

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN BERNARDINO  
3 DEPARTMENT 3 (RC) HON. CHARLES S. HAVENS, JUDGE  
4 CHINO BASIN MUNICIPAL WATER DISTRICT, )  
5 PLAINTIFF, )  
6 VERSUS ) RCV-51010  
7 CITY OF CHINO, ET AL., )  
8 DEFENDANTS. )

9  
10 REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

11 MARCH 11, 1993

12 APPEARANCES:

13 FOR THE WATERMASTER: GUIDO R. SMITH  
14 ATTORNEY AT LAW  
15 505 CITY PARKWAY WEST  
16 SUITE 1000  
17 ORANGE, CA 92668-2958

18 FOR CALIFORNIA STEEL  
19 INDUSTRIES, INC.: JOHN D. MUSICK & ASSOCIATES  
20 ATTORNEYS AT LAW  
21 BY: JOHN D. MUSICK  
22 4141 ARAPAHOE AVENUE  
23 SUITE 200  
24 BOULDER, CO 80306-4759

25 FOR KAISER STEEL  
26 RESOURCES: BEST, BEST & KRIEGER  
ATTORNEYS AT LAW  
BY: ARTHUR L. LITTLEWORTH  
AND  
GENE TANAKA  
P.O. BOX 1028  
RIVERSIDE, CA 925902

REPORTED BY: LYNETTE MILAKOVICH, CSR  
OFFICIAL REPORTER, C-5098

EXHIBIT B COPY

1 RANCHO CUCAMONGA, CALIFORNIA; THURSDAY, MARCH 11, 1993 <sup>1</sup>

2 A.M. SESSION

3 DEPARTMENT 3 (RC) HON. CHARLES S. HAVENS, JUDGE

4 APPEARANCES:

5 REPRESENTING THE WATERMASTER,

6 GUIDO R. SMITH, ATTORNEY AT LAW;

7 REPRESENTING CALIFORNIA STEEL

8 INDUSTRIES, INC., JOHN D. MUSICK, JR.,

9 ATTORNEY AT LAW;

10 REPRESENTING KAISER STEEL RESOURCES, INC.,

11 ARTHUR L. LITTLEWORTH AND GENE TANAKA,

12 ATTORNEYS AT LAW.

13 (LYNETTE MILAKOVICH, OFFICIAL REPORTER, C-5098.)

14 --000--

15 THE COURT: CHINO BASIN MUNICIPAL WATER DISTRICT,

16 PARTY PLAINTIFF, VERSUS CITY OF CHINO, ET AL.

17 MR. SMITH: GOOD MORNING, YOUR HONOR. GUIDO,

18 G-U-I-D-O, SMITH, S-M-I-T-H, FOR CHINO BASIN MUNICIPAL WATER

19 AS CHINO BASIN WATERMASTER.

20 MR. LITTLEWORTH: ARTHUR L. LITTLEWORTH AND

21 GENE TANAKA OF THE FIRM BEST, BEST & KRIEGER FOR

22 KAISER STEEL RESOURCES.

23 MR. MUSICK: JOHN MUSICK ON BEHALF OF

24 CALIFORNIA STEEL INDUSTRIES, INCORPORATED, MAKING A SPECIAL

25 APPEARANCE FOR THE PURPOSE OF CONTESTING THE NOTICE IN THIS

26 PROCEEDING.

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1 THE COURT: ALL RIGHT. WHAT ABOUT THE NOTICE?

2 MR. MUSICK: WE WERE SUPPLIED WITH NOTICE ON  
3 THURSDAY AFTER REPEATED REQUESTS FOR COPIES OF THE  
4 DOCUMENTS.

5 THE COURT: YOU MEAN LAST THURSDAY?

6 MR. MUSICK: THAT'S CORRECT, LAST THURSDAY.

7 CALIFORNIA STEEL INDUSTRIES, INC., AS YOU  
8 KNOW, YOUR HONOR, IS A PARTY TO THE PROCEEDING BOTH BY  
9 INTERVENTION AND BY OWNERSHIP, WAS ON THE MAILING LIST BUT  
10 WAS REMOVED BY SOME MEANS -- WE ARE NOT SURE HOW -- FROM THE  
11 MAILING LIST, WAS NOT PROVIDED NOTICE. WE MADE REPEATED  
12 CALLS TO THE WATERMASTER ADVISORY SERVICES OFFICE FOR COPIES  
13 OF THE PLEADINGS BUT NEVER RECEIVED COPIES OF THE PLEADINGS  
14 HEREIN.

