO HILLS, CA 91709

85170
ROBERT VANDER EYK
13750 S HAVEN ST
ONTARIO, CA 91761

85520
MARTIN VANDER LAAN
13429 SOUTH GROVE AVENUE
ONTARIO, CA 91761-7949

85840
PETE VANDER POEL
8711 PINE AVENUE
CHINO, CA 91710-9239

86240
CLARENCE VANDER STELT
6701 HARRISON AVENUE
CORONA, CA 91720-9634

86800
VANDERHAM BROTHERS DAIRY
PETE VANDERHAM
13575 SOUTH WALKER AVENUE
ONTARIO, CA 91761-7978

87480
AMELIA VEIGA
4136 BISCAYNE ST
CHINO, CA 91710

88040
DICK VERMEER
1771 NORTH EUCLID AVENUE
UPLAND, CA 91786-2004

88920
LOYOLA DAIRY
7565 EUCALYPTUS AVENUE
ONTARIO, CA 917109059

89880
PETER WASSENAAR
8015 KIMBALL AVE
CHINO, CA 91710-9231

90280
O.L. WEEKS
11530 VERNON AVE
CHINO, CA 91710

90920
WEST END CONSOLIDATED WATER CO
PUBLIC WORKS DEPT - BEVERLY BRADEN
C/O CITY OF UPLAND
P.O. BOX 460
UPLAND, CA 91785

91240
WEST INVESTORS
JAKE WESTRA
11023 EUCALYPTUS
ONTARIO, CA 91761

92040
OTTO WIERSMA
P.O. BOX 42
BUHL, ID 83316-0042

92840
LIBERTY RANCH
JOHN WIND
8486 CHINO-CORONA RD
CORONA, CA 91720-9502

93600
YELLIS INVESTMENT DAIRY
GARY YELLIS
16760 HELLMAN AVE
CORONA, CA 917209722

95002
FRANCISCO MOTA
402 SOUTH 5TH AVENUE
LA PUENTE, CA 91746

95010
EWOUDE BOUMA
831 LA RODA COURT
ONTARIO, CA 91762

95020
COR DYT TRUST
ANDY DYT
6207 ARCHIBALD AVENUE
CORONA, CA 91720-9635

95035
CARDOZA DAIRY
TONY CARDOZA, PARTNER
7475 ARCHIBALD AVENUE
CORONA, CA 91720

95050
JEAN MOYNIER
7123 SILVERADO TRAIL
NAPA, CA 94558

91090
INTEX PROPERTIES
LIZ PERRY
6101 CHERRY AVENUE
FONTANA, CA 92336

91360
PETE WESTSTEYN
14762 SCHLEISMAN
CORONA, CA 91720-9613

92080
PETE WIERSMA
6812 EISENHOWER COURT
CHINO, CA 91710-6215

93020
DN WOLL
13230 ORANGE STREET
CORONA, CA 91720-9621

93760
WEST EUCLID WATER GROUP
DARRELL YOKLEY
12956 S EUCLID AVE
ONARIO, CA 91761

95006
ANGELAN GENDIAS TRUST
ROSE KETCHOYAN
4111 SEPULVEDA AVENUE
SHERMAN OAKS, CA 91403

95011
EMIL DE VUYST
13503 SAN ANTONIO AVE
CHINO, CA 91710

95022
THE SCOTTS COMPANY
ROCLUND WHITE
11980 RIVERSIDE AVENUE
MIRA LOMA, CA 91752

95038
ANTHONY OSTERKAMP
P.O. BOX 5546
ORANGE, CA 92667

95051
PAUL HO
17533 LORI ANN LANE
CERRITOS, CA 907038521

91160
H & R WESTRA DAIRY
HENRY WESTRA
7851 BICKMORE AVE
CHINO, CA 91710-9205

91920
HARRY WIERSEMA
8315 MERRILL AVE
CHINO, CA 91710-9234

92720
WIND FAMILY TRUST
JOHN WIND
ROUTE 1 BOX 203A
CORONA, CA 91720

93400
ANDY WYNJA
13041 S. CAMPUS AVE
ONTARIO, CA 91761-7908

94040
GEORGE ZIVELONGHI
13450 SOUTH EUCLID
ONTARIO, CA 91761-7945

95009
DAVID DE VUYST
13503 SAN ANTONIO AVE
CHINO, CA 91710-9024

95018
W. RIVERSIDE CNTY REG. W.W. AUTHORITY
MIKE WRIGHT
11615 STERLING AVENUE
RIVERSIDE, CA 92503

95034
BLUE RIBBON NURSERY&LANDSCAPE
MIKE RAWLS
14545 RIVER ROAD
CORONA, CA 917206609

95044
J & L DAIRY
LARRY VANDEN BERGE
14610 CHANDLER AVENUE
CORONA, CA 91720-9641

95052
LYON COMMUNITY, INC.
4490 VON KARMAN
NEWPORT BEACH, CA 92660

95055
SANWA BANK/RANCON FINANCIAL
DAVID CROWDER
27720 JEFFERSON AVENUE
TEMECULA, CA 92590

95056
CATHERINE MENDIONDO
12760 SULTANA AVENUE
ONTARIO, CA 91761

95057
CASE TERMAATEN
5457 DOVER STREET
CHINO, CA 91710

95060
SO.CAL.AGRICULTURAL LAND FND.
CHUCK HALE
13839 BON VIEW AVENUE
CHINO, CA 91710

95062
RICHARD VAN LOON
8500 HELLMAN AVENUE
CORONA, CA 91720-9609

95063
MARY BROGURERE ESTATE
BERTHA BROGURERE
14840 ORANGE GROVE AVENUE
HACIENDA HEIGHTS, CA 91745

95065
SKY COUNTRY INVESTMENT COMPANY
ROBERT MCCUNE
P.O. BOX 1295
CORONA, CA 91718

95066
LAND DESIGN SERVICES
JOHN GERARDI, PARTNER
14067 GOLDEN RAINTREE LN
CHINO HILLS, CA 91709

95070
BETO FLORES
220 WEST PHILADELPHIA STREET
ONTARIO, CA 91762

95075
J.G.J. JOINT VENTURE
MARGUERITE
14651 GROVE AVENUE
CHINO, CA 91710-9064

95077
DAVE VANDER SCHAAF
7777 SCHAEFER AVENUE
ONTARIO, CA 91761

95082
ANDRES DEL LAS SANTOS
1051 EAST EMERSON STREET
PASADENA, CA 91106

95083
FRANK WALTON
13525 EUCLID AVENUE
ONTARIO, CA 91761

95086
GENERAL ELECTRIC CORPORATION
DEBORAH HANKINS
GEOMATRIX CONSULTANTS, INC.
114 SANSOME STREET 14TH FL
SAN FRANCISCO, CA 94104

95087
PYRITE CANYON GROUP, INC
DANIEL BERGMAN
EXECUTIVE DIRECTOR
3200 C PYRITE STREET
RIVERSIDE, CA 92509

95090
ERNESTO GUTIERREZ
13020 BON VIEW STREET
ONTARIO, CA 917617906

95098
RON VANDER WEERD
1726 S ELDERBERRY CT
ONTARIO, CA 91762-5357

95103
MIGHTY LITE SOD
WAYMAN WALTON
1855 E RIVERSIDE DR #268
ONTARIO, CA 917617273

95107
CATHY SHELBY
13130 S. CUCAMONGA STREET
ONTARIO, CA 91761-9004

95109
COAST GRAIN
SEISO KAWASAKI
5355 EAST AIRPORT DRIVE
ONTARIO, CA 91761

95111
TONY RODRIGUEZ
7416 SCHAEFER AVENUE
CHINO, CA 91710-9127

95116
GERBEN HETTINGA
17190 CUCAMONGA AVE
CORONA, CA 917209514

95120
FRANK LIZZARAGA
7310 PINE AVENUE
CHINO, CA 91710

95121
DAVENPORT GROUP
RON PIETERSMA
P.O. BOX 2500
CHINO, CA 91708

95127
CARLOS LOPEZ
13715 BON VIEW AVENUE
ONTARIO, CA 91761

95129
HAVEN TWO DAIRY
RAMON SANCHEZ
14310 HAVEN AVENUE
ONTARIO, CA 91761

95135
MARGARITO RICO
6971 HAMNER AVENUE
CORONA, CA 917209632

95148
RANCHO GONZALES
ADRIAN GONZALES
16723 S EUCLID AVE
CHINO, CA 91710

95158
HARRY HERMANS
14123 S. EUCLID
CHINO, CA 91710

95159
IGNACIO DUARTE
13715 S BON VIEW AVE
ONTARIO, CA 91761

95163
AMBROSIA FARMS
CHIN LEE
11475 YORBA AVE
CHINO, CA 91710

95165
HILCO DAIRY
KURT HILL
10350 EUCALYPTUS AVE
CHINO, CA 91710

95169
NOR'EAST MIN ROSES
JOHN SAVILLE
58 HAMMOND STREET
ROWLEY, MA 01969

95173
ANGIE RADOS TRUST
ROGER ROELLE, ATTORNEY AT LAW
2002 E MCFADDEN SUITE 200
SANTA ANA, CA 92705

95176
BURKE WILLIAMS SORENSON
AHMAD TR ADAYA
INVESTMENT DEVELOPMENT SERVICES, INC.
888 W SIXTH STREET, 9TH FLOOR
LOS ANGELES, CA 90017

95177
ANDY SCHAAP
1526 S ROOSEVELT RD #7
PORTALES, NM

95179
S C E CO.
JOE D'AMATO
REAL PROP. & ADMIN. SVS.
1351 E FRANCIS ST
ONTARIO, CA 91761

95181
CALIFORNIA SPEEDWAY
ED STRAUB
P.O. BOX 9300
FONTANA, CA 923349300

95182
DALE WALKER
6776 CHINO AVE
CHINO, CA 91710

95183
STANTON NURSERIES
LIBBIE EDENS
4393 PHILADELPHIA ST
CHINO, CA 917102259

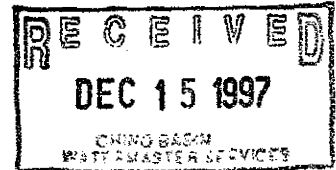
95188
BUD RASNER
10008 LIMONITE ST
RIVERSIDE, CA 92509

95190
BILL JONGSMA
8582 HELLMAN AVE
CORONA, CA 91720

99999
METROPOLITAN WATER DISTRICT OF SO.CAL.
NINA TOPJIAN
OPERATIONS PLANNING
P.O. BOX 54153
LOS ANGELES, CA 900540153

SCHNEIDER
RE APPT
COURT DOCS.

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN BERNARDINO
3 WEST DISTRICT



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5
6 CHINO BASIN MUNICIPAL WATER DISTRICT,

7 Plaintiff

8 v.

9 CITY OF CHINO, et al.,

10 Defendants.
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Case No. RCV 51010
(Specially Assigned to the Honorable J.
Michael Gunn)

REPORT AND RECOMMENDATION
OF SPECIAL REFEREE TO COURT
REGARDING: (1) MOTION FOR
ORDER THAT AUDIT
COMMISSIONED BY
WATERMASTER IS NOT A
WATERMASTER EXPENSE, AND
(2) MOTION TO APPOINT A NINE-
MEMBER WATERMASTER BOARD

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Notice of Motion and Motion of Advisory Committee, and the City of Ontario, for the Appointment of the Honorable Don A. Turner as Interim Watermaster and to Modify Paragraph 18 of the Judgment to Provide for Compensation to the Interim Watermaster; Memorandum of Points and Authorities; Declarations of Traci Stewart, Mary Staula, Michelle Lauffer, and Robert E. Dougherty in Support Thereof (filed with Court on 3/25/97) referenced as "City of Ontario Brief"

2. Advisory Committee:

Notice of Motion and Motion for Appointment of Nine Member Board as Watermaster; Memorandum of Points and Authorities in Support Thereof; Declaration of Traci Stewart (filed with Court on 2/3/97) referenced as "Advisory Committee Brief 1"

3. Advisory Committee:

Notice of Motion and Motion for Order of Court that Audit Commissioned by the Chino Basin Municipal Water District Board is not a Watermaster Expense; Declaration of Traci Stewart (filed with Court on 1/28/97) referenced as "Advisory Committee Brief 2"

4. Chino Basin Municipal Water District:

Opposition to Motion for Order of Court that Audit Commissioned by the Chino Basin Municipal Water District Board is not a Watermaster Expense; Declarations of Larry Rudder, George Borba and Bill Hill in Support Thereof (filed with Court on 2/24/97) referenced as "CBMWD Brief 1"

5. Monte Vista Water District:

Referee's Requested Brief Regarding Identified Issues; Declaration of Langdon Wood Owen in Support of Monte Vista Water District's Brief (submitted to Special Referee on 8/18/97) referenced as "MVWD Brief 2"

6. Chino Basin Municipal Water District:

Memorandum of Points and Authorities re: Motion to Appoint Nine Member Watermaster Board (submitted to Special Referee on 8/18/97) referenced as "CBMWD Brief 3"

7. Jurupa Community Services District:

Jurupa Community Services District's Response to Special Referee Anne Schneider's July 18, 1997 Request for Briefs with respect to Specified Issues (submitted to Special Referee on 8/18/97) referenced as "Jurupa Brief"

¹Numerous briefs were prepared by the parties and filed with the Court or submitted to the Special Referee. Abbreviated references to these briefs are contained in the Written Report and Recommendation by the Special Referee. This index provides the complete titles of the referenced briefs.

8. Chino Basin Municipal Water District:

Opposition to Motion for Appointment of Nine Member Board as Watermaster; Memorandum of Points and Authorities in Support Thereof (filed with Court on 3/4/97) referenced as "CBMWD Brief 2"

9. Monte Vista Water District:

Memorandum of Points and Authorities of Monte Vista Water District in Partial Opposition to Chino Basin Watermaster's Motion for Appointment of Nine-Member Board as Watermaster; Declaration of P. Joseph Grindstaff (filed with Court on 3/5/97) referenced as "MVWD Brief 1"

1 I. INTRODUCTION

2 A. Scope of Reference and Restatement of Issues

3 On April 29, 1997, the Honorable J. Michael Gunn, pursuant to California Code of Civil
4 Procedure Section 639(d), ordered a special reference for the purpose of receiving written
5 recommendations from the appointed Special Referee, Anne J. Schneider, regarding the facts and law
6 relative to particular matters which had been raised by the parties to the January 2, 1978¹ Judgment
7 in the matter of *Chino Basin Municipal Water District v. City of Chino* (Case No. RCV 51010)
8 (Ruling and Order of Special Reference, April 29, 1997 [hereinafter "Order of Special Reference"]).

