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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT 7

HONORABLE HOWARD B. WIENER

CHINO BASIN MUNICIPAL, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CITY OF CHINO, et al., )  
 )  
 Defendants. )

No: 164327

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

BEFORE HONORABLE HOWARD B. WIENER, JUDGE

Department 7, Superior Court

Friday, January 27, 1978

APPEARANCES:

For the Plaintiff:  
Chino Basin Municipal

DONALD D. STARK  
A Professional Corporation  
Airport Plaza, Suite 201  
2061 Business Center Drive  
Irvine, California 92715  
BY: DONALD D. STARK  
and GUIDO R. SMITH

For Western Municipal Water  
District:

BEST, BEST & KRIEGER  
Attorneys at Law  
4200 Orange Street  
P.O. Box 1028  
Riverside, California  
92502  
BY: ARTHUR L. LITTLEWORTH

**COPY**

( Appearances continued on next page.)

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APPEARANCES: ( continued )

For Pomona Valley  
Municipal Water  
District:

RUTAN & TUCKER  
Attorneys at Law  
Bank of California Building  
401 Civic Center Drive West  
Santa Ana, California 92702  
BY: H. RODGER HOWELL

For Felspar Gardens  
Mutual Water Company,  
Santa Ana River Water  
Company, and  
Marygold Mutual  
Water Company:

STANFORD C. SHAW,  
Attorney at Law  
47038 Mojave Trail  
Newberry Springs, California  
92365

For the State  
of California:

EVILLE J. YOUNGER  
Attorney General  
Department of Justice  
Tishman Building, Sixth Floor  
3580 Wilshire Boulevard  
Los Angeles, California 90010  
BY: EDWIN J. DUBIEL,  
Deputy Attorney General

Reported by:

VYKRI RUVALCAVA, C.S.R. 3335  
C.P., R.P.R., C.M.  
Official Court Reporter

1 SAN BERNARDINO, CALIFORNIA, FRIDAY, JANUARY 27, 1970

2 --oOo--

3 THE BAILIFF: Please remain seated and  
4 come to order.

5 THE COURT: Good afternoon, Ladies and  
6 Gentlemen.

7 In the matter of Chino Basin Municipal  
8 Water District, Plaintiff, versus City of Chino,  
9 et al., does the reporter have the appearances for  
10 the record?

11 Mr. Stark, do you want to indicate your  
12 appearance for the record.

13 MR. STARK: Donald Stark and Guido Smith,  
14 attorneys for the Plaintiff.

15 MR. DUBIEL: Edwin Dubiel, Deputy Attorney  
16 General for the State of California.

17 MR. LITTLEWORTH: Arthur Littleworth,  
18 Best, Best & Krieger, for West Municipal Water District.

19 MR. HOWELL: Rodger Howell with Rutan &  
20 Tucker, Pomona Valley Municipal Water District.

21 MR. SHAW: Stan Shaw, representing  
22 Felspar Gardens Mutual Water Company and Santa Ana  
23 River and Merygold Water.

24 THE COURT: Have all counsel had occasion  
25 to review the Findings of Fact and Conclusions of Law  
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in this matter?

MR. STARK: Yes, your Honor.

MR. DUBIEL: Yes, your Honor.

MR. HOWELL: Yes.

MR. SHAW: Yes.

MR. LITTLEWORTH: Yes, your Honor.

THE COURT: All in satisfactory form?

MR. DUBIEL: Yes.

MR. LITTLEWORTH: Yes.

THE COURT: Mr. Shaw?

MR. SHAW: With respect to the mail form, I think there have been some additions made.

MR. STARK: The primary changes, the Findings of Fact and Conclusions of Law, your Honor, were mailed and the proof of mailing is on file. Subsequent to that mailing we had comments from counsel, primarily dealing with corrections, minor corrections in language to conform where they erroneously had not followed the Judgment language.

The major change in the Findings from the circulated Findings deals with the ground water storage provisions. The circulated draft was inadvertently taken from an earlier draft that had more detail than is contained in the Judgment, and so the Findings were amended to follow the language of the Judgment which is more abbreviated in its statement of

1 priorities to use the ground water storage capacity.

2 There were no changes other than changes  
3 to conform the Findings' language to the Judgment  
4 language, your Honor.

5 THE COURT: Thank you.

6 MR. STARK: And it was mailed to all  
7 counsel and any changes which were suggested were  
8 made in the draft.

9 THE COURT: Not hearing any comments to  
10 the contrary, I know all counsel in this case have  
11 been very diligent. I will sign the Findings of Fact  
12 and Conclusions of Law as submitted to me, as well  
13 as the Judgment, and I comment, I know there are many  
14 dignitaries here and it has been a pleasure, as I  
15 expressed last time, to have the opportunity to work  
16 on a case of this sort where as a result of  
17 legislation introduced by Senator Aysla we have a  
18 Judgment which has a great and significant and  
19 positive effect upon many, many citizens of the  
20 community.

21 I know there are many dignitaries here and  
22 perhaps at the conclusion of this formal proceeding  
23 I will have the opportunity of meeting with you  
24 and any informal comments you would care to make,  
25 I would certainly be delighted to talk with you.

26 I would be remiss if I didn't express my

1 thanks also to Judge Busch who assigned me to this  
2 case for all purposes.

3 I do think, and I think I expressed  
4 probably at greater length at the last hearing,  
5 the wonderful cooperation between all branches of  
6 government on this matter, and I really think it is  
7 a significant event; and but for Judge Busch's  
8 graciousness in assigning me to this case, I wouldn't  
9 have the opportunity of signing this Judgment which  
10 I will do at this time.