15 WE'RE MAKING A SPECIAL APPEARANCE TODAY FOR  
16 THE PURPOSE OF CONTESTING THE NOTICE AS TO ONE ISSUE. THERE  
17 ARE THREE ISSUES BEFORE THE COURT PRESENTED BY MR. SMITH IN  
18 HIS REQUEST FOR AN ORDER. WE'RE NOT CONTESTING NUMBER ONE  
19 NOR NUMBER TWO.

20 NUMBER ONE HAS TO DO WITH THE WATERMASTER  
21 ANNUAL REPORT, AND THE COURT MAY ENTER AN ORDER IN  
22 ACCORDANCE WITH THAT REQUEST AS FAR AS MY CLIENT IS  
23 CONCERNED.

24 POINT NUMBER TWO HAS TO DO WITH THE  
25 INTERVENTION AND ASSIGNMENTS. WE HAVE NO OBJECTION TO THAT.

26 POINT NUMBER THREE HAS TO DO WITH AMENDMENTS

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1 TO THE RULES AND REGULATIONS. WE DO HAVE AN OBJECTION TO <sup>3</sup>  
2 PROCEEDING FORWARD ON THAT.

3 THE COURT: ALL RIGHT. COMMENTS, COUNSEL?

4 MR. SMITH: YES, YOUR HONOR

5 MR. LITTLEWORTH: WE HAVE NOTHING TO DO WITH GIVING  
6 NOTICE. WE'RE JUST ANOTHER PARTY.

7 MR. SMITH: YOUR HONOR, WE DO ADMIT THAT, FOR SOME  
8 REASON, AND WE DON'T UNDERSTAND HOW, THE NAME WAS DELETED  
9 FROM THE MAILING LIST BY COMPUTER. WE HAD SUPPLIED A COPY,  
10 AS WAS STATED, BY FEDERAL EXPRESS AND BY FAX TO MR. MUSICK'S  
11 OFFICE.

12 WITH REGARDS TO THE NOTICE OF THIS MATTER,  
13 THIS HAS BEEN GOING THROUGH THE VARIOUS COMMITTEES FOR SOME  
14 TIME, SO IT'S NOT A MATTER OF THE PARTIES NOT HAVING NOTICE  
15 OF THE FACT THIS WOULD COME BEFORE THE COURT. HOWEVER --

16 THE COURT: AT SOME TIME.

17 MR. SMITH: AT SOME TIME. WELL --

18 THE COURT: LISTEN, COUNSEL, IF YOU CONCEDE THAT  
19 NOTICE WAS NOT PROPERLY GIVEN, THAT'S ALL THERE IS TO IT.

20 MR. SMITH: I HAVE TO STATE THAT NOTICE WAS NOT  
21 PROPERLY GIVEN, YOUR HONOR.

22 THE COURT: THAT'S ALL THERE IS TO IT.

23 MR. MUSICK: HOWEVER, YOUR HONOR, WE DO NOT WISH  
24 THE WATERMASTER'S FIRST TWO POINTS TO BE HELD UP. WE  
25 BELIEVE THAT THAT IS IN CONFORMITY -- WE WERE PROVIDED  
26 ADEQUATE NOTICE AS TO THAT DOCUMENT. THE WATERMASTER'S

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1 ANNUAL REPORT WAS SUBMITTED TO US WELL AHEAD OF TIME.

2 IT WAS THE BALANCE OF PLEADINGS THAT WERE NOT.  
3 WE DO NOT FEEL IT'S APPROPRIATE TO UNDULY HOLD UP THE  
4 WATERMASTER ON THAT.

5 THE COURT: WELL, OF COURSE, THE COURT THEN WILL  
6 APPROVE THE REPORT AS WELL AS THE INTERVENTION AND  
7 ASSIGNMENT OF RIGHTS. THOSE ARE APPROVED.

8 BUT THE THIRD POINT, OF COURSE, WE NEED TO  
9 ADDRESS.

10 MR. MUSICK: YES, YOUR HONOR. IF I MAY BE HEARD ON  
11 THAT.

12 MR. LITTLEWORTH: NO, YOUR HONOR. I OBJECT TO  
13 THIS. HE'S JUST TOLD ME OUT IN THE HALL AS TO WHAT HE WANTS  
14 TO DO. IF HE IS GOING TO RAISE THESE POINTS, THEN I WANT TO  
15 SEE IT IN WRITING, TOO.