9 The special reference was made as a result of the following motions which remain before the Court:

- 10 (1) Motion for Order That Audit Commissioned by Watermaster Is Not a Watermaster Expense; and
11 (2) Motion to Appoint Nine-Member Watermaster Board. After reviewing the motions and
12 opposition thereto and conducting a hearing regarding the same, the Order of Special Reference
13 requests that the Special Referee address the following:

- 14 1. The Special Referee shall consider the Motion for Order that Audit
15 Commissioned by Watermaster is not a Watermaster expense and make a
16 recommendation as to how to proceed with resolving the motion. The Special
17 Referee is specifically requested to consider and give an opinion on the
18 meaning of Paragraph 38(b) of the Judgment and its relationship to Paragraph
19 41 of the Judgment.
20 2. The Special Referee shall consider the Motion to Appoint a Nine-Member
21 Watermaster Board and make a recommendation as to how to proceed with
22 resolving the motion. The Special Referee is specially requested to consider
23 the checks and balances contained in the 1978 Judgment and to consider the
24 advantages and disadvantages of a public entity watermaster versus a private
25 entity watermaster.

26 (Order of Special Reference at 10.)

27 The thrust of these issues is to question the roles of the Watermaster and the Advisory
28 Committee and how those roles are related to one another. The recommendations of the Special
29 Referee are intended to clarify each of the respective roles as well as the relationship between those
30 roles in order to give guidance for the future as well as to respond to the immediate motions brought

31 ¹The January 2, 1978 Judgment (hereinafter "Judgment") is an adjudication of groundwater
32 and storage rights in the Chino Basin and a bound copy of the Judgment is in the current file of the
33 Court, which has continuing jurisdiction over the Judgment.

1 before the Court.

2 **B. Report on Briefing and Hearing**

3 After receiving notice of the special reference the Special Referee conducted a conference call
4 to ascertain recommendations from the parties as to how to proceed. It was determined that
5 additional briefing was necessary and that a subsequent opportunity to be heard would be granted to
6 the parties in order to fully understand the issues presented. On July 18, 1997, the Special Referee
7 provided the parties with additional issues to be briefed and a briefing schedule. The parties
8 presented their initial briefs on August 18, 1997, and reply briefs on September 8, 1997. On October
9 21, 1997, a hearing was conducted at the office of the Watermaster staff, during which additional
10 questions were raised and discussed. Counsel for certain parties and the parties themselves had an
11 opportunity to fully discuss all issues raised during the October 21 hearing.² The original transcript
12 from this proceeding is hereby made a part of this recommendation and lodged with the Court.³

13 **C. Urgency of Resolution**

14 It has become apparent that the resolution of the motion to appoint a nine-member
15 Watermaster board must be resolved as expeditiously as possible. Chino Basin is suffering from both
16 overdraft and water quality issues that continue to remain unresolved as a result of conflicts between
17 the parties and the discrepancy of opinion with regard to the Watermaster's and the Advisory
18 Committee's roles. The Court has recognized the urgency of the issues presented by the motion to
19 appoint a new Watermaster (Order of Special Reference at 6) and the parties agree that the "process
20 has ground to a halt" (TR 136:25). The urgency appears to stem from the poor condition of the basin
21 itself, the inability of the Watermaster and the Advisory Committee to resolve essential issues, and
22 the inability of the Watermaster to move forward in light of the interim appointment of the California
23 Department of Water Resources (hereinafter "DWR"). Although the Court can resolve the issue with

24
25 ²On November 10, 1997, Special Referee received the Declaration of Gerald S. Thibeault,
26 Executive Officer of the Regional Water Quality Control Board, from counsel for Monte Vista Water
27 District. This declaration has not been considered by the Special Referee as the matter had been
28 submitted at the close of the October 21 hearing.

³All references to the transcript from the hearing conducted on October 21, 1997, shall be
"TR page:line."

1 regard to the appointment of a new Watermaster, the underlying issues as to the condition of the
2 basin and the proper roles of the Watermaster and Advisory Committee are not so easily resolved.
3 Extensive discussion, however, between the parties and the Special Referee occurred during the
4 October hearing regarding the respective roles of the Advisory Committee and Watermaster which
5 will be further explicated herein and which should assist further cooperative resolution of the
6 impending issues regarding Chino Basin management, as well as provide assistance to the Court as
7 the ultimate "check" on the parties.

8 **D. Brief Factual Background**

9 Since issuance of the Judgment in 1978, the Chino Basin Municipal Water District (hereinafter
10 "CBMWD") has been the Watermaster for the Chino Basin. Over the past few years it appears that
11 the Advisory Committee has assumed the task of directing the performance of the Director of
12 Watermaster services, currently Traci Stewart, with respect to Watermaster functions. (Order of
13 Special Reference at 6. *See also* Advisory Committee Brief 1 at 1-2, CBMWD Brief 2 at 2, MVWD
14 Brief 2 at 2.) Mr. Markman, spokesman for the moving parties, explained:

15 . . . the advisory committee and the watermaster entered into an agreement, as you
16 know, the famous facilities and services agreement which essentially delegated over
17 to the advisory committee supervision of the staff to do all this stuff. And that
18 operated that way for a while. Then we had staff operating under direction of the
19 advisory committee by contract, and we had a lawyer . . . in the middle trying to work
20 with the staff directed by the advisory committee but still theoretically under the
21 direction of Chino Basin Municipal Water District, all of which created chaos.

19 (TR at 42:19 to 43:5.)

20 In December 1996, CBMWD discovered fraudulent checks had been drawn upon the
21 Watermaster's account. (Order of Special Reference at 2.) By that time, it appeared there was no
22 longer any cooperation between the Advisory Committee and the Watermaster. Additional concerns
23 were expressed regarding Watermaster expenditures which had been directed by the Advisory
24 Committee and reluctantly processed by CBMWD as the Watermaster. (City of Ontario Brief, Decl.
25 of T. Stewart and M. Lauffer.) Accordingly, CBMWD requested a special audit be conducted, which
26 the Advisory Committee refused to approve.

27 The parties appear to agree that there have been no significant disputes between the
28 Watermaster and the Advisory Committee until recently. (TR at 126:12 to 133:6.) When a dispute

1 arose as to whether a special audit should be conducted or not, the Advisory Committee was acting
2 as the *de facto* Watermaster. Subsequently, when at CBMWD's and others' request the Watermaster
3 staff had a special audit conducted, the Advisory Committee brought a motion as the *de facto*
4 Watermaster seeking Court determination that the special audit was not a proper Watermaster
5 expense. At the same time, the Advisory Committee sought a Court order changing the Watermaster.

6 One hearing participant (Mr. Teal, City of Ontario) described the historical relationship of
7 the Advisory Committee and Watermaster up until the issue of replacing the Watermaster arose:

8 I've been involved in this process since 1978 and beyond, and one of the things that
9 needs to be recognized is that throughout the 18 years prior to 1996, the pools and
10 the advisory committee essentially, on 98 percent or more of the actions, have been
11 a hundred percent consensus. . . And one of the reasons why we were able to reach
12 consensus . . . was that we were very intimately involved in protecting each other's
13 interests. . . We were very careful in protecting everyone's interest, mainly because
14 we all had a fear that if we didn't, then this adjudication would not work, that we
15 would be back in court. And everybody had a fear that suddenly this Pandora's box
16 would be opened again. And none of us wanted that because we all had something
17 to lose. . . What has stalled the [Optimum Basin Management Program] process, of
18 course, is we all got hung up on who the new watermaster was going to be. Well, for
19 18 years basically the watermaster functioned as the advisory group, and we did it
20 through consensus building because, again, we were all afraid that the judgment
21 wouldn't work if we didn't build a consensus.

16 (TR at 126:12 to 129:6.)

17 The parties appear to concur that the only time the Watermaster has disagreed with a
18 recommendation of the Advisory Committee has lead to the current motion to appoint a new
19 Watermaster. (TR at 64:4 to 67:20.) The underlying issue that triggered the current motion appears
20 to have been the participation of the Watermaster in the question of payment for the groundwater put
21 through a "desalter" facility.⁴ Mr. Kidman, the spokesperson for the opposing parties, stated:

22 There was a proposal by one member of the watermaster board at that time, Chino
23 Basin Municipal Water District, that said that they would support moving forward
24 with that, allowing that production [of groundwater to be run through the desalter]
25 to take place without assessment under the watermaster. It was that attempt at

25 ⁴It seems the motion to elect a nine-member board Watermaster stems from the Watermaster
26 not agreeing with the Advisory Committee with regard to the special audit. The parties have
27 indicated the initialization of the special audit triggered the filing of the motion to change the
28 Watermaster. However, the first motion to change the Watermaster stemmed from the desalter
project, as explained. That initial motion was a request to have the Advisory Committee act as the
Watermaster.

1 independence that brought this whole house of cards down around all of us.

2 (TR at 66:13-19.) Mr. Markman, spokesperson for the moving parties, concurred, stating: "I agree
3 that frames the issue perfectly." (TR at 66:21-22.) Mr. Grindstaff, Monte Vista Water District,
4 added further detail:

5 The entire reason we're sitting here today is because during the process of getting
6 water for the desalter, . . . one of the members of the watermaster board came to a
7 meeting of the ag pool and said, If we can't get water for this desalter, then I want to
8 work with you in the ag pool, and we're going to have enough votes so it won't be
9 a mandated action. . . That was the major issue, in fact, when the first motion was
made to replace watermaster was that someone from watermaster had the nerve to
actually come into the basin and say we're going to take an action or we're going to
work with somebody to take an action that might be opposed by a majority of the
advisory committee.

10 (TR at 64:18 to 65:7.)

11 The remarkable placidity of the Watermaster over the 18-year period from 1978 to 1996, appears in
12 large part to be attributable to the fact that there have been extensive negotiations to achieve
13 consensus on issues. (TR at 126:12 to 127:16.) It may also not have been clearly understood that
14 the Watermaster can disagree with either mandatory or other recommendations of the Advisory
15 Committee.⁵

16 In an attempt to resolve the continuing deadlock between the Advisory Committee and the
17 CBMWD and to obtain additional time for the special reference, the Court appointed DWR as interim
18 Watermaster "subject to the [DWR's] acceptance and agreement on mutually acceptable terms."
19 (Order of Special Reference at 9.) Further, the Court ordered the Advisory Committee and CBMWD
20 to jointly negotiate terms and conditions and present them for approval to the Court no later than
21 June 18, 1997. (*Id.*) DWR was to act as interim Watermaster until the Court had acted upon the
22 report of the Special Referee. The parties have not been able to come to a resolution with regard to
23 the interim appointment of DWR. (TR at 14:4-11.) The negotiation process with DWR continues,

24
25 _____
26 ⁵It is unclear from the record how much influence legal counsel's advice had. The advice to
27 the Watermaster from legal counsel (which has since been recused) was that the Watermaster had no
28 recourse if the Advisory Committee acted by 80% vote. (CBMWD Brief 1, Decl. of L. Rudder ¶¶ 6
and 10.) It seems legal counsel at that time specifically indicated to Watermaster services staff that
an 80% or greater vote by the Advisory Committee was a mandate and there was no advice that such
a mandate could be appealed to the Court pursuant to the Judgment. (*Id.*)

1 but with no certainty that it will be finalized. (TR at 17-18.) In the meantime, CBMWD continues
2 to be recognized as an interim Watermaster (TR at 14), notwithstanding the fact that essentially all
3 Watermaster functions currently appear to be under Advisory Committee control.

4 The Advisory Committee (as the *de facto* Watermaster), in February 1997, brought its motion
5 to remove CBMWD as Watermaster and replace CBMWD with a nine-member Watermaster board.
6 The Judgment provides for particular procedures in the event the Advisory Committee or another
7 party wishes to replace the Watermaster. The procedural requirements have been met by the
8 Advisory Committee. (Advisory Committee Brief 1.) In addition, the Advisory Committee sought
9 an order from the Court declaring the special audit conducted by CBMWD was not a proper
10 Watermaster expense. (Advisory Committee Brief 2.)

11 II. COMPELLING REASON ANALYSIS

12 A. The Court is Required to Make a New Watermaster Appointment Upon Motion 13 Supported by a Majority of the Advisory Committee Unless "There is a 14 Compelling Reason to the Contrary"

14 The Judgment is clear with regard to the process by which the Watermaster may be replaced.

15 The Judgment provides as follows:

16 Watermaster may be changed at any time by subsequent order of the court, on its own
17 motion, or on the motion of any party after notice and hearing. Unless there are
18 compelling reasons to the contrary, the court shall act in conformance with a motion
19 requesting the Watermaster be changed if such motion is supported by a majority of
20 the voting power of the Advisory Committee.

19 (Judgment at ¶ 16, emphasis added.) In light of the fact that all parties agree the Advisory Committee
20 has moved the Court to replace the Watermaster with a majority vote, the inquiry is limited to
21 whether there is "compelling reason to the contrary." During the subsequent briefing requested by
22 the Special Referee as well as the hearing conducted in October, the parties opposed to the
23 appointment of the nine-member board as Watermaster provided the following reasons as bases for
24 denying the motion to appoint the nine-member board:

25 1. The purpose and objective of the Judgment overrides all other considerations (citing
26 Judgment ¶¶ 15-17, 39-41) and the replacement nine-member board undermines the purpose and
27 objective of the Judgment itself. The purpose and objective of the Judgment is basin management.
28 (MVWD Brief 2 at 6.) A "producer panel" Watermaster would violate the structure of the Judgment

1 as it has always been the intention of all parties that the Watermaster be independent, neutral, and
2 objective. (MVWD Brief 2 at 7-8 and Decl. of L. Owen.)

3 2. Appointing the basin producers as the Watermaster eliminates the “checks and
4 balances” between Watermaster and the Advisory and Pool Committees. (MVWD Brief at 7.)

5 3. The Judgment does not contemplate a Watermaster consisting of more than one public
6 or private entity. There would be a morass of bureaucracy if numerous entities, consisting of
7 numerous boards of directors, had to coordinate their voting and meetings to act effectively
8 (especially to run the day-to-day business). (MVWD Brief 2 at 8.)

9 4. The most compelling reason to deny the motion is the present condition of the
10 groundwater of the Chino Basin. (CBMWD Brief 3 at 2, Decl. of J. Grindstaff.) The present
11 condition of Chino Basin is “deplorable.” (*Id.*)

12 5. The purpose of vesting Watermaster with the discretionary power to develop the
13 fundamentally important program (the Optimum Basin Management Program for Chino Basin) with
14 only the advice of the Advisory Committee was to promote objectivity and avoid the inherent self-
15 interest and bias of the Advisory Committee members. (Jurupa Brief at 3.) A Watermaster board
16 controlled by northern basin interests who have unimpaired water quality compared to southern basin
17 entities whose water quality is impaired will create self interest and bias in implementing Article X,
18 Section 2 of the California Constitution. (Jurupa Brief at 5.)

