

ORIGINAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

DEPARTMENT NO. 2

HON. DON A. TURNER, JUDGE

CHINO BASIN MUNICIPAL WATER  
DISTRICT,

PLAINTIFF,

VS.

CITY OF CHINO,

DEFENDANT.

NO. SCV-164-327

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS  
WEDNESDAY, FEBRUARY 2, 1989

APPEARANCES:

FOR PLAINTIFF CITY OF  
CHINO, CITY OF NORCO,  
S.B. WATERWORKS NO. 8:

SUSAN TRAGER  
ATTORNEY AT LAW  
2100 S.E. MAIN ST., STE. 104  
IRVINE, CA 92714

FOR METROPOLITAN WATER  
DISTRICT:

VICTOR E. GLEASON  
SR. DEPUTY GENERAL COUNSEL  
1111 SUNSET BOULEVARD  
LOS ANGELES, CA 90054

FOR CHINO WATER BASIN:

GUIDO R. SMITH  
ATTORNEY AT LAW  
505 CITY PARKWAY WEST  
SUITE 1000  
ORANGE, CA 92668-2958

FOR THE STATE OF  
CALIFORNIA:

EDWIN J. DUBIEL  
DEPUTY ATTORNEY GENERAL  
3580 WILSHIRE BOULEVARD  
LOS ANGELES, CA 90010

FOR THE CITY OF CHINO:

COVINGTON & CROWE  
ATTORNEYS AT LAW  
1131 WEST SIXTH STREET  
ONTARIO, CA 91762

REPORTED BY:

KATHERINE A. JACOBSEN, C.S.R.  
OFFICIAL REPORTER, C-4012

1 SAN BERNARDINO, CALIFORNIA; WEDNESDAY, FEBRUARY 8, 1989  
2 DEPARTMENT NO. 2 HON. DON A. TURNER, JUDGE

3 -- 10:00 A.M. --

4 APPEARANCES:

5 THE PLAINTIFFS CITY OF CHINO, CITY OF NORCO,  
6 AND S. B. COUNTY WATERWORKS NO. 8 REPRESENTED  
7 BY SUSAN TRAGER, ATTORNEY AT LAW; THE METROPOLITAN  
8 WATER DISTRICT OF SOUTHERN CALIFORNIA REPRESENTED  
9 BY VICTOR E. GLEASON, ATTORNEY AT LAW; THE CHINO  
10 WATER BASIN AND THE WATERMASTER, PRESENT IN COURT,  
11 REPRESENTED BY GUIDO SMITH, ATTORNEY AT LAW;  
12 THE STATE OF CALIFORNIA REPRESENTED BY EDWIN J.  
13 DUBIEL, DEPUTY ATTORNEY GENERAL; THE CITY OF CHINO  
14 REPRESENTED BY COVINGTON & CROWE, ATTORNEYS AT  
15 LAW, BY ROBERT E. DOUGHERTY, ATTORNEY AT LAW.

16  
17 (REPORTED BY KATHERINE A. JACOBSEN, CSR,  
18 OFFICIAL REPORTER, C-4012)

19  
20 THE COURT: THE MATTER OF THE CHINO BASIN MUNICIPAL  
21 WATER DISTRICT.

22 I HAVE, OF COURSE, THE BASIC REPORT BEING FILED BY  
23 THE WATERMASTER, THE REQUEST FOR APPROVAL, ET CETERA.

24 AND THEN I HAVE SOME MOTIONS FILED BY MISS TRAGER  
25 ON BEHALF OF THE CITY OF CHINO, CITY OF NORCO, AND SAN  
26 BERNARDINO COUNTY WATERWORKS DISTRICT NO. 8 IN EFFECT  
27 OPPOSING THE APPROVAL OF THE WATERMASTER'S REPORT AND ASKING  
28 FOR VARIOUS SPECIFIC REMEDIES.

1           SOME SIDE ISSUES HAVE DEVELOPED IN CONNECTION WITH  
2 THAT, ONE OF THEM HAVING TO DO WITH METROPOLITAN'S RIGHT TO  
3 APPEAR IN THIS PARTICULAR ARGUMENT.

4           FIRST OF ALL -- AND WE CAN JUST START AT THE END  
5 OF THE TABLE. WOULD YOU INTRODUCE YOURSELF AND STATE WHOM YOU  
6 REPRESENT.

7           MS. TRAGER: CERTAINLY, YOUR HONOR.

8           I AM SUSAN TRAGER WITH OFFICES IN IRVINE.

9           I'M HERE THIS MORNING REPRESENTING THE CITIES OF  
10 CHINO, NORCO, AND WATERWORKS NO. 8 OF THE COUNTY OF SAN  
11 BERNARDINO.

12           THE COURT. OKAY HAVE YOU ALL FURNISHED THE  
13 REPORTER WITH YOUR CARDS? IF YOU HAVEN'T, WHY, PLEASE DO SO  
14 BEFORE YOU GO.

15           MR. GLEASON: YOUR HONOR, VICTOR GLEASON. I'M AN  
16 ATTORNEY WITH METROPOLITAN WATER DISTRICT OF SOUTHERN  
17 CALIFORNIA IN LOS ANGELES.

18           MR. SMITH: GUIDO SMITH, ATTORNEY FOR CHINO BASIN  
19 MUNICIPAL WATER DISTRICT AS WATERMASTER.

20           THE WATERMASTER: DON PETERS, CHIEF WATERMASTER.

21           MR. DUBIEL: EDWIN DUBIEL, DEPUTY ATTORNEY GENERAL  
22 FOR THE STATE OF CALIFORNIA, YOUR HONOR. AND WE HAVE A  
23 STIPULATION WITH THE MOVING PARTIES TO ELIMINATE ONE OF THE  
24 ISSUES.