16 THE COURT: WELL --

17 MR. MUSICK: THAT'S MY POSITION.

18 MR. LITTLEWORTH: IF HE'S GOT OBJECTIONS -- THIS  
19 NOTICE OUT HERE, WHEN IT WAS POSTED ON THERE, SAYS NO  
20 OBJECTIONS. IF HE HAS OBJECTIONS, I WANT TO SEE THEM IN  
21 WRITING IN ADVANCE.

22 THE COURT: WELL, HERE'S WHAT WE'RE GOING TO DO  
23 TODAY. HE CONCEDED THAT HE HAS NOT HAD SUFFICIENT NOTICE  
24 FOR THE THIRD POINT. WE'RE GOING TO PUT THE MATTER OVER.  
25 COUNSEL WILL SUBMIT WHATEVER DOCUMENTATION IS NECESSARY IN  
26 THE CASE, AND WE'LL HAVE A HEARING.

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1 MR. LITTLEWORTH: FINE.

2 MR. MUSICK: WHAT IS THE TIME, YOUR HONOR? THAT IS  
3 WHAT I WAS REQUESTING.

4 THE COURT: WELL, YOU'RE ALL HERE NOW, AND YOU  
5 MIGHT WANT TO TAKE A LOOK AT YOUR CALENDARS, SET THIS MATTER  
6 REALLY AT THE CONVENIENCE OF COUNSEL. OBVIOUSLY WE'LL HAVE  
7 TO HAVE SUFFICIENT NOTICE.

8 MR. MUSICK: YES, YOUR HONOR. THERE IS ONE  
9 PROBLEM, AS THE COURT IS AWARE OF, WITH REGARD TO NOTICE ON  
10 THIS ISSUE. THERE ARE SOME 400 PARTIES THAT ACTUALLY  
11 RECEIVE PUBLISHED NOTICE OF THIS MATTER. AS PART OF THE  
12 WATERMASTER'S REQUEST FOR AN ORDER UNDER PARAGRAPHS ONE AND  
13 PARAGRAPHS TWO, IT HAS AGREED TO SEND OUT THE WATERMASTER  
14 ANNUAL REPORT AND THE INTERVENTIONS AND ASSIGNMENTS AND THIS  
15 COURT'S ORDER TO ALL OF THOSE PARTIES.

16 I WOULD LIKE TO ASK THE WATERMASTER, AS PART  
17 OF THAT, NO ADDITIONAL EXPENSE, TO SEND OUT A NOTICE OF WHEN  
18 THIS ISSUE NUMBER THREE WILL BE REHEARD AND WHAT TYPE OF  
19 SCHEDULE IS AGREED UPON BETWEEN THE PARTIES.

20 THE COURT: ANY OBJECTION TO THAT?

21 MR. SMITH: I WOULD HAVE NO OBJECTION TO THAT, YOUR  
22 HONOR.

23 THE COURT: JUST SLIP ANOTHER PIECE OF PAPER IN AN  
24 ENVELOPE, I TAKE IT.

25 MR. MUSICK: YES, SIR.

26 MR. SMITH: HOWEVER, YOUR HONOR, I WOULD ALSO NOTE

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6  
1 THAT IT USUALLY TAKES APPROXIMATELY TEN DAYS BEFORE WE CAN  
2 GET OUT NOTICE BECAUSE WE ARE REQUIRED TO COPY ALL THESE  
3 450, 500 SETS.

4 THE COURT: I ASK COUNSEL FOR A DATE THAT'S  
5 CONVENIENT TO ALL PARTIES AND WHICH WILL GIVE THE PARTIES  
6 THE OPPORTUNITY TO DO WHAT WHAT HAS TO BE DONE.

7 MR. LITTLEWORTH: YOUR HONOR, LET ME JUST ASK ABOUT  
8 THE NOTICE REQUIREMENT. OBVIOUSLY IF IT HAS TO BE GIVEN, SO  
9 BE IT, BUT IT'S CLEAR THAT EVERYBODY ELSE DID RECEIVE NOTICE  
10 OF THESE RULES AND REGULATIONS. THEY STARTED THROUGH THE  
11 PROCESS A YEAR AGO. ALL OF THE VARIOUS USER COMMITTEES, THE  
12 ADVISORY COMMITTEE, THE CHINO BASIN HAVE APPROVED THEM ALL.  
13 THERE'S NOBODY HERE TODAY EXCEPT ONE PARTY.

14 NOW, IF HE DIDN'T GET PROPER NOTICE, FINE,  
15 WE'LL COME BACK, AND WE'LL ARGUE IT, BUT I DON'T REALLY SEE  
16 WHY THE WATERMASTER SHOULD BE PUT TO THE BURDEN OF SENDING  
17 OUT CONTINUATION NOTICE OF 400-SOME-ODD PEOPLE.