19 6. There is evidence of a pattern of mismanagement policies and procedures for
20 expenditures not being followed by the Watermaster, the basin being overdrawn and the quality of
21 the water greatly diminished. (CBMWD Brief 2 at 3-4; *see also* Order of Special Reference.)

22 The term “compelling reasons” must be interpreted based upon the understanding and intent
23 of the Court and not that of the parties. (Russell v. Superior Court (1957) 252 Cal.App.2d 1, 8.)
24 Implied in such a requirement that “compelling reasons” be established is that the Court find reasons
25 which “force” or “compel” the Court to deny the motion based on the ordinary and popular sense of
26 the term.

27 ////

28 ////

1 **B. The Most Compelling Reason Not to Appoint the Nine-Member Board as**
2 **Watermaster Asserted by Parties Opposing the Motion is that the Advisory**
3 **Committee Would Control the Watermaster and the Watermaster will not**
4 **Carry Out the Separate Functions Given to it Under the Judgment**

5 Parties opposing the appointment of a nine-member Watermaster board rely heavily on the
6 proposition that the Judgment provides for inherent “checks and balances” between the Advisory
7 Committee and the Watermaster which would be eliminated by the appointment of the suggested
8 nine-member Watermaster board. As stated during the hearing, the question is whether “the tyranny
9 of the majority govern[s] under this judgment, or is it necessary that under those areas that are clearly
10 discretionary — is it necessary to have some independent checks and balances?” (TR at 78:14-18.)
11 The implicit question is whether appointment of the nine-member board will allow the Advisory
12 Committee to continue to govern the Chino Basin.

13 Six members of the nine-member board would be three appropriative pool members and three
14 overlying pool members, two from the overlying (agricultural) pool and one from the overlying
15 (nonagricultural) pool. (TR at 87:22-25.) The other three seats are proposed for nonpumper water
16 districts (CBMWD, Western Municipal Water District, and Three Valleys Municipal Water District).

17 The parties in opposition to the motion contend the nine-member board would not be
18 independent and that the producer majority cannot be expected to administer the Judgment
19 objectively, since they have financial interests in producing water as inexpensively as possible from
20 the basin. (TR at 139:23 to 141:4.) Alternative vote-counting was suggested, however: Producers
21 who draw water from the northern portion of the basin will have three votes on the proposed nine-
22 member board and those three votes could well combine with the votes of the one member from the
23 overlying (nonagricultural) pool, the one member from Three Valleys Municipal Water District, and
24 the one member from Western Municipal Water District. Therefore, an alternative majority was also
25 postulated which would be able to control the proposed nine-member board.⁶ (TR 87:22 to 88:14.)

26 ⁶Mr. Kidman suggested a further consideration that could affect voting patterns of the nine-
27 member board, one that could at some point precipitate the need for modification of the Judgment:

28 One of the problems in the judgment . . . is that there is a strong tendency for the rich

(continued...)

1 The parties opposed to the appointment of the nine-member board do not provide direct
2 evidence that the nine-member board will fail to be independent of the Advisory Committee.
3 Although they assert that the nine-member board would not disagree with the Advisory Committee,
4 that there would be “a natural tendency for the producer members of the Watermaster committee to
5 follow the directions and the positions of those who appoint them and those who they represent” (TR
6 at 90:12-15), it was conceded that it was conceivable that the nine-member board configuration
7 would disagree with the Advisory Committee. (TR at 90:19-22.) In fact, it was also suggested that
8 the inclusion of two more nonproducer public agencies (Western Municipal and Three Valleys
9 Municipal Water Districts), along with CBMWD, will improve the current situation (TR at 85:9-17)
10 and that these public agencies provide protections from minority views. It was also suggested that
11 these three public agencies are in the best position to seek assistance from the Court. (TR at 86:10-
12 17.)

13 Overall, because there is no evidence with regard to how the nine-member board would vote
14 and whether their pecuniary interests would control their voting, there is no evidence to indicate that
15 any “checks and balances” of the Judgment would be compromised by the nine-member board
16 Watermaster. The parties seem to agree that the best way to ensure that the essential function of the
17 Watermaster will be carried out was not so much dependent on who the Watermaster may be as on
18

19 ⁶(...continued)

20 to get richer and the poor to get poorer. That is, representation on the advisory
21 committee and so on gets to be established according to . . . how many water rights
22 a party holds and to how much water a party produces or overproduces. And it's that
23 second part especially that allows the rich to get richer and the poor to get poorer
24 because those entities that are in a part of the basin where they can't produce because
25 water quality is not suitable get fewer votes as a result and those that happen to be in
26 a sweet part of the basin, where they can even overproduce their water right if they
27 wanted to and take advantage of the underproduction of the others, get more votes.
The system gets stacked against the parties that are in the lower-quality part of the
basin. And appointing a watermaster panel that's composed of a majority, numerical
majority, of producers, given the way the voting rights are stacked, is hardly a
solution . . . that gives some people, who would like to see cleanup occur, confidence
that it will.

28 (TR at 141:22 to 142:18.)

1 additional court oversight and guidance. Mr. Kidman, representing opposing parties, stated:

2 Could it work? Possibly. You asked that. I think so. It could work. The best way
3 to make sure it worked is to make sure that we have an order that does outline what
4 the really essential functions of the watermaster will be and specifically charges
5 whoever is appointed to carry them out and establishes report-back procedures,
6 opportunities where those that may disagree that everything is just fine have the ability
7 to come in and . . . make sure their position is heard as to whether or not everything
8 is going just fine.

6 (TR at 141:11-21.)

7 Finally, opposing parties did not provide an alternative at the hearing.⁷ (TR at 139:16 to
8 141:21.) Given the proposed composition of the nine-member board and the concerns raised by
9 parties in opposition to the appointment, it seems prudent and necessary to provide a gauge upon
10 which this Court can determine whether the nine-member board is properly carrying out its
11 Watermaster roles in the event the Court grants the motion.

12 **III. WATERMASTER ROLES AND REVIEW OF WATERMASTER ACTIONS**

13 **A. Introduction**

14 There are four general categories of Watermaster actions identified in the Judgment: There
15 are Watermaster functions to administer the Physical Solution and to serve the Court in that regard;
16 there is one action under Paragraph 41 explicitly identified as “discretionary”; there are numerous
17 actions which the Watermaster is directed to take upon recommendation or advice of the Advisory
18 Committee or with Advisory Committee approval; and there are all other actions which do not fall
19 within one of these three categories. These categories are important for purposes of determining
20 which processes provided in the Judgment for review of Watermaster actions apply to a particular
21 action. There are two Court review processes available: Paragraph 31 provides for review by the
22 Court of all Watermaster actions, decisions, or rules; and Paragraph 15 provides for motions to the
23 Court for “further or supplemental orders or directions” or to “modify, amend or amplify” the
24 Judgment. There are also two procedural routes, discussed *infra*, that provide for Advisory

25
26 ⁷There has been some suggestion in the briefing and in closing remarks during the hearing that
27 a five-member board consisting of two members from CBMWD, one from Three Valleys Municipal
28 Water District, one from Western Municipal Water District, and one from some other entity such as
DWR should be considered. (TR at 144:18-23.) This suggestion is incomplete and would require
additional consideration by the parties which may further delay appointment of a new Watermaster.

1 Committee review and can lead to Court review: the Paragraph 38(b), 38(b)[2], 38(c) process; and
2 the 38(b)[1], 38(c) process.

3 By analyzing the Judgment in terms of these categories of Watermaster action and avenues
4 of review, it is possible to assess how appropriately to handle issues not explicitly covered by the
5 Judgment, such as the special audit costs. In the case of the special audit, that action of the
6 Watermaster to incur the expense is not an action to carry out the Physical Solution, does not fall
7 within the explicit "discretionary" category, and is not covered by any provision explicitly requiring
8 Advisory Committee recommendation or approval; therefore, it is within the "other action" category.
9 As such, it is reviewable by the Court upon a Paragraph 31 motion, it does not fall within the purview
10 of Paragraph 38(b), or the Subparagraph 38(b)[1] Advisory Committee mandate process, and does
11 not require further order of the Court or any change in the Judgment such as the Paragraph 15
12 process would provide.

13 **B. The Watermaster Has Duties and Powers to Administer and Enforce the**
14 **Provisions of the Judgment and, Pursuant to the Judgment and Further**
Direction of the Court, to Administer and Implement the Physical Solution

15 The Watermaster is appointed "to administer and enforce the provisions of this Judgment and
16 any subsequent instructions or orders of the Court hereafter." (Judgment at ¶ 16.) The
17 Watermaster's powers and duties are defined explicitly and exclusively with relationship to the Court,
18 not the Advisory or Pool Committees:

19 17. Powers and Duties. Subject to the continuing supervision and control of the
20 Court, Watermaster shall have and may exercise the express powers, and shall
21 perform the duties, as provided in this Judgment or hereafter ordered or authorized
by the Court in the exercise of the Court's continuing jurisdiction.

22 This special relationship between the Court and Watermaster is most fully described in the
23 Physical Solution provisions of the Judgment and provisions related to carrying out the Physical
24 Solution. The Court expressly:

- 25 • Adopted an order to parties "to comply with the Physical Solution." (Judgment at
26 ¶ 39.)
- 27 • Appointed the Watermaster "to administer and enforce" the Judgment. (Judgment at
28 ¶ 60.)

1 Under the Judgment, the Watermaster's duties and powers that are subject to the Court's
2 continuing jurisdiction (Judgment at ¶ 17) are extensive:

- 3 • The Watermaster can seek Court review by motion requesting the Court under its
4 continuing jurisdiction to "... make such further or supplemental orders or directions
5 as may be necessary or appropriate for interpretation, enforcement or carrying out of
6 this Judgment, and to modify, amend or amplify any of the provisions of this
7 Judgment." (Judgment at ¶ 15.)
- 8 • Subject to that continuing supervision and control of the Court, "... Watermaster
9 shall have and may exercise the express powers, and shall perform the duties, as
10 provided in this Judgment or hereafter ordered or authorized by the Court in the
11 exercise of the Court's continuing jurisdiction." (Judgment at ¶ 17.)
- 12 • The Watermaster is to be assisted in performing its functions under the Judgment by
13 pool Committees, representing the pools created under the Physical Solution, and the
14 Advisory Committee. (Judgment at ¶ 32.)
- 15 • The purpose of the Physical Solution provisions "... is to establish a legal and
16 practical means for making the maximum reasonable beneficial use of the waters of
17 Chino Basin by providing the optimum economic, long-term, conjunctive utilization
18 of surface waters, ground waters and supplemental water, to meet the requirements
19 of water users having rights in or dependent upon Chino Basin." (Judgment at ¶ 39.)
20 Maximizing the beneficial use of Chino Basin waters makes it "essential that this
Physical Solution provide maximum flexibility and adaptability in order that
Watermaster and the Court may be free to use existing and future technological,
social, institutional and economic options . . ." (Judgment at ¶ 40.)
- Groundwater "... reservoir capacity utilization for storage and conjunctive use of
supplemental water [must] be undertaken only under Watermaster control and
regulation, in order to protect the integrity of both such Stored Water and Basin
Water in storage and the Safe Yield of Chino Basin." (Judgment at ¶ 11.)⁸
- With Advisory and Pool Committee advice and assistance, the Watermaster is to
establish the procedures and administer the withdrawal and supplemental water
replenishment of basin water as required to accomplish "full utilization of the water

21 ⁸The Judgment enjoins storage or withdrawal of stored water "except pursuant to the terms
22 of a written agreement with Watermaster and [that] is [in] accordance with Watermaster regulations."
23 (Judgment ¶ 14.) The Court must first approve, by written order, the Watermaster's execution of
24 "Ground Water Storage Agreements." (Judgment ¶ 28.) The Advisory Committee's role is limited
25 to giving its approval before the Watermaster can adopt "uniformly applicable rules and a standard
26 form of agreement for storage of supplemental water." (*Id.*) However, groundwater storage rules
27 and the standard form of agreement must be "uniformly applicable", which intrinsically leaves to the
28 Watermaster the decision to execute agreements and, ultimately, to the Court (and notably not the
Advisory Committee) the authority to approve those agreements. The Judgment's injunction against
unauthorized production (Judgment ¶ 13) and injunction against unauthorized storage or withdrawal
of stored water (Judgment ¶ 14) are integral parts of the Judgment's Physical Solution, and the
requirement for direct Court approval of Watermaster storage agreements is another manifestation
of the Watermaster's and Court's special relationship.

resources of Chino Basin,” which encompasses preservation of both the water quantity and quality of basin resources. (Judgment at ¶ 41.)

- Watermaster is required to undertake socioeconomic impact studies of the assessment formula (set forth in Exhibit H to the Judgment) and its possible modification for the appropriator pool no later than ten years from the “effective date of this Physical Solution.” (Judgment at Exhibit H, ¶ 8.)⁹

Exhibit I to the Judgment, the “Engineering Appendix,” sets forth the parameters the Watermaster “shall consider . . . in the process of implementing the physical solution for Chino Basin”:

1. Basin Management Parameters. In the process of implementing the physical solution for Chino Basin, Watermaster shall consider the following parameters:

(a) Pumping Patterns. Chino Basin is a common supply for all persons and agencies utilizing its waters. It is an objective in management of the Basin’s waters that no producer be deprived of access to said waters by reason of unreasonable pumping patterns, nor by regional or localized recharge of replenishment water, insofar as such result may be practically avoided.

(b) Water Quality. Maintenance and improvement of water quality is a prime consideration and function of management decisions by Watermaster.

(c) Economic Considerations. Financial feasibility, economic impact and the cost and optimum utilization of the Basin’s resources and the physical facilities of the parties are objectives and concerns equal in importance to water quantity and quality parameters.

(Judgment at Exh. I, ¶ 1.)

The Watermaster’s special relationship to the Court in carrying out the Physical Solution also was discussed at the hearing. The parties during the hearing described the Watermaster as an “arm of the Court” and as such can take matters to the Court, funded by all the producers, to address anything that may alarm the Watermaster. (TR at 40:11-21.) This role is described as being separate from the ministerial or day-to-day activities of the Watermaster. (TR at 75:1-15.) This role is further described as one of a public advocate, to ensure independent review of what is occurring in the basin. (TR at 81:10-15.) When asked whether the role of the Watermaster was to be a “steward of a basin resource including water quality,” the response was “yes”, including that the Watermaster should

⁹We do not have information on whether this Watermaster task has been accomplished, but the 15 percent/85 percent assessment formula appears not to have been changed. (TR at 29:22-25.)

1 ensure that there is not a waste or unreasonable use of basin water. (TR at 83-84.) Accordingly, the
2 parties agree that the Watermaster is a steward of Chino Basin groundwater resources and this role
3 may involve taking positions adverse to the Advisory Committee. (See TR at 110-111.)

