

HATCH AND PARENT
21 East Carrillo Street
Santa Barbara, CA 93101

1 SCOTT S. SLATER (State Bar No. 117317)
MICHAEL T. FIFE (State Bar No. 203025)
2 HATCH AND PARENT
21 East Carrillo Street
3 Santa Barbara, CA 93101-2782
Telephone: (805) 963-7000
4 Facsimile: (805) 965-4333
5 Attorneys for Chino Basin Watermaster

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AUG 15 2000

By Susan King Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO**

11 CHINO BASIN MUNICIPAL
12 WATER DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

CASE NO. R.C.V. 51010

Judge: Honorable J. MICHAEL GUNN

MOTION TO AMEND THE
JUDGMENT

Date: September 28, 2000

Time: 2:00 p.m.

21 I.

22 **BACKGROUND**

23 In 1978, judgment was entered in *Chino Basin Municipal Water District v. City of*
24 *Chino*, a groundwater adjudication of the Chino Basin. This Judgment imposed a physical
25 solution in order to halt the decline of the groundwater levels in the Basin. The Judgment also
26 required the parties to develop an Optimum Basin Management Program ("OBMP") in order to
27 provide a comprehensive program that would offer a long-term solution to the many issues
28 facing the Basin. On June 29, 2000 a final OBMP for the Chino Basin was submitted to the

1 Court, and on July 13, 2000 the Court approved the OBMP and ordered Watermaster to proceed
2 in accordance with its terms.

3 In the final months prior to completion of the OBMP, the parties negotiated a Peace
4 Agreement that resolved the issues inhibiting finalization of the OBMP. During these
5 negotiations it was recognized that certain minor but necessary amendments would need to be
6 made to the Judgment so that the final OBMP would be fully consistent with the Judgment. The
7 negotiating parties consented to these modifications and they became a part of the Peace
8 Agreement (Article IV, section 4).

9 In its July 13 Order approving the OBMP, the Court ordered that a hearing would be
10 held on September 28, 2000 to, in part, hear arguments on proposed amendments to the
11 Judgment. Part II of this brief describes Watermaster's recommended amendments to the
12 Judgment in conformance with the Peace Agreement. It is expressly intended the amendments to
13 the Judgment shall operate only for the term of the Peace Agreement and thus, a clause has been
14 included within each amendment to make this clear.

15 II.

16 PROPOSED AMENDMENTS TO THE JUDGMENT

17 Watermaster recommends the following amendments to the Judgment:

18 (a) The Judgment shall be amended so that the last sentence of Paragraph 8 of the
19 Judgment reads:

20 "All overlying rights are appurtenant to the land and cannot be assigned or
21 conveyed separate or apart therefrom except that *for the term of the*
22 *Peace Agreement* the members of the Overlying (Non-Agricultural) Pool
23 shall have the right to Transfer or lease their quantified production rights
24 within the Overlying (Non-Agricultural) Pool or to Watermaster in
25 conformance with the procedures described in the Peace Agreement
26 between the Parties therein, dated June 29, 2000."

27 (b) Paragraph 6 of Exhibit "G" to the Judgment regarding the Overlying Non-
28

1 Agricultural Pool shall be amended to read:

2 “Assignment. Rights herein decreed are appurtenant to that land and are
3 only assignable with the land for overlying use thereon; provided,
4 however, (a) that any appropriator who may, directly or indirectly,
5 undertake to provide water service to such overlying lands may, by an
6 appropriate agency agreement on a form approved by Watermaster,
7 exercise said overlying right to the extent, but only to the extent necessary
8 to provide water service to said overlying lands, and (b) the members of
9 the pool shall have the right to Transfer or lease their quantified
10 production rights within the pool or to Watermaster in conformance with
11 the procedures described in the Peace Agreement between the Parties
12 therein, dated June 29, 2000 *for the term of the Peace Agreement.*”

13 (c) The 1995 Amendment to the Judgment shall be amended as follows: Section
14 10(b)(3)(i) shall now read:

15 “*For the term of the Peace Agreement*, in any year in which sufficient
16 unallocated Safe Yield from the Overlying (Agricultural) Pool is available
17 for such conversion claims, Watermaster shall allocate to each
18 appropriator with a conversion claim, 2.0 acre-feet of unallocated Safe
19 Yield water for each converted acre for which conversion has been
20 approved and recorded by the Watermaster.”