18 THE COURT: ISN'T IT A MATTER OF STUFFING IT INTO  
19 THE ENVELOPE? IT'S NOT A REAL BURDEN, IS IT?

20 MR. LITTLEWORTH: WELL, I DON'T KNOW. IT'S A  
21 BURDEN THE WATERMASTER HAS. IT'S NOT MY BURDEN.

22 THE COURT: BUT HE HASN'T COMPLAINED THIS MORNING.

23 MR. LITTLEWORTH: I'M JUST TRYING TO BE A LITTLE  
24 BIT PRACTICAL HERE.

25 THE COURT: I UNDERSTAND. NOW THEN LET'S GET A  
26 DATE IF YOU'VE GOT YOUR CALENDARS BEFORE YOU. I WANT TO

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1 MAKE IT CONVENIENT FOR COUNSEL. WHAT WOULD YOU SUGGEST? 7

2 MR. MUSICK: IF THE COURT PLEASE, THE STANDARD FIVE  
3 OR PERHAPS TEN DAYS WOULD BE ADEQUATE FOR A BRIEF TO GO IN.  
4 HOWEVER, I WOULD LIKE TO SUBMIT THAT BECAUSE THE MATTER  
5 WHICH WE'RE DEALING WITH HERE UNDER PARAGRAPH THREE HAS TO  
6 DO WITH THE INTERPRETATION OF THE JUDGMENT AND HAS TO DO  
7 WITH THE INTERPRETATION OF WHAT THE WATERMASTER MAY DO AND  
8 WHAT AN OVERLYING NONAGRICULTURAL POOL MEMBER MAY DO WITH  
9 THEIR APPURTENANT WATER RIGHTS, THAT ISSUE HAS ALREADY BEEN  
10 REFERRED TO THE SPECIAL REFEREE.

11 THE SPECIAL REFEREE IS CONDUCTING A HEARING ON  
12 JUNE 3RD ON THAT ISSUE. BRIEFS ARE TO BE IN THE MAIL ON  
13 APRIL 19TH; RESPONSIVE BRIEFS ON MAY 3RD.

14 I SUBMIT THEY ARE THE SAME ISSUE. THEY ARE  
15 PART AND PARCEL OF THE SAME ISSUE. FOR JUDICIAL ECONOMY, WE  
16 CAN ADDRESS BOTH ISSUES IN THAT AND HAVE IT BRIEFED ON THE  
17 SAME SCHEDULE, HEARD AT THE SAME TIME, AND THE COURT CAN  
18 THEN HAVE THE BENEFIT OF THE SPECIAL REFEREE'S CONSIDERATION  
19 AS OPPOSED TO REQUIRING ONE OF THE STAFF CLERKS FOR THE  
20 COURT TO REVIEW THIS ISSUE. IT'S THE SAME ISSUE.

21 MR. LITTLEWORTH: NO, IT IS NOT, YOUR HONOR. AND  
22 WE OPPOSE THIS VIGOROUSLY. WE -- C.S.I. BROUGHT A  
23 PARTICULAR MOTION THAT WAS ULTIMATELY REFERRED TO A REFEREE.  
24 WE HAVE BEEN IN CONTACT WITH THE REFEREE. THERE IS AN ORDER  
25 AS TO WHAT THE REFEREE WILL DECIDE. THERE IS A DISCOVERY  
26 SCHEDULE. THERE IS A BRIEFING SCHEDULE. THERE'S A HEARING

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1 SCHEDULE. IT IS ALL SET.

2 NOW, OUT IN THE CORRIDOR I LEARNED HE'S GOT  
3 SOME OTHER CONCERN, AND HE'S BEGINNING TO STATE IT NOW  
4 WITHOUT TALKING ABOUT LACK OF NOTICE, WITHOUT ANY NOTICE TO  
5 ANYONE. IF HE HAS A DIFFERENT COMPLAINT NOW, I WANT TO SEE  
6 IN IT WRITING, AND I WANT TO SEE IN IT ADVANCE, AND I WANT  
7 TO ARGUE IT AT THAT TIME, NOT NOW.