4 **C. Only One Watermaster Function Is Explicitly Identified as “Discretionary,” to**
5 **“Develop an Optimum Basin Management Program” for the Chino Basin**

6 Although there is reference in Subparagraph 38(b)[2] to “any discretionary action” of
7 Watermaster, there in fact is only one area in which the Watermaster is explicitly granted
8 “discretionary powers” under the Judgment, and that is to develop an Optimum Basin Management
9 Program. (Judgment at ¶ 41.)

10 The “any discretionary action” phrase in Subparagraph 38(b)[2] implies that there are
11 Watermaster actions in addition to development of the Optimum Basin Management Program that
12 are also “discretionary actions.” The “any discretionary [Watermaster] action” phrase in
13 Subparagraph 38(b)[2] appears to serve as a “catch-all” provision, intended to ensure that the
14 Advisory Committee will have notice if the Watermaster ever proposes to take an action which has
15 “slipped through the cracks” and is not otherwise expressly subject to Advisory Committee or Pool
16 Committee review. Paragraph 40 raises the prospect of the Watermaster taking an action which
17 could be described as “any discretionary action”:

18 **40. Need for Flexibility.** It is essential that this Physical Solution provide maximum
19 flexibility and adaptability in order that Watermaster and the Court may be free to use
20 existing and future technological, social, institutional and economic options, in order
21 to maximize beneficial use of the waters of Chino Basin. To that end, the Court’s
retained jurisdiction will be utilized, where appropriate, to supplement the discretion
herein granted to the Watermaster.

22 The Court might “supplement the [Watermaster’s] discretion” under Paragraph 40, and leave to the
23 Watermaster the decision as to how to exercise that supplemental discretion. Any “discretionary
24 action” the Watermaster might take in that context would be subject to the Paragraph 38(b)[2]
25 process. Other than when the Court might supplement the Watermaster’s discretion, every
26 conceivable Watermaster action appears to have been anticipated in the Judgment and Advisory or
27 Pool Committee participation provided for.

28 The overall process of developing an Optimum Basin Management Program is, essentially,

1 a collaborative process that involves the Watermaster, Advisory Committee, Pool Committees, and
2 the Court. However, since the power to develop an Optimum Basin Management Program is granted
3 to the Watermaster with only the advice of the Advisory and Pool Committees, the Watermaster's
4 role can fairly be described as providing impetus for that collaborative process and carrying it through
5 to completion.

6 **D. Numerous Watermaster Functions Under the Judgment Explicitly Require**
7 **Advisory Committee Approval or are Required to be Undertaken Upon**
8 **Recommendation or Advice of the Advisory Committee, and Are Not Identified**
9 **As "Discretionary"**

10 **1. Advisory Committee Recommendation or Advice**

11 The Watermaster can take certain actions only upon the recommendation or advice of the
12 Advisory Committee.

- 13 • The Watermaster shall make and adopt rules and regulations upon the
14 recommendation of the Advisory Committee. (Judgment at ¶ 18.)
- 15 • Subject to prior recommendation or approval of the Advisory Committee, the
16 Watermaster may act jointly or cooperatively with other agencies of the United States
17 or the State of California to carry out the Physical Solution. (Judgment at ¶ 26.)
- 18 • The Watermaster may, with the concurrence of the Advisory Committee or the
19 affected Pool Committee and in accordance with Paragraph 54(b), conduct studies
20 related to implementation of the management program for the Chino Basin.
21 (Judgment at ¶ 27.)
- 22 • Watermaster shall submit an administrative budget recommendation to the Advisory
23 Committee, who shall review and submit its recommendations back to the
24 Watermaster, and thence a hearing shall be held to adopt the administrative budget
25 for the year. (Judgment at ¶ 30.)
- 26 • Watermaster is to implement Pool Committee policy recommendations for
27 administration of the particular pools. (Judgment at ¶ 38(a).)
- 28 • Watermaster must act consistent with an Advisory Committee recommendation that
has been approved by 80 or more votes, but has the right to bring the issue before the
Court. (Judgment at ¶¶ 38(b)[1] and 38(c).)
- As to the Optimum Basin Management Program itself, the Advisory Committee can
"act upon all discretionary [Watermaster] determinations," as well as "study,"
"recommend," and "review" them. (Judgment at ¶ 38(b).)
- Watermaster must give notice and conduct a meeting prior to executing an agreement
not within the scope of an Advisory Committee recommendation. (Judgment at
¶ 38(b)[2].)
- The "respective pooling plans" direct how the Watermaster shall levy and collect

1 annual replenishment assessments (Judgment at ¶ 45) and production assessments.
2 (Judgment at ¶ 51.)

- 3 • The Watermaster “may accomplish replenishment of overproduction from the Basin
4 by any reasonable method,” subject to Paragraph 19’s direction that the Watermaster
5 not acquire real property interests or “substantial capital assets,” Paragraph 25’s
6 limitation on the Watermaster’s authority to enter into contracts involving the Chino
7 Basin Municipal Water District, and Paragraph 26’s provision that the Watermaster’s
8 authority to act jointly or cooperate with other entities to “fully and economically”
9 carry out the Physical Solution is “subject to prior recommendation or approval of the
10 Advisory Committee.” (Judgment at ¶ 50.)
- 11 • The parties agree that one of the Watermaster’s duties is to carry out the direction of
12 the Advisory Committee as provided in the Judgment. (TR at 109:24.)

9 2. Pool Committee Requirements

10 The Pool Committees also can require Watermaster implementation of their “actions and
11 recommendations.” (Judgment at ¶ 38(a).) For most purposes, these need not be considered
12 separately from Advisory Committee recommendations and advice, since any disputed direction from
13 a Pool to the Watermaster would be made through the Advisory Committee. However, the Pool
14 Committees have extensive authority as to the allocation and approval of “special project expenses”
15 incurred in administration of the Physical Solution.¹⁰ Judgment Paragraph 54 provides in part:

16 (b) Special Project Expense shall consist of special engineering or other studies,
17 litigation expense, meter testing or other major operating expenses. Each such project
18 shall be assigned a Task Order number and shall be separately budgeted and
19 accounted for.

20 . . . Special Project Expense shall be allocated to a specific pool, or any portion
21 thereof, only upon the basis of prior express assent and finding of benefit by the Pool
22 Committee, or pursuant to written order of the Court.¹¹

23 (Judgment at ¶ 54.) These provisions will be central in development of implementation and financing
24 elements of the Optimum Basin Management Program.

25 ///

26 ¹⁰The Watermaster is directed to allocate and assess “general Watermaster administrative
27 expenses” to the respective pools “as based upon generally accepted cost accounting methods.”
28 (Judgment at ¶ 54.) This Watermaster function fits within the “other action” category.

¹¹The Paragraph 54 “pursuant to written order of the Court” language implies that the
Watermaster could, through the Paragraph 15 motion procedure, propose a special project expense
be undertaken and obtain Court approval for allocation of the costs of the expense.

1 **E. Many Other Watermaster Functions under the Judgment Do Not Require**
2 **Advisory Committee Approval or Recommendation, and Are Not Identified as**
3 **“Discretionary”**

4 **1. Watermaster Functions in the Normal Course of Business**

5 The Judgment expressly sets forth particular functions of the Watermaster which delineate
6 the day-to-day affairs of the Watermaster:

- 7 • Watermaster may acquire facilities and equipment other than any interest in real
8 property or substantial capital assets. (Judgment at ¶ 19.)
- 9 • Watermaster may employ or retain administrative, engineering, geologic, accounting,
10 legal or specialized personnel and consultants as deemed appropriate. (Judgment at
11 ¶ 20.)
- 12 • Watermaster shall require the parties to install and maintain in good operating
13 condition necessary measuring devices. (Judgment at ¶ 21.)
- 14 • Watermaster is to levy and collect all assessments as provided for in the pooling plans
15 and Physical Solution. (Judgment at ¶ 22.)
- 16 • Watermaster may invest funds in investments which are authorized for public
17 agencies. (Judgment at ¶ 23.)
- 18 • Watermaster may borrow money. (Judgment at ¶ 24.)
- 19 • Watermaster may enter into contracts (other than with CBMWD) without the prior
20 recommendation and approval of the Advisory Committee and written order of the
21 Court for the performance of any powers granted in the Judgment. (Judgment at
22 ¶ 25.)
- 23 • Watermaster conducts the accounting for the stored water in Chino Basin. (Judgment
24 at ¶ 29.)

25 In addition, Watermaster is specifically required to levy and collect assessments each year pursuant
26 to the respective pooling plans in amounts sufficient to purchase replenishment water to replace
27 production by any pool during the preceding year which exceeds that pool’s allocated share of safe
28 yield or operating safe yield. (Judgment at ¶ 45.) Watermaster shall also file an annual report
 containing details as to operation of each of the pools and a certified audit of all assessments and
 expenditures and a review of Watermaster’s activities. (Judgment at ¶ 48.)

2. Watermaster Functions Related to Administering the Pool Committees

 The Watermaster was directed to cause producer representatives to be organized to act as
 Pool Committees for each of the pools created under the Physical Solution. The Pool Committees’
 responsibility is to develop policy recommendations for administration of the particular pools, which

1 are transmitted to the Watermaster for action. Basically:

- 2 • The Watermaster administers the three “operating pools” to carry out the
3 “fundamental premise of the Physical Solution . . . that all water users dependent upon
4 Chino Basin will be allowed to pump sufficient waters from the basin to meet their
5 requirements . . . , and each pool will provide funds to enable Watermaster to replace
6 such overproduction.” (Judgment at ¶ 42.)
- 7 • The Watermaster administers the three pools which are responsible for and must pay
8 for the “. . . cost of replenishment water and other aspects of this Physical Solution.”
9 (Judgment at ¶ 43.)
- 10 • The Watermaster can levy and collect annual replenishment assessments (Judgment
11 at ¶ 45) and production assessments (Judgment at ¶ 51).

12 3. Watermaster Functions Related to Administering the Physical Solution

13 Watermaster functions particularly related to administering the Physical Solution include:

- 14 • The Watermaster is directed to “seek to obtain the best available quality of
15 supplemental water at the most reasonable cost for recharge in the Basin” (Judgment
16 at ¶ 49) and to “accomplish replenishment of overproduction from the Basin by any
17 reasonable method . . .” (Judgment at ¶ 50).
- 18 • The Watermaster has the power to “institute proceedings for levy and collection of
19 a Facilities Equity Assessment” upon recommendation of the Pool Committee, and
20 the Judgment suggests that: “To the extent that the use of less expensive alternative
21 sources of supplemental water can be maximized by the inducement of a Facilities
22 Equity Assessment . . . it is to the long-term benefit of the entire basin that such
23 assessment be authorized and levied by Watermaster.” (Judgment at Exh. H, ¶ 9(a).)

24 F. The Judgment Provides for Specific Notice and Review Processes

25 1. The Paragraphs 38(b), 38(b)[2], and 38(c) Process

26 Judgment Paragraphs 38(b), 38 (b)[2], and (c) provide:

27 (b) Advisory Committee. The Advisory Committee shall have the duty to study, and
28 the power to recommend, review and act upon all discretionary determinations made
or to be made hereunder by Watermaster.

[2] Committee Review. In the event Watermaster proposes to take any
discretionary action . . . notice of such intended action shall be served on the
Advisory Committee and its members at least thirty (30) days before the
Watermaster meeting at which such action is finally authorized.

(c) Review of Watermaster Actions. Watermaster (as to mandated action), the
Advisory Committee or any pool committee shall be entitled to employ counsel and
expert assistance in the event Watermaster or such pool or Advisory Committee seeks
court review of any Watermaster action or failure to act. . .

(Judgment at ¶¶ 38(b), (b)[2], and (c).) This Advisory Committee review process by its terms covers
only “discretionary determinations made or to be made hereunder by Watermaster”; it does not

1 necessarily cover all other actions of the Watermaster that are not identified as “discretionary
2 determinations.” Subparagraph 38(b)[2] provides that “any discretionary action” (with two
3 exceptions which are not relevant)¹² requires notice to the Advisory Committee; the Advisory
4 Committee, upon receiving notice, would presumably directly seek Court review under Paragraph
5 31.

6 2. Subparagraphs 38(b)[1] and 38(c) Process

7 a. Application of 38(b)[1] Process

8 Judgment Subparagraphs 38(b)[1] and 38(c) provide:

9 [1] Committee Initiative. When any recommendation or advice of the
10 Advisory Committee is received by Watermaster, action consistent therewith
11 may be taken by Watermaster; provided, that any recommendation approved
12 by 80 votes or more of the Advisory Committee shall constitute a mandate for
13 action by Watermaster consistent therewith. If Watermaster is unwilling or
14 unable to act pursuant to recommendation or advice from Advisory
15 Committee (other than such mandatory recommendations), Watermaster shall
16 hold a public hearing, which shall be followed by written findings and
17 decision. Thereafter, Watermaster may act in accordance with said decision,
18 whether consistent with or contrary to said Advisory Committee
19 recommendation. Such action shall be subject to review by the court, as in the
20 case of all other Watermaster determinations.

21 (c) Review of Watermaster Actions. Watermaster (as to mandated action), the
22 Advisory Committee or any pool committee shall be entitled to employ counsel and
23 expert assistance in the event Watermaster or such pool or Advisory Committee seeks
24 court review of any Watermaster action or failure to act. . .

25 The Subparagraph 38(b)[1] Advisory Committee mandate procedure applies expressly to
26 situations in which “any recommendation or advice of the Advisory Committee is received by
27 Watermaster.” In situations where the Advisory Committee has already given recommendations and
28 advice, it can thus insist, or mandate, that its recommendations or advice be taken if it has 80 or more

23 ¹²Subparagraph 38(b)[2] requires Watermaster to give notice to the Advisory Committee of
24 “any discretionary action, other than approval or disapproval of a Pool committee action or
25 recommendation properly transmitted.” (Judgment at ¶ 38(b)[2], emphasis added.) It must also
26 notify the Advisory Committee under this subparagraph if it proposes to execute any agreement not
27 theretofore within the scope of an Advisory Committee recommendation since the Watermaster
28 generally can “cooperate” with other agencies only upon “prior recommendation or approval of the
Advisory Committee.” (Judgment at ¶ 26.) A Pool Committee action or recommendation that was
“properly transmitted” would already have been noticed to the other two pools and would have had
Advisory Committee review if “any objections” had been raised. (Judgment at ¶ 38(a).)

1 votes.¹³

2 **b. The Ramifications of Paragraph 38(c)**

3 The Judgment fully anticipates that the Watermaster and Advisory Committee will not agree
4 at all times. (TR at 40:14 *et seq.*) Subparagraph 38(b)[1] makes it clear that the Watermaster may
5 or may not decide to take action that is consistent with the recommendation or advice of the Advisory
6 Committee. Except when an Advisory Committee recommendation is “mandatory” (i.e., is approved
7 by 80 or more of 100 votes), a procedure is provided for the Watermaster to take independent action.
8 (Judgment at ¶ 38(b)[1].) Even where the Advisory Committee recommendation is “mandatory”, the
9 Judgment anticipates that the Watermaster might still disagree. In such an event, the Watermaster
10 can “employ counsel and expert assistance” (as a Watermaster expense) (Judgment ¶ 38(c)), and “as
11 to any mandated action” may apply to the Court for review. (Judgment ¶ 31(b).)