11 I see a note here, would I waive the  
12 no-photo rule. Not being as experienced as others  
13 in this regard, I think it appropriate to adjourn  
14 this proceeding and defer to Judge Busch on that  
15 particular issue. He is the Presiding Judge and I  
16 let him make all the hard decisions on matters of  
17 that sort.

18 Mr. Shaw?

19 MR. SHAW: Would you permit one question  
20 before we proceed?

21 THE COURT: Surely.

22 MR. SHAW: There are a substantial number  
23 of defaulting parties and it's been the understanding  
24 that defaulting parties will stand in the same  
25 position as if they had signed stipulations, and I  
26 would like counsel to comment on where, if at all,

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that appears in the Judgment, what the situation is in that respect.

MR. STARK: The defaulting parties are listed in the several pools and their rights are determined -- for instance, Felspar, as the defaulting appropriators, are small mutual water companies and their rights are listed in the Exhibit in the same manner as stipulating appropriators.

The major defaulting parties, some fifty of them are in the agricultural pool, and they are listed in that pool.

In the Findings of Fact we have attached a computer run which lists the full 2500-odd parties who were named at one time or another and how they have been disposed of to come down to the current list of approximately 1200.

The Judgment does include the defaulted parties in the cases where they are in a category where their rights are declared, which is the appropriative pool. I don't believe there are any defaults in the overlying nonagricultural pool, but in the appropriative pool they are listed with their rights as calculated in the same context as the stipulating parties in that pool.

MR. SHAW: They stand in no different position than had they stipulated?

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MR. STARR: They stand in no different position than had they stipulated. It was so represented at the time the defaults were taken and the Judgment is drawn on that premise.

MR. SHAW: May that be of record in this matter?

THE COURT: It certainly is. Yes, thank you, it will be of record.

At this time I would adjourn these proceedings on a formal basis, and on an informal basis perhaps I can impose upon Judge Busch to add whatever comments he might wish to add on an informal basis.

As to the photographs, I will defer that decision to Judge Busch, and perhaps after Judge Busch, Senator Ayala could say a few words.

I will step down in light of the fact that the formal proceedings are now adjourned.

(Whereupon proceedings were concluded at this time.)

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CERTIFICATE OF REPORTER

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

I, VYKKI RUVALCAVA, a Certified Shorthand Reporter, do hereby certify that I am the reporter appointed by the Court to take down the testimony and proceedings in the foregoing case, and that the foregoing 6 pages are a full, true, and correct transcript of the oral proceedings.

Dated this 14th day of February, 1978.

/Vykki Ruvalcava  
-----  
VYKKI RUVALCAVA, C.S.R. 3355  
Registered Professional Reporter  
Certificate of Proficiency  
Certificate of Merit  
Official Court Reporter

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CHINO BASIN MUNICIPAL. )  
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Plaintiff, )  
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CITY OF CHINO, et al., )  
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Defendants. )

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No: 154327

( INFORMAL PROCEEDINGS )

1 SAN BERNARDINO, CALIFORNIA, FRIDAY, JANUARY 27, 1979

2  
3 ( INFORMAL PROCEEDINGS )

4  
5 JUDGE BUSCH: Thank you, Judge Wiener.

6 As I look about this group and I see so  
7 many faces who have been so interested in the  
8 water matters that pertain to the Chino Basin, and  
9 who have all cooperated over the years protecting that  
10 basin and importing the necessary waters and safe-  
11 guarding those waters, I can't help but believe that  
12 this is a time for celebration and this is one of  
13 those occasions when we can waive the rule against  
14 photographs. It is sort of a ceremonial situation,  
15 if you please, and I do commend all of you for the  
16 fine cooperation and work that you have done in  
17 arriving at this point.

18 I am sure it hasn't been an easy job, but  
19 it is one that I am sure as you look back over the  
20 years to come that you will find that it was one of  
21 those tasks which has brought security and better  
22 living to the West End of this county, and anything  
23 that happens to the West End of this county redounds  
24 to the benefit of the rest of our county; and so if  
25 you wish to take photographs, the rule has been waived.

26 Nice to see you all and --

1 MR. STARK: It occurs to me, Judge Busch,  
2 that Judge Wiener was saying that it was nice of you  
3 to assign him, and it hadn't really occurred to me  
4 until you were speaking that it was nice of you to  
5 assign me.

6 Judge Busch took the bench and left as  
7 general counsel for Chino Basin Municipal. Otherwise,  
8 I would not have been employed, and I wish to thank  
9 him.

10 A VOICE: That was a multi-million dollar  
11 decision, your Honor.

12 JUDGE WIENER: Maybe Senator Ayala would  
13 care to say something.

14 SENATOR AYALA: Well, your Honor, I am  
15 extremely pleased to have been invited to be a part  
16 of this proceeding here today. Any credit due me  
17 I have to share with Ray Ferguson, and Carl Masingale,  
18 and Mr. Keechler, and other members of the Governing  
19 Board of the Chino Basin.

20 These are the folks that brought to me  
21 the legislation, and these are the folks that helped  
22 me put it through: so they are to deserve equally the  
23 share of the credit for this piece of legislation  
24 we have here.

25 JUDGE WIENER: Thank you very much, Senator.

26 We can be off the record.

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( Further discussion off the record. )

MR. STARK: As a matter of fact, your Honor, in order to -- we are going to be printing the Judgment in booklets and we would appreciate having your signature on an original and since the picture rule has been waived, do you suppose we could get you back on the bench to sign the copy while the people --

JUDGE WIENER: Only if the Presiding Judge stands to my left.

( Laughter. )

A VOICE: Sir, in that respect, could we ask the Senator and perhaps the Chairman of the China Board to join you?

JUDGE BUSCH: Yes, please.

(Whereupon at this time all proceedings in this matter were concluded. )

\* \* \* \* \*