8 MR. MUSICK: IF THE COURT PLEASE, I WILL KEEP MY  
9 RESPONSES TO THE VERY NARROW ISSUE IN FRONT OF THE REFEREE.  
10 THE ISSUE IS THE INTERPRETATION OF PARAGRAPH EIGHT OF THE  
11 JUDGMENT, THE MEANING OF THE WORD "APPURTENANCY," AND WHAT  
12 IS ATTEMPTING TO BE DONE BY THE AMENDED RULES AND  
13 REGULATIONS IS TO REDEFINE WHAT AN APPURTENANT WATER RIGHT  
14 OWNER MAY DO.

15 THE COURT: GENTLEMEN, I DON'T WANT TO BE  
16 APPARENTLY BRISK IN THE CASE OR -- WELL, ALL I WANT TO DO IS  
17 GET A DATE. THAT'S ALL I WANT TO DO NOW. I DON'T WANT TO  
18 ARGUE THE MERITS OF THE CASE. I JUST WANT TO GET A DATE.

19 MR. LITTLEWORTH: HOW ABOUT THE END OF THIS MONTH  
20 SOMETIME OR THE BEGINNING OF APRIL?

21 THE COURT: THAT'S MY THOUGHT, SOMETIME AT THE END  
22 OF THE MONTH OR FIRST OF APRIL. AND I DON'T WANT TO  
23 INCONVENIENCE COUNSEL, SO TAKE A LOOK AT YOUR CALENDAR.  
24 LET'S TALK ABOUT A DATE.

25 MR. SMITH: COULD I ASK A QUESTION ON NOTICE? WILL  
26 THIS BE SIMPLY CONSIDERED A CONTINUANCE OF THIS HEARING SO

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1 THAT WE WILL NOT HAVE TO MEET THE 15-DAY PLUS FIVE-DAY  
2 MAILING REQUIREMENT?

3 THE COURT: YES. YES.

4 THE CLERK: ANY DAY MONDAY THROUGH THURSDAY THAT  
5 WEEK IS FINE.

6 THE COURT: WHAT'S CONVENIENT TO COUNSEL?

7 MR. LITTLEWORTH: SO FAR AS I'M CONCERNED, SAY THE  
8 WEEK OF THE 29TH, THE FIRST PART OF THAT WEEK WOULD BE FINE  
9 MONDAY OR TUESDAY OR WEDNESDAY.

10 MR. SMITH: I HAVE A TRIAL STARTING THE 29TH OF  
11 MARCH, YOUR HONOR.

12 THE COURT: I THINK WE SHOULD PUT IT THE FIRST PART  
13 OF APRIL.

14 THE CLERK: HOW ABOUT APRIL 6TH? THAT IS PASSOVER  
15 IF THAT CONFLICTS.

16 THE COURT: IS THAT A PROBLEM?

17 MR. LITTLEWORTH: THAT'S SATISFACTORY FOR ME.

18 MR. MUSICK: SATISFACTORY, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 THE CLERK: 8:30.

21 THE COURT: NOTICE WAIVED?

22 MR. LITTLEWORTH: YES.

23 MR. SMITH: WELL, I THOUGHT THAT WE'RE GOING TO  
24 GIVE NOTICE, RIGHT?

25 THE COURT: YOU'RE CORRECT. YOU'LL GIVE NOTICE,  
26 RIGHT.

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1 MR. SMITH: YES, WE WILL. 8:30 HERE, YOUR HONOR?

2 THE COURT: YES.

3 MR. MUSICK: THANK YOU, YOUR HONOR.

4 THE COURT: THANK YOU VERY MUCH, COUNSEL, FOR  
5 COMING.

6 MR. SMITH: YOUR HONOR, I HAVE AN ORDER APPROVING  
7 THE ANNUAL REPORT AND THE INTERVENTION. IF I MAY SUBMIT  
8 THAT TO THE COURT.

9 THE COURT: YES. I ASSUMED YOU HAD SUCH AN ORDER.  
10 PLEASE SUBMIT THAT TO THE CLERK AND THE COURT. IT WILL BE  
11 SIGNED.

12 (ADJOURNED.)

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LYNETTE MILAKOVICH, C.S.R.


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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA            )  
  )    SS.  
COUNTY OF SAN BERNARDINO    )

I, LYNETTE MILAKOVICH, C.S.R., OFFICIAL  
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
COUNTY OF SAN BERNARDINO, DO HEREBY CERTIFY THAT THE  
FOREGOING PAGES, 1 THROUGH 10, COMPRISE A FULL, TRUE, AND  
CORRECT TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN  
THE MATTER OF THE ABOVE-ENTITLED CAUSE ON MARCH 11, 1993.

DATED THIS 15th DAY OF March, 1993.

  
OFFICIAL REPORTER, C-5098