12 When the Watermaster brings a motion to the Court to review a “mandated action”, its legal
13 and expert costs in seeking Court review are a “Watermaster expense to be allocated to the affected
14 pool or pools.” (Judgment at ¶ 38(c).) The Advisory and Pool Committees enjoy the same benefit
15 when they seek Court review of “any Watermaster’s action, decision or rule.” (*Id.*) However, when
16 any individual party exercises its right to seek Court review, it must shoulder its own legal and expert

17
18 ¹³Judge Turner, in his 1989 Order, stated:

19 The Advisory Committee takes actions on all matters considered by the various pools
20 and submits its recommendations to the Watermaster. The Advisory Committee is
21 the policy making group for the basin. Any action approved by 80% or more of the
22 Advisory Committee constitutes a mandate for action by the Watermaster consistent
23 therewith.

24 (Statement of Decision and Order Re Motion for Review of Watermaster Actions and Decisions Filed
25 by Cities of Chino and Norco and San Bernardino County Waterworks District No. 8 [hereinafter
26 “Judge Turner Order”] at 3:4-9.) This statement was made in Judge Turner’s introductory remarks
27 to his Order and thus is properly characterized as dicta. As discussed herein, the Advisory
28 Committee, Pool Committee, and Watermaster roles in terms of policy decision is perhaps best
described as collaborative. There is no question the Advisory Committee is implicitly intended to
propose policy, but it does not have an exclusive role in that regard. Further, it is clear that the
mandate by 80% or more votes of the Advisory Committee can be appealed to the Court by the
Watermaster, and applies only where the Watermaster action is to be subject to recommendations or
advice of the Advisory Committee.

1 costs. This is viewed by several parties to be a significant factor that should be weighed in
2 considering the independence of the Watermaster. (TR at 41:9-23, 43:15-20, 75:10-16, 76:5 to 77,
3 and 100:11-18.) They argue that the Watermaster can bring before the Court issues which may not
4 be raised by a party (for financial or other reasons). (*Id.*)

5 Of course, the Watermaster must first agree to speak for the party by bringing a motion to
6 the court consistent with the party's interests for this function to have value. As discussed *supra*, the
7 Watermaster apparently has not historically played this role. Further, the Watermaster can only bring
8 a motion on "mandated" actions (unless the Watermaster seeks review of the Judgment by way of
9 Paragraph 15), hence a party would still have to bring its own motion on other, non-mandated
10 Watermaster actions, unless a Pool Committee or Advisory Committee brought the matter to the
11 Court's attention.

12 3. Court Review Under Paragraph 31

13 Paragraph 31 provides for review of all Watermaster actions, decisions or rules:

14 31. Review Procedures. All actions, decisions or rules of Watermaster shall be
15 subject to review by the court on its own motion or on timely motion by any party,
16 the Watermaster (in the case of a mandated action), the Advisory Committee, or any
17 pool committee as follows:

18 (b) Noticed Motion. Any party, the Watermaster (as to any mandated
19 action), the Advisory Committee or any pool committee may, by a regularly
20 noticed motion, apply to the court for review of any Watermaster's action,
21 decision or rule . . .

22 (Judgment at ¶¶ 31 and 31(b).) The Paragraph 31 review is not limited to whether a Watermaster
23 action is "discretionary" or whether such action was the subject of Watermaster recommendations
24 or advice; Paragraph 31 review could therefore be pursued whether or not a Paragraph 38(b)[1]
25 Advisory Committee mandate were involved.

26 The Paragraph 31 review procedure would apply to "other actions" of Watermaster, such as
27 the special audit. The costs of the special audit were properly reviewable under the Section 31
28 procedure, although not subject to the Paragraph 38(b)[1] Advisory Committee mandate or the
Paragraph 38(b) study, recommendation, review and action process for "discretionary"
determinations.

4. Court Review Under Paragraph 15

1 An independent review process is provided by the Judgment. Paragraph 15 of the Judgment
2 provides for continuing jurisdiction, such that full jurisdiction, power and authority are retained and
3 reserved to the Court as to all matters except: (1) the redetermination of safe yield during the first
4 ten years of operation of the Physical Solution, (2) the allocation of safe yield as set forth in
5 Paragraph 44, (3) the determination of specific quantitative rights and shares of the declared safe yield
6 or operating safe yield, and (4) the amendment or modification of Paragraphs 7(a) and (b) of Exhibit
7 H during the first ten years of operation of the Physical Solution. As indicated in Paragraph 15:

8 Continuing jurisdiction is provided for the purpose of enabling the Court, upon
9 application of any party, the Watermaster, the Advisory Committee or any Pool
10 Committee, by motion and, upon at least 30 days' notice thereof, and after hearing
11 thereon, to make such further or supplemental orders or directions as may be
12 necessary or appropriate for interpretation, enforcement or carrying out of this
13 Judgment, and to modify, amend or amplify any of the provisions of this Judgment.

14 (Judgment at ¶ 15.)

15 This review provision does not limit any party, the Watermaster, the Advisory Committee or
16 a Pool Committee in seeking review of any action or failure to act. This provision allows the
17 Watermaster, any party, a Pool Committee or the Advisory Committee to bring to the attention of
18 the Court any contention it may have with regard to the Physical Solution or the Judgment itself as
19 well as day-to-day affairs conducted by the Watermaster. In addition, it grants the Watermaster the
20 right to bring to the attention of the Court any activity of the Pool Committee or Advisory Committee
21 which it deems inappropriate.

22 **IV. STATUS OF THE "OPTIMUM BASIN MANAGEMENT PROGRAM"**

23 **A. The Court Recommended in 1989 That Within Two Years of that Date the 24 Watermaster Prepare an Integrated Optimum Basin Management Program 25 Document**

26 The Watermaster is granted discretionary power to develop an Optimum Basin Management
27 Program which includes both water quantity and quality considerations (Judgment at ¶ 41), indicating
28 that the Judgment contemplated the resolution of the continuing water quality problems in the Chino
Basin. In 1989, three members of both the Appropiative Pool and the Advisory Committee brought
a "Motion for Review of Watermaster Actions and Decisions," pointing out "... a great many areas
in which they considered the activities of the Watermaster less than perfect." (Judge Turner Order

1 at 4.) Judge Turner "recommended" that the Watermaster produce the Optimum Basin Management
2 Program within two years. (Judge Turner Order at 10; *see also* TR at 130:16-20.) Judge Turner's
3 1989 Order states:

4 The Moving Parties contend that the Watermaster has failed to develop an adequate
5 Optimum Basin Management Plan (OBMP). The Watermaster, on the other hand,
6 says that it has an excellent working OBMP although it has not been reduced to a
7 single document. . . As indicated above, there are studies under way trying to at least
8 define the problem and work out possible solutions. The Court finds no defect in the
9 OBMP, although the Court does recommend that within two years the OBMP be
10 reduced to a single integrated document approved by the Advisory Committee.

11 (Judge Turner Order at pp. 8-10.)

12 Judge Turner recognized the pervasive water quality problems with regard to nitrate buildup
13 from dairy farms and agricultural activities. (Judge Turner Order at 9.) Judge Turner also noted that
14 the fundamental idea behind the Judgment was to guarantee sufficient water for all legitimate users
15 and that the water be of good quality. (Judge Turner Order at 4.) Judge Turner relied on the Santa
16 Ana River nitrate management study to provide assistance in evaluating the nitrate problem (Judge
17 Turner Order at 5) and recognized there was no easy solution. (Judge Turner Order at 9.) Although
18 Judge Turner ordered that the Optimum Basin Management Program be placed into one document
19 and contemplated that the ongoing efforts regarding the nitrate problems would at least partially
20 resolve the water quality issues raised, this has not been the case.

21 The parties have presented sufficient evidence to indicate that the water quality in the Chino
22 Basin has dramatically worsened over the last ten years. The Chino Basin has been identified as the
23 single area with the most critical water quality problem in the Santa Ana River watershed. (MVWD
24 Brief 1, Decl. of J. Grindstaff ¶ 9.) According to the 1990 nitrogen-TDS study, by the year 2000,
25 contamination was expected to have spread over much of the basin. However, the Advisory
26 Committee has been informed that the contamination is worse than projected, and the basin has
27 already achieved the level of contamination projected for the year 2000. (*Id.* at ¶ 16.)

28 All parties seem to agree that water quality is a central matter of dispute. (TR at 82.) The
parties acknowledge that for completion of the Optimum Basin Management Program it is important
to look at what has been done and what problems remain (TR at 118:9-15). There are some basic
critical issues that need to be resolved in terms of basin cleanup, issues which are related to the

1 transition of land use from agriculture to urban uses (TR at 31:19-23), and issues related to how
2 contamination of the lower end of the basin is impacting producers (TR at 32:1-4). There seems to
3 be no disagreement that the key issue is how to clean up the lower part of the basin, and how to
4 allocate the multi-million dollar cost of that cleanup. (TR at 33:7-11, 34:23 to 35:3 and 35:11-22.)
5 As Mr. Koopman, representing the overlying (agricultural) pool noted: "Our water is going bad
6 faster than anybody ever imagined." (TR at 146:2-3.)

7 **B. No Optimum Basin Management Program Has Been Developed, Although**
8 **Extensive Planning Studies Have Been Undertaken and Efforts Have Been**
9 **Made to Address Implementation Issues**

10 **1. The "Task Force Plan" Is Not the Optimum Basin Management**
11 **Program**

12 One of the questions addressed at the hearing was whether there is an "optimum basin
13 management program" in existence at this time. Various parties addressed that question and the
14 answer was that there is not a single document that is the "Optimum Basin Management Plan." (TR
15 at 1:18 to 26:18.) The "Chino Basin Water Resources Management Task Force, Chino Basin Water
16 Resources Management Study Final Summary Report (September 1995)" ("Task Force Plan" or
17 "Plan") was identified as a document that had been prepared as an initial step in the development of
18 a management plan for the Chino Basin. (TR at 21:10 to 22:21.)

19 The Task Force Plan is the "culmination of a planning effort" by the Santa Ana Watershed
20 Project Authority (SAWPA), CBMWD, Western Municipal Water District (WMWD), Metropolitan
21 Water District of Southern California (Metropolitan) and the Chino Basin Watermaster. (Plan at 1-
22 1.) The impetus for developing the Plan is identified as the Chino Basin Judgment, paragraph 41, and
23 Judge Turner's Order. (Plan at pp. 1-2.) SAWPA initiated the effort in 1988, and a "Chino Basin
24 Groundwater Management Task Force" ("Task Force") was created January 1, 1990, by "Project
25 Agreement No. 13" between CBMWD and WMWD "as member agencies of SAWPA." Its purpose
26 was "to formulate an operational plan for managing the overall water resources of the Chino Basin."
27 (*Id.*) Apparently, "Project Agreement No. 13" created a 25-member Task Force made up of 21
28 representatives of the Advisory Committee and one representative each from SAWPA, Metropolitan,
CBMWD and WMWD, and an engineering committee of 9 members, 5 of whom were representatives

1 of the Advisory Committee. (Plan at 1-3 to 1-4.) It is not clear to what extent or whether CBMWD
2 participated in the development of the Plan in its role as Watermaster, rather than in its role as a
3 member of SAWPA.

4 It is clear, however, that the Task Force Plan does not itself constitute the "optimum basin
5 management program" that the Watermaster is directed to develop by Judgment Paragraph 41. The
6 Task Force Plan and even its transmittal letter, make it clear that the effort it reflects does not
7 constitute the "optimum basin management program":

8 The recommended plan thus provides the Task Force with the initial direction it will
9 need to move forward with the additional planning studies required to formulate and
adopt a final overall basin management plan for the Chino Basin.

10 (Letter dated September 22, 1995 from Dennis Smith, Montgomery Watson, to Mr. Mark Norton,
11 SAWPA Project Manager.) The Task Force Plan's final recommendations reflect the fact that the
12 Plan is not the "optimum basin management program":

13 Because there are many overlapping issues, and sometimes conflicting objectives
14 between the programs, it is recommended there be some continuing method of
15 coordinating the various programs to ensure consistency with the direction for the
16 preferred [plan] . . . developed under this study. This can be accomplished through
17 the preparation of an Implementation Plan, developed under the direction of and/or
with input from a task force or committee representing similar interests as the Chino
Basin Water Resources Management Study Task Force. It is desirable that such an
effort proceed relatively soon to help guide implementation of the various elements
that are already under active planning.

18 (Plan at 6-11.)

19 The Task Force viewed the Watermaster's role as limited:

20 Some actions such as revising storage rules and regulations and expanding
21 replenishment facilities and operations can be accomplished principally through the
22 Watermaster. However, implementation of many of the other elements can most
23 effectively be achieved only through a combination of voluntary cooperation and new
24 agreements and/or institutional and financial arrangements. . . significant development
25 work has been ongoing for a number of years (e.g. the current Chino Desalter
Program; Chino Basin MWD's development work together with the local agencies
toward a water reclamation program; and all of Metropolitan's efforts toward a
Conjunctive Storage Program). Each of these efforts is expected to continue, and
involve some of the same agencies as well as the Watermaster in different
combinations.

26 (*Id.*)

27 There is a sense of urgency that pervades the Task Force Plan. Although not all agreed that
28 a "tragedy of the commons" scenario is facing the Chino Basin, the Task Force Plan's forecast

1 certainly suggests exactly that prognosis:

2 . . . if projects are left to be implemented only by individual water agencies as needed
3 to meet water supply requirements, and the full burden of costs are born by the
4 individual purveyor, implementation will likely be postponed as long as possible,
5 and/or other options developed where possible. An obvious example would be for
6 a water purveyor to seek new well locations further north in the basin, and/or deepen
7 existing wells. Such near term solutions are understandable and justified from a local
8 agency perspective, but can have adverse long term implications to overall basin
9 management. Moving production further north will tend to have an adverse impact
10 on basin yield, while deepening pumping wells tends to accelerate downward
11 migration of constituents. In either case, the beneficial impact of removing and
12 exporting greater quantities of salt and nitrate are not realized, and long term water
13 trends would be more adverse than projected under this study. Therefore to facilitate
14 development of the projects included in the plans, implementation strategies should
15 consider various institutional, legal and financial incentives, as has been done with the
16 Chino Desalter program. . . .

10 (Plan at 6-5.)

11 The issues, according to the Task Force Plan, encompass both water quality and water
12 quantity. The water quantity problem is discussed in considerable detail, and is characterized as “an
13 unacceptable condition”:

14 The projected long-term declines in storage and water levels is clearly an unacceptable
15 condition, in addition to the fact that the physical solution to maintaining water levels
16 within the Chino Basin under the judgment is not being met.