21
22 Appendix 1 to the Judgment shall be construed to be consistent with this
23 amendment. All other parts of the 1995 Amendment shall remain the same.
24

25 **III.**

26 **CONCLUSION**

27 The Peace Agreement is a carefully constructed balance of the various interests in the
28

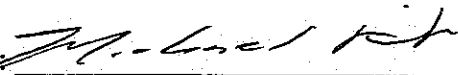
1 Basin that has enabled the OBMP to be finalized. One part of the negotiation of the Peace
2 Agreement was an agreement on the necessary amendments to the Judgment in order to make
3 the Peace Agreement and the Judgment fully consistent with one another. The signatories have
4 agreed that the amendments described above are the only *necessary* amendments in order to
5 achieve consistency.

6 Neither the signatories to the Peace Agreement nor Watermaster believe any other
7 proposed amendments are necessary at this time and accordingly urge this Court to make only
8 those changes necessary so that the final OBMP is consistent with the Judgment. The Judgment
9 has created a stable institutional framework in the Chino Basin that has made the development of
10 the OBMP possible. Changes to this framework should be made only where absolutely necessary
11 so as to cause minimal disruption to this stability. Watermaster has determined that the
12 amendments proposed above are the only necessary changes that need to be made consistent
13 with the Peace Agreement.

14 The parties have made a monumental effort to craft a solution that will fulfill the
15 overriding goal of managing the Chino Basin on a sustainable basis for the benefit of all.
16 Watermaster respectfully request that the Court approve the above referenced amendments in
17 furtherance of the physical solution.

18
19
20 Dated: August 14, 2000

HATCH AND PARENT

21
22 By: 
23 SCOTT S. SLATER
24 MICHAEL T. FIFE
25 Attorneys for Chino Basin Watermaster
26
27
28

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, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On August 15, 2000, I served the attached:

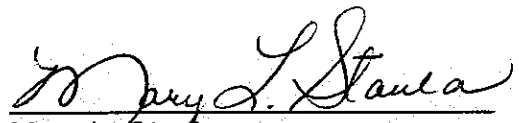
MOTION TO AMEND THE JUDGMENT

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

See service lists attached:

Attorney Service List
Mailing List 1

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on August 15, 2000.



Mary L. Staula

ATTORNEY SERVICE LIST

UPDATE 1/14/2000

RICHARD ADAMS II
DEPUTY COUNSEL - POMONA
ALVAREZ-GLASMAN & CLOVEN
505 S GAREY AVE
POMONA CA 91766

DAVID B. ANDERSON
DEPARTMENT OF WATER RESOURCES
1416 NINTH ST
P.O. BOX 94236
SACRAMENTO CA 94236-0001

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

THOMAS S. BUNN III
LAGERLOF SENEAL BRADLEY
GOSNEY & KRUSE
301 N LAKE AVE 10TH FL
PASADENA CA 91101-4108

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

JEAN CIHIGOYENETCHE
GENERAL COUNSEL-IEUA
CIHIGOYENETCHE GROSSBERG & CLOUSE
3602 INLAND EMPIRE BLVD STE C315
ONTARIO CA 91764

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

ROBERT DOUGHERTY
GENERAL COUNSEL-ONTARIO
COVINGTON & CROWE
P O BOX 1515
ONTARIO CA 91762

JIM ERICKSON
LAW OFFICES OF JIMMY GUTIERREZ
EL CENTRAL REAL PLAZA
12616 CENTRAL AVE
CHINO CA 91710

FREDERIC FUDACZ
NOSSAMAN GUTHNER KNOX & ELLIOTT LLP
445 S FIGUEROA ST 31ST FL
LOS ANGELES CA 90071-1672

ERIC GARNER
BEST BEST & KRIEGER LLP
P O BOX 1028
RIVERSIDE CA 92502-1028

JIMMY GUTIERREZ
ATTORNEY-CITY OF CHINO
EL CENTRAL REAL PLAZA
12616 CENTRAL AVE
CHINO CA 91710

STEVEN KENNEDY
GENERAL COUNSEL-TVMWD
BRUNICK ALVAREZ & BATTERSBY
P O BOX 6425
SAN BERNARDINO CA 92412

ARTHUR KIDMAN
ATTORNEY-MVWD
MC CORMICK KIDMAN & BEHRENS
695 TOWN CENTER DR STE 400
COSTA MESA CA 92626

MARILYN LEVIN
STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
300 S SPRING ST 11TH FL N TOWER
LOS ANGELES CA 90013-1232

