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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

**ORIGINAL**

BY: ARTHUR L. LITTLEWORTH

( 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: EVELLE 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: VYKKI RUVALCAVA, C.S.R. 3335  
C.P., R.P.R., C.M.  
Official Court Reporter

1 SAN BERNARDINO, CALIFORNIA, FRIDAY, JANUARY 27, 1978

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 Marygold Water.

24 THE COURT: Have all counsel had occasion  
25 to review the Findings of Fact and Conclusions of Law  
26

1 in this matter?

2 MR. STARK: Yes, your Honor.

3 MR. DUBIEL: Yes, your Honor.

4 MR. HOWELL: Yes.

5 MR. SHAW: Yes.

6 MR. LITTLEWORTH: Yes, your Honor.

7 THE COURT: All in satisfactory form?

8 MR. DUBIEL: Yes.

9 MR. LITTLEWORTH: Yes.

10 THE COURT: Mr. Shaw?

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

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

20 The major change in the Findings from the  
21 circulated Findings deals with the ground water storage  
22 provisions. The circulated draft was inadvertently  
23 taken from an earlier draft that had more detail  
24 than is contained in the Judgment, and so the Findings  
25 were amended to follow the language of the Judgment  
26 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 Ayala 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,

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

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

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

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

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

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

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

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

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

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

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

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

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21 (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. 3335  
Registered Professional Reporter  
Certificate of Proficiency  
Certificate of Merit  
Official Court Reporter