16 (Plan at 3-8.) The projected calculated decline in storage for the 1990 to 2040 period is 1.645 million
17 acre feet with maximum water level declines of 140 feet in the southeastern part of the basin.
18 Modeled declines are 1.2 million acre feet. (Plan at 3-5.) The Task Force Plan calls into question
19 the adequacies of current basin replenishment efforts. (Plan at 3-9; Judgment, ¶¶ 42, 45.) As to the
20 future: “All four alternative plans would result in a long-term decline in storage in the basin. . . .
21 Thus the basin would be underreplenished. . . .” (Plan at 6-1.)

22 No complete resolution of water quality problems is suggested. Instead, the Task Force Plan
23 notes:

24 The Chino Basin has experienced on-going water quality degradation for many years.
25 This degradation is demonstrated by increasing salinity and nitrate concentrations in
26 pumped groundwater. This trend is expected to continue in the future.

26 (Plan at ES-3.)

27 The water quality problem is daunting:

28 It is also apparent from reviewing the water quality projections that a major

1 commitment to extraction and treatment of degraded groundwater is needed under
2 all four plans just to maintain the overall basin quality near current levels due to the
3 long-term continuing negative (net increase) salt and nitrogen balance resulting
4 primarily from past and continuing agricultural land use practices.

4 (Plan at 6-5.)

5 **2. The Next Phase of the Task Force Plan Work, to Develop an**
6 **Implementation Plan, Has Not Been Pursued**

7 The Task Force Plan identifies a "Phase III" in which a "... a Final Management Plan will be
8 selected for implementation." (Plan at 1-3.) The anticipated task to develop that final plan included
9 developing "operating plan details," a "financial plan," as well as an "Implementation Plan." (*Id.*)
10 The Plan states: "Phase III will be undertaken after the Task Force has reached agreement on the
11 best management approach for the Chino Basin." (*Id.*) According to one hearing participant, Mr.
12 Grindstaff of Monte Vista Water District:

13 It [Task Force Plan] was adopted, but it had alternatives in it, and the next stage was
14 to actually develop a plan that we would follow. And the advisory committee voted
15 against funding the development of an Implementation Plan.

15 (TR at 23:8-12.) Mr. Ed James, who was chief of Watermaster services at the time of the Task Force
16 Plan, concurred:

17 "... the study was to comply with Judge Turner's request, and it looked at the ideas
18 and we looked at water quality and various management schemes. ... The problem
19 is, the program ended in 1994, and since then we have not implemented the next
20 phase. And that's kind of where we are at this point.

20 (TR at 23:19 to 24:4.)

21 **3. Implementation Actions Have Been Identified**

22 The Task Force Plan suggested that an Implementation Plan would include both water supply
23 and water quality elements. "Preferred plan" elements included:

- 24 • At least 5% water conservation.
- 25 • Retaining production in the southern half of the basin and/or increasing production
26 to the maximum extent possible as agricultural pool production is reduced.
- 27 • Limit continued accumulation of local storage accounts by underproducers in order
28 to decrease their replenishment obligation and the accumulation of storage and
possibly cap local storage accounts, and provide incentives to reduce excess storage
accounts that exist now.

- 1 • Expand spreading capabilities in order to meet future replenishment obligations.
- 2 • Expand reclaimed water use.
- 3 • Increase production of high nitrate and high TDS groundwater with treatment and
- 4 removal facilities (desalters).
- 5 • Consider a conjunctive storage program agreement with Metropolitan up to an
- 6 additional 300,000 acre feet in the basin.

6 (Plan at pp. 6-6 to 6-9.)

7 The Judgment includes guidance as to what should be included in an Optimum Basin
8 Management Program. The purpose and objective of the Physical Solution is to:

9 . . . establish a legal and practical means for making the maximum reasonable
10 beneficial use of the waters of Chino Basin by providing the optimum economic, long-
11 term conjunctive utilization of surface waters, ground waters and supplemental
12 water. . . .

12 (Judgment, ¶ 39.) With the flexibility to “. . . be free to use existing and future technological, social,
13 institutional and economic options. . .” (Judgment ¶ 40), the Watermaster is directed to consider
14 certain “basin management parameters” in implementing the Physical Solution; these “basin
15 management parameters” are set forth in Judgment Exhibit I, the “Engineering Appendix.” Those
16 parameters include:

- 17 • Pumping patterns should be such that “. . . no producer be deprived of access to said
18 waters by reason of unreasonable pumping patterns, nor by regional or localized
19 recharge of replenishment water, insofar as such result may be practically avoided.”
20 (Judgment, Exhibit I, ¶ 1(a).)
- 21 • “Maintenance and improvement of water quality is a prime consideration and function
22 of management decisions by Watermaster.” (Judgment Exhibit I, ¶ 1(b).)
- 23 • “Financial feasibility, economic impact and the cost and optimum utilization of the
24 Basin’s resources and the physical facilities of the parties are objectives and concerns
25 equal in importance to water quantity and quality parameters.” (Judgment, Exhibit
26 I, ¶ 1(c).)

27 This is not a comprehensive list. An initial task for the new Watermaster logically would be
28 to develop a scope of the contents of the Optimum Basin Management Program.¹⁴

27 ¹⁴Judgment Exhibit H, Paragraph 8, directs the Watermaster to undertake socioeconomic
28 impact studies by no later than ten years from the date of the Judgment. This work has apparently
(continued...)

1 **4. The Parties Stated at the Hearing That They Could Agree to a Scope of**
2 **an Optimum Basin Management Program**

3 The parties at the hearing indicated (haltingly) that they could at least agree on what needs
4 to be included in the Optimum Basin Management Program. (TR at 30:3 to 31:12.) There was also
5 extended discussion of the varying views of the basin management planning process status, as well
6 as the dynamic nature of the planning process itself. Mr. Teal for the City of Ontario expressed the
7 concern that:

8 ... one of the impressions here that's been left is that somehow the basin management
9 process is in chaos, when in fact there is some very critical issues that need to be
10 resolved in terms of basin cleanup and the transition from agricultural to urban. And
11 so in fact the basin hasn't really been in chaos. We consider the basin management
12 planning process to be a dynamic process, to be an ongoing process, as we develop
13 a better model of the basin to better identify what are the losses, how is the
14 contamination of the lower end of the basin, how is that impacting the producers.
15 There is very critical economic issues here that need to be recognized.

16 (TR at 31:17 to 32:5.) In Mr. Teal's view, the Task Force Plan:

17 ... was to start the process of that basin management planning so that we could
18 identify what the problem is and we feel we've identified the contamination problem.
19 We have a working model now. We know generally that, yes, there are losses to the
20 basin, and we need to correct that through storage limits. And... we think we have
21 a plan now for storage limits. We need to now develop a plan of how we are going
22 to clean up the lower part of the basin, which is going to cost multiple millions of
23 dollars.

24 (TR at 33:2-11; *see also* TR 127:11 to 133:6.)

25 **5. The Parties Indicated at the Hearing That They Would Not Oppose**
26 **Independent Legal and Technical Oversight on Behalf of the Court of**
27 **the Watermaster's Efforts to Scope and Produce the Optimum Basin**
28 **Management Program**

 In response to the suggestion that the Court require a process to assure that the necessary
planning is indeed occurring and that the Optimum Basin Management Program will be produced
within a reasonable amount of time, no matter who the Watermaster may be, Mr. Markman,
representing the moving parties, stated:

¹⁴(...continued)
not been done (TR at 29:20-25) and should be considered in the scoping process.

1 I think if the referee wants to recommend to the court that as part of your package
2 someone with a fresh look comes in and looks at the process — — where it is and
3 what it needs to accomplish and how it can move — — as a report to the court, I
don't think we would resist that. We're not hiding the ball. And that might be helpful
to the new Watermaster board as well.

4 (TR at 28:21 to 29:3.) Mr. Kidman, representing the opposing parties, agreed: "A plan and a time
5 frame both ought to be mandated." (TR at 29:5-6.)

6 **V. IN THE EXERCISE OF ITS CONTINUING JURISDICTION, THE COURT CAN**
7 **ORDER THE WATERMASTER TO EXERCISE ITS POWER TO PREPARE A**
8 **COMPLETE OPTIMUM BASIN MANAGEMENT PROGRAM AND TO PERFORM**
9 **THAT DUTY PURSUANT TO A PROCESS AND IN ACCORDANCE WITH A**
10 **SCHEDULE SET BY THE COURT**

11 The Court retained and reserved continuing jurisdiction "... for the purpose of enabling the
12 Court, upon application of any party, the Watermaster, the Advisory Committee or any Pool
13 Committee . . . to make such further or supplemental orders or directions as may be necessary or
14 appropriate . . ." to interpret, enforce or carry out the Judgment or to modify, amend or amplify the
15 Judgment provisions. (Judgment at ¶ 15.) The Court is authorized to exercise its retained jurisdiction
16 "... where appropriate, to supplement the discretion herein granted to the Watermaster." (Judgment
17 at ¶ 40.) Further, the Court can act on its own motion to review "all actions, decisions or rules of
18 Watermaster." (Judgment at ¶ 31.) Paragraph 17 further describes the Watermaster's powers and
19 duties as subject to the Court's continuing supervision and control, and directs that the Watermaster
20 shall have the powers and duties "... as provided in this Judgment or hereafter ordered or authorized
21 by the Court in the exercise of the Court's continuing jurisdiction." (Judgment at ¶ 17.) If the
22 Watermaster does not act, presumably the Court has the authority under Paragraphs 17, 31 and 40
23 to issue necessary supplemental orders directing the Watermaster to carry out the Physical Solution
24 under the Judgment. Basically, at the time the Court appoints a new Watermaster, the Court's
25 authority to "make such further or supplemental orders or directions as may be necessary or
26 appropriate for interpretation . . . or carrying out of this Judgment . . ." and to "... supplement the
27 discretion herein granted to the Watermaster . . ." encompasses clarification of the Watermaster's
28 roles and explicit direction to the Watermaster to prepare the Optimum Basin Management Program
within a limited period of time.

The Court's Order in this instance, however, would not remove such Watermaster activities

1 from the Advisory Committee's review. The recommended Court orders as set forth *infra*, are
2 logically characterized as within the "discretionary powers to develop an Optimum Basin
3 Management Program" (Judgment at ¶ 41), or as a "supplement to the discretion herein granted"
4 (Judgement at ¶ 40). If further Order of this Court were to direct that the Watermaster should
5 prepare the Optimum Basin Management Program without being subject to Advisory Committee
6 review and action, the issue of modification of the Judgment would be raised. Changing the
7 relationship of the Advisory Committee and the Watermaster with respect to the Watermaster's
8 development of the Optimum Basin Management Program under its discretionary powers, and the
9 Advisory Committee's power to review and act upon all discretionary determinations made by the
10 Watermaster, would constitute a Judgment modification. As discussed *supra*, there is no motion
11 before the Court to make such a modification, and the Court cannot modify the Judgment on its own
12 motion. However, the recommended Order of the Court in the matter at bar does not envision a
13 change in the structural relationship between the Watermaster and Advisory Committee, but rather
14 a clarification of the roles of the Watermaster, and explicit direction to the Watermaster to prepare
15 the Optimum Basin Management Program within a limited period of time.

16 VI. RECOMMENDATION FOR INTERIM APPOINTMENT

17 A. The Special Referee Recommends that the Court Appoint the Nine-Member 18 Board as Watermaster, for an Interim Period of 24 Months, Commencing 19 January 1, 1998

19 The principal motion before the Court is to appoint the nine-member board as Watermaster.
20 Opposing parties fear that the nine-member board will be controlled by the Advisory Committee; this
21 may occur, but this predilection is not sufficient basis for concluding that there is a compelling reason
22 not to appoint the nine-member board as Watermaster at this time. The events leading up to the
23 motion and the stalemate that has ensued speak loudly, however, to the need for additional Court
24 guidance and oversight of the Watermaster and its Optimum Basin Management Program and
25 process.

26 The court has retained jurisdiction to supplement the discretion granted to the Watermaster
27 under the Judgment, and it is the recommendation of the Special Referee that the Court exercise its
28 retained jurisdiction to issue the orders recommended herein. The important independent functions

1 of the Watermaster envisioned in the Judgment do not appear effectively to have been carried out by
2 the existing Watermaster and may not be effectively carried out by the nine-member board.

3 However, it is crucial to break the current deadlock; continuing at loggerheads will not
4 address the problems that have arisen since the Advisory Committee essentially usurped the role of
5 the Watermaster as to day-to-day activities, nor will it further preparation of the Optimum Basin
6 Management Program. The fact that the Watermaster has not prepared the Optimum Basin
7 Management Program reflects systemic failure of the Judgment and its Physical Solution, and that
8 failure must weigh heavily in the decision to appoint a new Watermaster.

9 It is the Special Referee's recommendation that the Court appoint the nine-member board as
10 Watermaster, but only for an interim, two-year period. Further, the nine-member board should be
11 required to prepare the Optimum Basin Management Program before the end of the interim period.
12 The proposed requirements and schedule are intended to provide the Court with a means to gauge
13 the success of the new Watermaster. If the nine-member board functions successfully, it will have
14 provided the Court with an Optimum Basin Management Program before the end of the two-year
15 period.

16 **B. The Special Referee Recommends that the Court Set Aside its Order Appointing**
17 **DWR as Interim Watermaster, but Direct the Nine-Member Board to Provide**
18 **a Report to the Court by June 1, 1998, on All Aspects of Appointment of DWR**
18 **to Serve as Watermaster, Should it Become Necessary to Replace the Nine-**
18 **Member Board with DWR after the Interim 24-Month Period**

19 If the Court agrees with the recommendation to appoint the nine-member board, the current
20 interim appointment of DWR should be set aside. The Court's Order appointing DWR as interim
21 Watermaster required that the Advisory Committee and Chino Basin Municipal Water District first
22 enter into an agreement with DWR. (Order of Special Reference at p. 9.) That has not been
23 accomplished. (TR at 14:8 to 18:25.)

24 Mr. Kidman, representing parties who oppose the motion to appoint the nine-member board,
25 professed to speak for the "whole basin" against appointment of DWR:

26 . . . I don't think that there's anybody in the whole basin that's very interested in
27 seeing a loss of local control or at least some measure of maintaining local control.
27 And having a state receiver, in effect, appointed is not something that any of us are
28 really looking forward to.

1 (TR at 19:7-12.) Notwithstanding that sentiment, DWR already serves as watermaster for several
2 groundwater basins. Its appointment offers a neutral, proven option to carry out Watermaster
3 functions in the Chino Basin. Because of the uncertainty as to whether the nine-member board will
4 successfully fulfill the Watermaster's duties under the Judgment and exercise its powers for the
5 benefit of the entire Chino Basin, it is prudent to have identified an available and competent
6 replacement which could immediately be appointed, if necessary, in two years. Although a "private
7 entity" Watermaster is not prohibited by any provision of the Judgment, identifying an acceptable
8 private entity is problematic.