JAMES L MARKMAN
RICHARDS WATSON & GERSHON
P O BOX 1059
BREA CA 92622-1059

DAN MC KINNEY
SPECIAL COUNSEL-AG POOL
REID & HELLYER
P O BOX 1300
RIVERSIDE CA 92502-1300

THOMAS H MC PETERS
MC PETERS MC ALEARNEY SHIMFF & HATT
P O BOX 2084
REDLANDS CA 92373

JAMES P MORRIS
BEST BEST & KRIEGER LLP
P O BOX 1028
RIVERSIDE CA 92502-1028

JARLATH OLAY
DEPUTY GENERAL COUNSEL MWD
700 N ALAMEDA ST
LOS ANGELES CA 90012

TIMOTHY J RYAN
SAN GABRIEL VALLEY WATER COMPANY
P O BOX 6010
EL MONTE CA 91734

JOHN SCHATZ
COUNSEL-JCSD
P O BOX 2279
MISSION VIEJO CA 92690-2279

ANNE J SCHNEIDER
ELLISON & SCHNEIDER
2015 H ST
SACRAMENTO CA 95814-3109

JESS SENEAL
LAGERLOF SENEAL BRADLEY
GOSNEY & KRUSE
301 N LAKE AVE 10TH FL
PASADENA CA 91101-4108

GERALYN SKAPIK ATTORNEY
CITY OF CHINO HILLS
BURKE WILLIAMS & SORENSON
611 W 6TH ST STE 2500
LOS ANGELES CA 90071-1469

SCOTT SLATER
HATCH & PARENT
21 E CARRILLO ST
SANTA BARBARA CA 93101-2782

MICHELE A STAPLES
JACKSON DEMARCO & PECKENPAUGH
4 PARK PLAZA 16TH FL
IRVINE CA 92614

GENE TANAKA
BEST BEST & KRIEGER LLP
P O BOX 1028
RIVERSIDE CA 92502-1028

ANNE T THOMAS
BEST BEST & KRIEGER LLP
P O BOX 1028
RIVERSIDE CA 92502-1028

SUSAN TRAGER
LAW OFFICES OF SUSAN M TRAGER
2100 SE MAIN ST STE 104
IRVINE CA 92614-6238

AAA AA
MAILING LIST 1
UPDATED 08/10/2000

CURTIS AARON
CITY OF FONTANA
8353 SIERRA AVE
FONTANA CA 92335-3598

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

RICHARD ANDERSON
1365 W FOOTHILL BLVD STE 1
UPLAND CA 91786

A W ARAIZA
WEST SAN BERN CWD
P.O. BOX 920
RIALTO CA 92376-0920

STEVE ARBELBIDE
CBWM BOARD
417 PONDEROSA TR
CALIMESA CA 92320

DAVE ARGO
BLACK & VEATCH
6 VENTURE STE 315
IRVINE CA 92618-3317

SCOTT ATHERTON
CALIFORNIA SPEEDWAY
P.O. BOX 9300
FONTANA CA 92334-9300

RICH ATWATER
IEUA
P.O. BOX 697
RCHO CUCA CA 91729-0697

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

VICTOR BARRION
RELIANT ENERGY ETIWANDA
8996 ETIWANDA AVE
ETIWANDA CA 91739

KEITH BELAND
STATE OF CALIFORNIA CDC
P.O. BOX 942883
SACRAMENTO CA 94283-0001

BOB BEST
NAT'L RESOURCES CONS SVS
25864 BUSINESS CENTER DR K
REDLANDS CA 92374

GERALD BLACK
FONTANA UNION WATER CO
P.O. BOX 309
FONTANA CA 92334

MICHAEL BOCCADORO
THE DOLPHIN GROUP
925 L ST STE 800
SACRAMENTO CA 95814

PATTI BONAWITZ
IEUA
P.O. BOX 697
RCHO CUCA CA 91729-0697

LESTER E. BOSTON JR.
CBWM BOARD
3694 PEREGRINE DR
CORONA CA 91719

FRANK BROMMENSCHENKEL
134 DAVIS ST
SANTA PAULA CA 93060

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

BOB CAMPBELL
WATER CONSULTANT TO SENATOR
NELL SOTO
822 N EUCLID AVE
ONTARIO CA 91762

BRUCE CASH
UNITED WATER MGMT CO INC
1905 BUSINESS CENTER DR STE 100
SAN BERNARDINO CA 92408

TERRY CATLIN
CBWM BOARD
2344 IVY CT
UPLAND CA 91784

NEIL CLIFTON
IEUA
P.O. BOX 697
RCHO CUCA CA 91729-0697

LAURA COOMBS
ARROWHEAD WATER COMP
5772 JURUPA RD
ONTARIO CA 91761-3672

DAVID B COSGROVE
RUTAN & TUCKER