9 Further, the Judgment provides that the Court may change the Watermaster on its own motion
10 or on the motion of any party, but, absent compelling reasons to the contrary, the Court must "act
11 in conformance with" a motion to appoint a new Watermaster that is supported by only a "majority
12 of the voting power of the Advisory Committee." (Judgment at ¶ 16.) If the nine-member board
13 appointment is determined by the Court after the two years not to have been successful, the Court
14 could on its own motion immediately appoint DWR as Watermaster. If a majority of the voting
15 power of the Advisory Committee were to then propose an alternative appointment, it would be up
16 to the Court to decide if continuing disruption caused by experimenting with another Advisory
17 Committee-proposed Watermaster would constitute "compelling reason" not to act in conformity
18 with any such further Advisory Committee proposal.

19 VII. RECOMMENDATION FOR COURT OVERSIGHT AND SCHEDULE

20 The Special Referee Recommends:

- 21 1. That the Court order that the parties submit recommendations to the
22 Watermaster as to the scope and level of detail of the Optimum Basin
23 Management Program by March 1, 1998, and that the Watermaster file a
24 written recommendation with the Court by April 1, 1998;
- 25 2. That the Court direct the Special Referee to review the Watermaster's
26 Optimum Basin Management Program scoping recommendations for technical
27 and legal sufficiency, that the Special Referee use an independent technical
28 expert as necessary, and that the Special Referee provide timely written
assessments to the Court on the Watermaster's progress;
3. That the Court order that the Watermaster exercise its discretionary powers to
develop the Optimum Basin Management Program which encompasses the
Implementation Plan elements recommended by the Task Force and submit the
Optimum Basin Management Program to the Court by no later than July 1,

1 1999, or show cause as to why it cannot do so; and

- 2 4. That the Court hold a hearing to consider whether to approve and order full
3 implementation of the Optimum Basin Management Program or consider why
4 the Optimum Basin Management Program has not been completed and filed
with the Court, and that a status report shall be provided to the Court by all
parties as to the continuance of the nine-member board as Watermaster.

5 The Advisory Committee is not envisioned by the Judgment as the “lead” in developing the
6 Optimum Basin Management Program, but rather as an active participant with important oversight
7 roles. The Special Referee recommendation is intended to compel the Watermaster to newly assert
8 itself to provide the impetus needed to develop the Optimum Basin Management Program and to take
9 the lead role as the Judgment intended. The Watermaster has not, to date, carried out that role. The
10 Advisory Committee has, in effect, usurped that role through the Task Force Plan process.¹⁵ From
11 a practical standpoint, the Judgment can perhaps best be interpreted as anticipating that development
12 of the Optimum Basin Management Program will largely be a collaborative process. Of course, the
13

14 ¹⁵The Advisory Committee position implicitly is that it should prepare the Optimum Basin
15 Management Program or the essentially equivalent Implementation Plan. The Task Force Plan
16 recommended that:

17 . . . there be some continuing method of coordinating the various programs to ensure
18 consistency with the direction for the Preferred Water Resources Management
19 developed under this study. This can be accomplished through the preparation of an
Implementation Plan. . .

20 (Plan at pp. 6-11.) The Task Force further suggests that an Implementation Plan can be “. . .
21 developed under the direction of and/or with input from a task force or committee representing
22 similar interests as a Task Force.” (*Id.*) Given the makeup of the Task Force, this is tantamount to
23 suggesting that the Advisory Committee develop the Implementation Plan. The question of whether
the Watermaster should even be the entity to develop the Optimum Basin Management Program was
24 raised in the course of the hearing. Mr. Markman suggested that “an independent watermaster” might
perform certain review functions:

25 It [the Watermaster] is a cog in the process that ultimately brings these issues to the
26 Court. We think it is useful to have a watermaster review the optimum basin
27 management plan. And if it agrees with the minority that opposes that plan, it has two
ways of bringing the matter up to the Court, depending on what the vote was, and
paying for legal counsel to support that position.

28 (TR at 43:11-19.)

1 Court ultimately resolves all issues regarding the Optimum Basin Management Program and
2 implementation of the Physical Solution generally. (Judgment at ¶ 15.)

3 As discussed herein, the provisions related to the Physical Solution define the most important
4 aspect of the Watermaster's special relationship with the Court. Developing the Optimum Basin
5 Management Program to guide implementation of the Physical Solution is, in turn, the most important
6 Watermaster task in carrying out the Physical Solution for the long term.

7 The purpose of the recommended Court oversight and schedule is to provide the Court with
8 a means to gauge the nine-member board's efforts to develop the Optimum Basin Management
9 Program. The particular elements of the program are discussed *supra*, and include both water
10 quantity and water quality actions. Although at the time the Judgment was entered, the full extent
11 of the quantity and quality challenges may not have been fully appreciated, the concept was clearly
12 set forth in the Judgment that the Watermaster would develop an Optimum Basin Management
13 Program that would include both water quantity and quality considerations: "Both the quantity and
14 quality of said water resources may thereby be preserved and the beneficial utilization of the Basin
15 maximized." (Judgment at ¶ 41.) As the Judgment intended and the Task Force Plan confirmed, the
16 full range of problems to be addressed includes every aspect of groundwater basin management,
17 including all implementation and financing decisions.

18 **VIII. RECOMMENDATION FOR PAYMENT OF COSTS OF SPECIAL AUDIT**

19 The Special Referee recommends that the Court find that the special audit is a Watermaster
20 expense. The audit conducted by CBMWD, acting as the Watermaster, is not explicitly defined in
21 the Judgment as a discretionary act, nor is it an action that is explicitly recognized as subject to
22 Advisory Committee recommendation or approval. The record reflects that the special audit was
23 conducted in response to substantial increases in annual budget expenditures, allegations of fraud or
24 theft, and CBMWD recognition that it had lost all control over the Watermaster services staff. It also
25 appears that the special audit was conducted to gain some understanding of what activities were then
26 occurring at the Watermaster staff level. The recommendation of the Special Referee is that the
27 Court find that the special audit was made in the general course of business and was a proper
28 Watermaster expense.

1 IX. CONCLUSION

2 The Special Referee strongly urges that the Watermaster and Advisory Committee were
3 intended to serve separate functions and that they should not be allowed to merge. The intention of
4 the recommendations is to prevent this merger, fully recognizing the risks inherent in the nine-member
5 board appointment. Continued Court review and supervision is imperative.

6
7 DATED: December 12, 1997

Respectfully submitted,

8
9 
10 ANNE J. SCHNEIDER, Special Referee

1 PROOF OF SERVICE

2
3 I declare that:

4 I am employed in the County of Sacramento, California. I am over the age of 18 years and
5 not a party to the within action. My business address is ELLISON & SCHNEIDER; 2015 H Street;
6 Sacramento, California 95814-3109; telephone (916) 447-2166.

7 On December 12, 1997 I served the attached:

8 **REPORT AND RECOMMENDATION OF SPECIAL REFEREE TO COURT**
9 **REGARDING : (1) MOTION FOR ORDER THAT AUDIT COMMISSIONED BY**
10 **WATERMASTER IS NOT A WATERMASTER EXPENSE, AND (2) MOTION**
11 **TO APPOINT A NINE-MEMBER WATERMASTER BOARD**

12 in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for
13 overnight delivery by United Parcel Service mail at Sacramento, California, address as follows:

14 **See attached service list and:**

15 Honorable J. Michael Gunn via facsimile

16 I declare under penalty of perjury that the foregoing is true and correct. and that this
17 declaration was executed at Sacramento, California, on December 12, 1997

18 Christine Henning
19 Christine Henning
20
21
22
23
24
25
26
27
28

Arthur G. Kidman
David D. Boyer
McCormick, Kidman & Behrens
695 Town Center Dr., Ste. 1400
Costa Mesa, CA 92626-1924

Jean Chigoyenetche
Chigoyenetche, Grossberg & Clouse
3602 Inland Empire Blvd., Ste. C315
Ontario, CA 91764

Jimmy Gutierrez
City of Chino
12612 Central Ave.
Chino, CA 91710

Dan G. McKinney
Reid & Hellyer
3880 Lemon St., 5th Floor
Riverside, CA 92502-1300

Mark D. Hensley
Burke, Williams & Sorensen
611 West Sixth St., Ste. 2500
Los Angeles, CA 90017

James L. Markman
Richards, Watsons & Gershon
1 Civic Center,
Brea, CA 92822-1059

Robert E. Dougherty
Covington & Crowe, LLP
1131 West Sixth St., Suite 300
Ontario, CA 91761

Marilyn H. Levin
Deputy Attorney General
Office of the Attorney General
300 South Spring St.
Los Angeles, CA 90013-1204

Thomas H. McPeters
McPeters, McAlearney, Shimoff & Hatt
4 West Redlands, Blvd., 2d Floor
Edlands, CA 92373

Gene Tanaka
Best Best & Kreiger, LLP
3750 University Ave., Suite 400
Riverside, CA 92502

Timothy J. Ryan
San Gabriel Valley Water Company
11142 Garvey Ave.
El Monte, CA 91734

Arnold Alvarez-Glasman
Alvarez-Glasman & Colvin
c/o Pomona City Hall
505 South Garey Ave.
Pomona, CA 91769

Jeffery Kightlinger
Metropolitan Water District of Southern California
Deputy General Counsel
P.O. Box 54153
Los Angeles, CA 90054

Steven M. Kennedy
Brunick, Alvarez & Battersby
P.O. Box 6425
San Bernardino, CA 92412

Traci Stewart
Chino Basin Watermaster
8632 Archibald Ave, Suite 109
Rancho Cucamonga, CA 91730

John J. S Schatz
Jurupa Community Services District
P.O. Box 7775
Laguna Niguel, CA 92607-7775

The Honorable J. Micheal Gunn
San Bernardino County Superior Court
West District
8303 Haven Avenue
Rancho Cucamonga, CA 91730

San Bernardino County Superior Court
West District
Attn: Judy Schurr
8303 Haven Avenue
Rancho Cucamonga, CA 91730

Jeffrey Kightlinger
Deputy General Counsel
P.O. Box 54153
Los Angeles, CA 90054
TEL (213) 217-6000

Metropolitan Water District of
Southern Calif. (Interested Party)
FAX (213) 217-6890

Marilyn Levin
Office of the Attorney General
300 S. Spring Street
11th Floor, N. Tower
Los Angeles, CA 90013-1204
TEL (213) 897-2612

State of Calif. Dept. of Corrections
FAX (213) 897-2802

Thomas H. McPeters
McPeters, McAlearney, Shimoff, Hatt
4 West Redlands Blvd., 2nd Floor
Redlands, CA 92373
TEL (909) 792-8919

Fontana Union Water Company
Monta Vista Irrigation Company and
San Antonio Water Company
West End Municipal Water District
FAX (909) 792-6234

Dan McKinney
Reid & Hellyer
3880 Lemon Street, 5th Floor
Riverside, CA 92502-1300
TEL (909) 682-1771

Special Counsel for the Ag Pool
FAX (909) 686-2415

Timothy J. Ryan
San Gabriel Valley Water Company
11142 Garvey Avenue
El Monte, CA 91734
TEL (818) 448-6183

Fontana Water Company
FAX (818-448-5530

Anne J. Schneider
Ellison & Schneider
2015 H. Street
Sacramento, CA 95814-3109
TEL (916) 447-2166

Referee
FAX (916) 447-3512

Gene Tanaka
Best, Best & Krieger, LLP
P.O. Box 1028
Riverside, CA 92502
TEL (909) 686-1450

Cucamonga County Water District,
Kaiser Ventures, Inc., and
Western Municipal Water District
FAX (909) 686-3083

John J. Schatz
Post Office Box 7775
Laguna Niguel, CA 92607
(714) 495-3175

Jurupa Community Services District
Fax: (714) 459-6463

CHINO BASIN WATERMASTER

Case No. RCVRS 51010

Chino Basin Municipal Water District v. City of Chino, et al.

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 May 5, 2021 I served the following:

1. NOTICE OF ORDERS

BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:
See attached service list: Mailing List 1

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

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

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

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

Executed on May 5, 2021 in Rancho Cucamonga, California.



By: Janine Wilson
Chino Basin Watermaster

PAUL HOFER
CBWM BOARD MEMBER
11248 S TURNER AVE
ONTARIO, CA 91761

JEFF PIERSON
2 HEXAM
IRVINE, CA 92603

ALLEN HUBSCH
LOEB & LOEB LLP
10100 SANTA MONICA BLVD.
SUITE 2200
LOS ANGELES, CA 90067

Members:

Agnes Cheng	agnes.cheng@cc.sbcounty.gov
Al Lopez	alopez@wmwd.com
Alan Frost	Alan.Frost@dpw.sbcounty.gov
Alberto Mendoza	Alberto.Mendoza@cmc.com
Alfonso Ruiz	alfonso.ruiz@cmc.com
Allen W. Hubsch	ahubsch@loeb.com
Alma Heustis	alma.heustis@californiasteel.com
Alonso Jurado	ajurado@cbwm.org
Amanda Coker	acoker@cityofchino.org
Amanda Meere	Amanda.Meere@cao.sbcounty.gov
Amer Jakher	AJakher@cityofchino.org
Amy Bonczewski	ABonczewski@ontarioca.gov
Andrew Gagen	agagen@kidmanlaw.com
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@westyost.com
Angelica Todd	angelica.todd@ge.com
Angelo Simoes	Angelo.Simoes@linde.com
Anna Nelson	atruongnelson@cbwm.org
April Robitaille	arobitaille@bhfs.com
Armando Martinez	armartinez@fontana.org
Art Bennett	citycouncil@chinohills.org
Arthur Kidman	akidman@kidmanlaw.com
Ashok Dhingra	ash@akdconsulting.com
Ben Lewis	benjamin.lewis@gswater.com
Ben Peralta	bperalta@tvmwd.com
Benjamin M. Weink	ben.weink@tetrattech.com
Betty Anderson	banderson@jcsd.us
Betty Folsom	bfolsom@jcsd.us
Bill Schwartz	bschwartz@mvwd.org
Bob Bowcock	bbowcock@irmwater.com
Bob DiPrimio	rjdiprimio@sgvwater.com
Bob Feenstra	bobfeenstra@gmail.com
Bob Kuhn	bkuhn@tvmwd.com
Bob Kuhn	bgkuhn@aol.com
Bob Page	Bob.Page@rov.sbcounty.gov
Brad Herrema	bherrema@bhfs.com
Braden Yu	bradeny@cvwdwater.com
Braden Yu	Byu@ci.upland.ca.us
Brandon Howard	brahoward@niagarawater.com
Brenda Fowler	balee@fontanawater.com
Brent Yamasaki	byamasaki@mwdh2o.com
Brian Dickinson	bdickinson65@gmail.com
Brian Geye	bgeye@autoclubspeedway.com
Brian Lee	blee@sawaterco.com
Cameron Andreasen	memphisbelle38@outlook.com
Carmen Sierra	carmens@cvwdwater.com
Carol Boyd	Carol.Boyd@doj.ca.gov
Carolina Sanchez	csanchez@westyost.com
Casey Costa	ccosta@chinodesalter.org
Cassandra Hooks	chooks@niagarawater.com
Catharine Irvine	cirvine@DowneyBrand.com

Chad Blais	cblais@ci.norco.ca.us
Chander Letulle	cletulle@jcsd.us
Charles Field	cdfield@att.net
Charles Linder	Charles.Linder@nrgenergy.com
Charles Moorrees	cmoorrees@sawaterco.com
Chino Hills City Council	citycouncil@chinohills.org
Chris Berch	cberch@jcsd.us
Chris Diggs	Chris_Diggs@ci.pomona.ca.us
Christiana Daisy	cdaisy@ieua.org
Christofer Coppinger	ccoppinger@geoscience-water.com
Christopher M. Sanders	cms@eslawfirm.com
Christopher Quach	cquach@ontarioca.gov
Christopher R. Guillen	cguillen@bhfs.com
Cindy Cisneros	cindyc@cvwdwater.com
Cindy Li	Cindy.li@waterboards.ca.gov
Cinthia Heredia	Cinthia.Heredia@cmc.com
Clarence Mansell	cmansell@wwd.org
Courtney Jones	cjjones@ontarioca.gov
Craig Miller	CMiller@wmwd.com
Craig Stewart	craig.stewart@woodplc.com
Cris Fealy	cifealy@fontanawater.com
Dan Arrighi	darrighi@sgwater.com
Dan McKinney	dmckinney@douglascountylaw.com
Daniel Bobadilla	dbobadilla@chinohills.org
Danny Kim	dkim@linklogistics.com
Dave Argo	daveargo46@icloud.com
Dave Crosley	DCrosley@cityofchino.org
David Aladjem	daladjem@downeybrand.com
David De Jesus	ddejesus@tvmwd.com
David Doublet	ddoublet@dpw.sbcounty.gov
David Huynh	dhuynh@cbwm.org
David Penrice	dpenrice@acmwater.com
Dawn Martin	Dawn.Martin@cc.sbcounty.gov
Denise Garzaro	dgarzaro@ieua.org
Dennis Dooley	ddooley@angelica.com
Dennis Mejia	dmejia@ontarioca.gov
Dennis Williams	dwilliams@geoscience-water.com
Diana Frederick	diana.frederick@cdcr.ca.gov
Don Galleano	dongalleano@icloud.com
Ed Means	edmeans@roadrunner.com
Edgar Tellez Foster	etellezfoster@cbwm.org
Eduardo Espinoza	EduardoE@cvwdwater.com
Edward Kolodziej	edward.kolodziej@ge.com
Elizabeth M. Calciano	ecalciano@hensleylawgroup.com
Elizabeth Skrzat	ESkrzat@cbwcd.org
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Grubb	ericg@cvwdwater.com
Eric Papathakis	Eric.Papathakis@cdcr.ca.gov
Eric Tarango	edtarango@fontanawater.com
Erika Clement	Erika.clement@sce.com
Eunice Ulloa	eulloa@cityofchino.org
Evette Ounanian	EvetteO@cvwdwater.com

Frank Brommenschenkel	frank.brommen@verizon.net
Frank Yoo	FrankY@cbwm.org
Fred Fudacz	ffudacz@nossaman.com
Fred Galante	fgalante@awattorneys.com
Gabby Garcia	ggarcia@mvwd.org
Garrett Rapp	grapp@westyost.com
Gene Tanaka	Gene.Tanaka@bbklaw.com
Geoffrey Kamansky	gkamansky@niagarawater.com
Geoffrey Vanden Heuvel	geoffreyvh60@gmail.com
Gerald Yahr	yahrj@koll.com
Gina Nicholls	gnicholls@nossaman.com
Gino L. Filippi	Ginoffvine@aol.com
Greg Woodside	gwoodside@ocwd.com
Gregor Larabee	Gregor.Larabee@cdcr.ca.gov
Henry DeHaan	Hdehaan1950@gmail.com
Hope Smythe	hsmythe@waterboards.ca.gov
Irene Islas	irene.islas@bbklaw.com
James Curatalo	jamesc@cvwdwater.com
James Jenkins	cnomgr@airports.sbcounty.gov
James McKenzie	jmckenzie@dpw.sbcounty.gov
Jane Anderson	janderson@jcsd.us
Janelle Granger	jgranger@niagarawater.com
Janine Wilson	JWilson@cbwm.org
Jasmin A. Hall	jhall@ieua.org
Jason Marseilles	jmarseilles@ieua.org
Jason Pivovaroff	JPivovaroff@wmwd.com
Jean Cihigoyenetché	Jean@thejclawfirm.com
Jeff Evers	jevers@niagarawater.com
Jeff Mosher	jmosher@sawpa.org
Jeffrey L. Pierson	jpierson@intexcorp.com
Jennifer Hy-Luk	jhyluk@ieua.org
Jessie Ruedas	Jessie@thejclawfirm.com
Jim Markman	jmarkman@rwglaw.com
Jim W. Bowman	jbowman@ontarioca.gov
Jimmy Gutierrez - Law Offices of Jimmy Gutierrez	
	jimmylaredo@gmail.com
Jimmy Medrano	Jaime.medrano2@cdcr.ca.gov
jimmy@city-attorney.com	jimmy@city-attorney.com
Joanne Chan	jchan@wvwd.org
Joao Feitoza	joao.feitoza@cmc.com
Joe Graziano	jgraz4077@aol.com
Joe Joswiak	JJoswiak@cbwm.org
Joel Ignacio	jignacio@ieua.org
John Abusham	john.abusham@nrg.com
John Bosler	johnb@cvwdwater.com
John Harper	jrharper@harperburns.com
John Huitsing	johnhuitsing@gmail.com
John Lopez	jlopez@sarwc.com
John Lopez and Nathan Cole	customerservice@sarwc.com
John Mendoza	jmendoza@tvmwd.com
John Partridge	jpartridge@angelica.com
John Schatz	jschatz13@cox.net
John Thornton	JThorntonPE@H2OExpert.net

Jose A Galindo	Jose.A.Galindo@linde.com
Josh Swift	jmswift@fontanawater.com
Joshua Aguilar	jaguilar@ieua.org
Justin Brokaw	jbrokaw@marygoldmutualwater.com
Justin Nakano	JNakano@cbwm.org
Justin Scott-Coe Ph. D.	jscottcoe@mvwd.org
Karen Williams	kwilliams@sawpa.org
Kathleen Brundage	kathleen.brundage@californiasteel.com
Keith Kramer	kkramer@fontana.org
Keith Person	keith.person@waterboards.ca.gov
Ken Waring	kwaring@jcsd.us
Kevin O'Toole	kotoole@ocwd.com
Kevin Sage	Ksage@IRMwater.com
Kimberly E. Leefatt	kleefatt@bhfs.com
Kristina Robb	KRobb@cc.sbcounty.gov
Kurt Berchtold	kberchtold@gmail.com
Kyle Brochard	KBrochard@rwglaw.com
Kyle Snay	kylesnay@gswater.com
Larry Cain	larry.cain@cdcr.ca.gov
Laura Mantilla	lmantilla@ieua.org
Lauren Harold	lharold@linklogistics.com
Linda Jadeski	ljadeski@wvwd.org
Lisa Lemoine	LLemoine@wmwd.com
Liz Hurst	ehurst@ieua.org
Marco Tule	marco.tule@nrg.com
Maria Ayala	mayala@jcsd.us
Maria Mendoza	mmendoza@westyost.com
Maribel Sosa	msosa@ci.pomona.ca.us
Marilyn Levin	marilyn.levin@doj.ca.gov
Mark D. Hensley	mhensley@hensleylawgroup.com
Mark Wildermuth	mwildermuth@westyost.com
Mark Wiley	mwiley@chinohills.org
Martin Cihigoyenetché	marty@thejclawfirm.com
Martin Rauch	martin@rauchcc.com
Martin Zvirbulis	mezvirbulis@sgvwater.com
Mathew C. Ballantyne	mballantyne@cityofchino.org
Matthew H. Litchfield	mlitchfield@tvmwd.com
May Atencio	matencio@fontana.org
Melissa L. Walker	mwalker@dpw.sbcounty.gov
mgarcia@ieua.org	mgarcia@ieua.org
Michael A. Blazevic	mblazevic@westyost.com
Michael Adler	michael.adler@mcmcnet.net
Michael Camacho	MCamacho@pacificaservices.com
Michael Camacho	mcamacho@ieua.org
Michael P. Thornton	mthornton@tkeengineering.com
Michelle Licea	mlicea@mvwd.org
Michelle Staples	mstaples@jacksontidus.law
Mike Gardner	mgardner@wmwd.com
Mike Maestas	mikem@cvwdwater.com
Moore, Toby	TobyMoore@gswater.com
MWDProgram	MWDProgram@sdcw.org
Nadia Aguirre	naguirre@tvmwd.com
Natalie Costaglio	natalie.costaglio@mcmcnet.net

Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieua.org
Nichole Horton	Nichole_Horton@ci.pomona.ca.us
Nick Jacobs	njacobs@somachlaw.com
Nicole Escalante	NEscalante@ontarioca.gov
Noah Golden-Krasner	Noah.goldenkrasner@doj.ca.gov
Parker Simon	psimon@bhfs.com
Paul Deutsch	Paul.deutsch@tetrattech.com
Paul Hofer	farmerhofer@aol.com
Paul Hofer	farmwatchtoo@aol.com
Paul S. Leon	pleon@ontarioca.gov
Penny Alexander-Kelley	Palexander-kelley@cc.sbcounty.gov
Pete Hall	rpetehall@gmail.com
Pete Hall	pete.hall@cdcr.ca.gov
Pete Vicario	PVicario@cityofchino.org
Peter Hettinga	peterhettinga@yahoo.com
Peter Kavounas	PKavounas@cbwm.org
Peter Rogers	progers@chinohills.org
Praseetha Krishnan	praseethak@cvwdwater.com
Rachel Avila	R.Avila@MPGLAW.com
Rachel Ortiz	rortiz@nossaman.com
Randy Visser	RVisser@sheppardmullin.com
Rick Darnell	Richard.Darnell@nrgenergy.com
Rick Rees	richard.rees@woodplc.com
Rickey S. Manbahal	smanbahal@wwd.org
Rita Pro	rpro@cityofchino.org
Robert C. Hawkins	RHawkins@earthlink.net
Robert DeLoach	robertadeloach1@gmail.com
Robert E. Donlan	red@eslawfirm.com
Robert Neufeld	robneu1@yahoo.com
Robert Wagner	rwagner@wbecorp.com
Ron Craig	Rcraig21@icloud.com
Ron LaBrucherie, Jr.	ronLaBrucherie@gmail.com
Ronald C. Pietersma	rcpietersma@aol.com
Rosemary Hernandez	rhernandez@jcsd.us
Rosemary Hoerning	rhoerning@ci.upland.ca.us
Ruben Llamas	rllamas71@yahoo.com
Ryan Shaw	RShaw@wmwd.com
Sally H. Lee	shlee@ieua.org
Sam Nelson	snelson@ci.norco.ca.us
Sam Rubenstein	srubenstein@wpcarey.com
Sandra S. Rose	directorrose@mvwd.org
Sarah Foley	Sarah.Foley@bbklaw.com
Sarah Schneider	sarah.schneider@amec.com
Scott Burton	sburton@ontarioca.gov
Scott Slater	sslater@bhfs.com
Seth J. Zielke	sjzielke@fontanawater.com
Shawnda M. Grady	sgrady@eslawfirm.com
Shivaji Deshmukh	sdeshmukh@ieua.org
Skylar Stephens	SStephens@sdca.org
Sonya Barber	sbarber@ci.upland.ca.us
Sonya Zite	szite@wmwd.com
Stephanie Reimer	SReimer@mvwd.org

Stephen Deitsch	stephen.deitsch@bbklaw.com
Steve Kennedy	skennedy@bmklawplc.com
Steve M. Anderson	steve.anderson@bbklaw.com
Steve Nix	snix@ci.upland.ca.us
Steve Riboli	steve.riboli@sanantoniowinery.com
Steve Smith	ssmith@ieua.org
Steve W. Ledbetter, PE	sledbetter@tkeengineering.com
Steven Andrews Engineering	sandrews@sandrewsengineering.com
Steven Flower	sflower@rwglaw.com
Steven J. Elie	selie@ieua.org
Steven J. Elie	s.elie@mpglaw.com
Steven Popelar	spopelar@jcsd.us
Steven Raughley	Steven.Raughley@cao.sbcounty.gov
Susan Palmer	spalmer@kidmanlaw.com
Sylvie Lee	slee@ieua.org
Tamer Ahmed	tamer.ahmed@cdcr.ca.gov
Tammi Ford	tford@wmwd.com
Taya Victorino	tayav@cvwdwater.com
Teri Layton	tlayton@sawaterco.com
Terry Bettencourt	miles.bettencourt@cdcr.ca.gov
Terry Catlin	tlcatlin@wfajpa.org
Tim Barr	tbarr@wmwd.com
Tim Kellett	tkellett@tvmwd.com
Timothy Ryan	tjryan@sgvwater.com
Toby Moore	TobyMoore@gswater.com
Todd Minten	tminten@sbcglobal.net
Tom Barnes	tbarnes@esassoc.com
Tom Bunn	TomBunn@Lagerlof.com
Tom Cruikshank	tcruikshank@linklogistics.com
Tom Harder	tharder@thomashardercompany.com
Tom Haughey	Thaughey@cityofchino.org
Tom McPeters	THMcP@aol.com
Tom O'Neill	toneill@chinodesalter.org
Toni Medell	mmedel@mbakerintl.com
Tony Long	tlong@angelica.com
Toyasha Sebbag	tsebbag@cbwcd.org
Tracy J. Egoscue	tracy@egoscuelaw.com
Van Jew	vjew@wwwd.org
Vanessa Aldaz	valdaz@cbwm.org
Vanessa Campos	VCampos@ontarioca.gov
Veronica Tristan	vtristan@jcsd.us
Veva Weamer	vweamer@westyost.com
Victor Preciado	Victor_Preciado@ci.pomona.ca.us
Vivian Castro	vcastro@cityofchino.org
Wade Fultz	Wade.Fultz@cmc.com
WestWater Research, LLC	research@waterexchange.com
William J Brunick	bbrunick@bmblawoffice.com
William Urena	wurena@angelica.com