611 ANTON BLVD STE 1400
COSTA MESA CA 92626

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

DAVID DE JESUS
TVMWD/CBWM/ALT
146 E COLLEGE ST
COVINA CA 91723

ROBERT DEBERARD
CHAIRMAN-AG POOL
1886 UKIAH WAY
UPLAND CA 91784

ROBERT DELOACH
CUCAMONGA CTY WD
P.O. BOX 638
RANCHO CUCA CA 91729-0638

BILL DENDY
BILL DENDY & ASSOCIATES
429 F ST STE 2
DAVIS CA 95616-4111

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

DOUG DRURY
IUEA
P.O. BOX 697
RANCHO CUCAMONGA CA 91730

GLEN DURRINGTON
5512 FRANCIS ST
CHINO CA 91710

DICK DYKSTRA
10129 SCHAEFER
ONTARIO CA 91761-7973

BOB FEENSTRA
MILK PRODUCERS COUNCIL
13545 S EUCLID AVE
ONTARIO CA 91762-6656

RALPH FRANK
755 LAKEFIELD RD #E
WESTLAKE VILLAGE CA 91361

COLE FRATES
AZURIX
5657 WILSHIRE BLVD STE 330
LOS ANGELES CA 90036

CARL FREEMAN
L. D. KING
2151 CONVENTION CENTRE WAY
ONTARIO CA 91764

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

MARK GAGE P E
GEOMATRIX CONSULTANTS INC
2101 WEBSTER ST #1200
OAKLAND CA 94612

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

JOE GRINDSTAFF
SAWPA
11615 STERLING AVE
RIVERSIDE CA 92503

JACK HAGERMAN
STATE OF CALIFORNIA CIM
4158 CENTER ST
NORCO CA 91760

LISA HAMILTON
GE/MGR ENV REMEDIATION PRGM
640 FREEDOM BUSINESS CTR
KING OF PRUSSIA PA 19406

PATSY HAMILTON
STATE OF CALIFORNIA, CIW
P.O. BOX 6000
CORONA CA 91718

DONALD HARRIGER
WESTERN MUNICIPAL WATER DISTRICT
P.O. BOX 5286
RIVERSIDE CA 92517-5286

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

PAUL HOFER
CBWM BOARD
11248 S TURNER AVE
ONTARIO CA 91761

NINA JAZMADARIAN
METROPOLITAN WATER DISTRICT
P.O. BOX 54153
LOS ANGELES CA 90054-0153

KEN JESKE
CITY OF ONTARIO
1425 S BON VIEW AVE
ONTARIO CA 91761-4406

JOSEPHINE JOHNSON
CBWM BOARD
3635 RIVERSIDE DR
CHINO CA 91710

BARRETT KEHL
CBWCD
P.O. BOX 2400
MONTCLAIR CA 91763-0900

ROB KETTLE
STATE OF CALIFORNIA, CIW
P.O. BOX 6000
CORONA CA 91718

PATRICK J. KING
CBWM BOARD
303 E "B" ST
ONTARIO CA 91764-4196

MARK KINSEY
MONTE VISTA WATER DISTRICT
P.O. BOX 71
MONTCLAIR CA 91763-0071

MARK KINSEY
MONTE VISTA IRRIGATION CO
10575 CENTRAL AVE
MONTCLAIR CA 91763

GENE KOOPMAN
13898 ARCHIBALD AVE
ONTARIO CA 91761-7979

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

A. A. KRUEGER
CBWM BOARD
3736 TOWNE PARK CR
POMONA CA 91767

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

RONALD LA BRUCHERIE
12953 S BAKER AVE
ONTARIO CA 91761-7903

MIKE LINTON
VULCAN MATERIALS COMPANY
3200 SAN FERNANDO RD
LOS ANGELES CA 90065

FRANK LOGUIDICE
SAN GABRIEL VALLEY WC
P.O. BOX 6010
EL MONTE CA 91734

CARLOS LOZANO
STATE OF CA YTS
15180 S. EUCLID
CHINO CA 91710

MIKE MAESTAS
CITY OF CHINO HILLS
2001 GRAND AVE
CHINO HILLS CA 91709-4869

ALAN MARKS
CTY OF SAN BERN CTY CNSL
157 W 5TH ST
SAN BERNARDINO CA 92415

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

CAROLE MCGREEVY
JURUPA COMM SVCS DIST
8621 JURUPA RD
RIVERSIDE CA 92509-3229

BILL MILLS
ORANGE COUNTY WATER DIST
P.O. BOX 8300
FTN 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

EILEEN MOORE
SECY ONTARIO CITY COUNCIL
303 E "B" STREET
ONTARIO CA 91764

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

ROBERT NEUFELD
CHAIRMAN CBWM BOARD
14111 SAN GABRIEL CT
RANCHO CUCAMONGA CA 91739

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

SANDY OLSON
WALNUT VALLEY WATER DISTRICT
271 S BREA CANYON RD
WALNUT CA 91789

HENRY PEPPER
CITY OF POMONA
505 S GAREY AVE
POMONA CA 91766

JEFF PIERSON
2 HEXAM ST
IRVINE CA 92612

ROBB QUINCEY
INLAND PACIFIC WATER COMPANY
8300 UTICA AVE 3RD FLOOR
RANCHO CUCAMONGA CA 91730

LEE R REDMOND III
KAISER VENTURES INC
3633 E INLD 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

WAYNE SALMI
PRAXAIR
5705 AIRPORT DR
ONTARIO CA 91761

PATRICK SAMPSON
P.O. BOX 660
POMONA CA 91769

DIANE SANCHEZ
DWR
770 FAIRMONT AVE
GLENDALE CA 91203-1035

JOSEPH C SCALMANINI
500 FIRST ST
WOODLAND CA 95695

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

JUDY SCHURR
30587 LOS ALTOS DR
REDLANDS CA 92373

DAVID SCRIVEN
KRIEGER & STEWART ENGINEERING
3602 UNIVERSITY AVE
RIVERSIDE CA 92501

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

NELL SOTO
STATE CAPITOL
ROOM NO 4066
SACRAMENTO CA 95814

BILL STAFFORD
MARYGOLD MUTUAL WATER CO
9725 ALDER ST
BLOOMINGTON CA 92316-1637

MICHELE STAPLES
JACKSON DEMARCO & PECKENPAUGH
4 PARK PLAZA 16TH FL
IRVINE CA 92614

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

L HAIT
STERN & GOLDBERG
9150 WILSHIRE BLVD STE 100
BEVERLY HILLS CA 90210

TOM STETSON
STETSON ENGINEERS INC
3104 E GARVEY AVE
WEST COVINA CA 91791

CRAIG STEWART
GEOMATRIX CONSULTANTS INC.
330 W BAY ST STE 140
COSTA MESA CA 92629

TRACI STEWART
CHINO BASIN WATERMASTER
8632 ARCHIBALD ST STE 109
RANCHO CUCAMONGA CA 91730

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

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

JIM TAYLOR
POMONA UTILITY SVS DEPT.
148 N HUNTINGTON BLVD
POMONA CA 91768

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

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

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

MANAGER
THREE VALLEYS MWD
P.O. BOX 1300
CLAREMONT CA 91711

GEOFFREY VANDEN HEUVEL
CBWM BOARD
7551 KIMBALL AVE
CHINO CA 91710

ERICK VAUGHN
ANGELICA RENTAL SERVICE
1575 N CASE ST
ORANGE CA 92867-3635

ERIC WANG
SUNKIST GROWERS INC
760 E SUNKIST ST
ONTARIO CA 91761

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

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

CHARLES R. WHITE
DWR-SO DIST
770 FAIRMONT AVE
GLENDALE CA 91203-1035

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

MARK WILDERMUTH
WILDERMUTH ENVIRONMENTAL INC
415 N EL CAMINO REAL STE A
SAN CLEMENTE CA 92672

JEROME WILSON
CBWM BOARD
6035 FALLING TREE LN
ALTA LOMA CA 91737