25           SO BEFORE WE GET INTO IT TOO FAR, I'D LIKE TO  
26 SPEAK TO IT SO THAT WE CAN --

27           THE COURT: THANK YOU.

28           MR. DOUGHERTY: ROBERT DOUGHERTY, COVINGTON AND

1 CROWE, YOUR HONOR. ASSISTANT CITY ATTORNEY OF ONTARIO.

2 THE COURT: OKAY. THANK YOU.

3 ALL RIGHT. BEFORE WE GET STARTED THEN, THE STATE  
4 OF CALIFORNIA?

5 MR. DUBIEL: YES, YOUR HONOR.

6 WE HAVE AN AGREEMENT WITH THE PARTIES.

7 THERE IS ONE ISSUE HERE CONCERNING THE ONE TIME  
8 ACCELERATED TRANSFER OF WATER FROM THE AGRICULTURAL POOL TO  
9 THE APPROPRIATIVE POOL.

10 IT WAS BROUGHT UP IN SOME OF THE REQUESTS IN THE  
11 PRAYER.

12 AND IT WAS AMENDED TO COVER PARAGRAPH 2, BUT  
13 THERE'S A PARAGRAPH 3 ON PAGE 19 WHICH SAYS THESE AGREEMENTS,  
14 LIKE THE ONE TIME AGRICULTURAL TRANSFER, SHOULD ONLY PROCEED  
15 AFTER THE DEVELOPMENT OF AN ADEQUATE OPTIMUM BASIN MANAGEMENT  
16 PROGRAM.

17 THERE IS NO QUESTION NOW BY THE MOVING PARTY AS TO  
18 THE VALIDITY OF THE TRANSFER FROM THE AGRICULTURAL POOL TO THE  
19 APPROPRIATIVE POOL OF THAT WATER.

20 SO THAT ISSUE NOW IS ELIMINATED COMPLETELY.

21 THE COURT: IS THAT CORRECT?

22 MS. TRAGER: THAT IS CORRECT, AND THROUGH  
23 OVERSIGHT, YOUR HONOR, THE ADDITIONAL LANGUAGE SHOULD BE  
24 STRICKEN IN PARAGRAPH NO. 3 OF THE MEMO OF POINTS AND  
25 AUTHORITIES IN SUPPORT OF THE ORIGINAL MOTION.

26 AND THE WORDS THAT WOULD BE STRICKEN ARE AT LINE  
27 11, "LIKE THE ONE TIME AGRICULTURAL", AND THEN DOWN TO LINE  
28 12, "TRANSFER."

1            THAT SHOULD BE ELIMINATED FROM PARAGRAPH NO. 3,  
2 BUT PARAGRAPH 3 WOULD STAND IN ALL OTHER RESPECTS.

3            MR. DUBIEL: THAT ELIMINATES ONE OF THE ISSUES,  
4 YOUR HONOR.

5            THE COURT: ALL RIGHT. THANK YOU.

6            MR. DUBIEL: THANK YOU, YOUR HONOR.

7            MR. DOUGHERTY: MAY I ASK FOR CLARIFICATION, YOUR  
8 HONOR, AS TO WHAT DOCUMENT IS BEING READ FROM? I HAVE NOT --  
9 I DON'T HAVE THAT PARTICULAR REFERENCE.

10           MS. TRAGER: YOUR HONOR, THERE ARE TWO DOCUMENTS  
11 THAT ARE BEING REFERRED TO.

12           ONE OF THEM IS THE AMENDED PRAYER OF THE MOVING  
13 PARTIES WHICH WAS FILED WITH THIS COURT ON JANUARY 30TH AND  
14 SERVED ON ALL OF THE PARTIES.

15           THE SECOND DOCUMENT WHICH I REFERRED TO IS THE  
16 ORIGINAL MEMO OF POINTS AND AUTHORITIES FILED IN SUPPORT OF  
17 THE MOVING PARTY'S MOTION.

18           THE LANGUAGE WOULD BE FOUND AT PAGE 19.

19           MR. DOUGHERTY: OF THE AMENDED PRAYER OR THE  
20 ORIGINAL?

21           MS. TRAGER: OF THE ORIGINAL -- WE ARE REFERRING  
22 NOW TO THE ORIGINAL PRAYER PAGE 19, PARAGRAPH NO. 3.

23           MR. DOUGHERTY: PRAYER NO. NO. 3 PERTAINS TO THE  
24 EXCHANGE AGREEMENTS.

25           MS. TRAGER: THAT'S CORRECT. AND WHAT WE ARE  
26 TALKING ABOUT IS ELIMINATING LANGUAGE FROM 11 THAT REFERRED  
27 TO THE ONE TIME AG TRANSFER.

28           MR. DOUGHERTY: WELL, THERE'S PARAGRAPH 2

1 COMMENCING AT PAGE 18 OF THE ORIGINAL PRAYER WHICH SEEKS A  
2 RULING THAT THE ONE TIME AGRICULTURAL TRANSFER IS NULL AND  
3 VOID AS CONTRARY TO THE TERMS OF THE JUDGMENT.

4 AND THEN IT GOES ON TO -- FOR ANOTHER SEVEN  
5 LINES.

6 IS THAT INCLUDED IN WHAT IS BEING ELIMINATED?

7 MS. TRAGER: THE SUBJECT OF THE STIPULATION  
8 BETWEEN THE MOVING PARTIES AND THE STATE OF CALIFORNIA IS SET  
9 FORTH IN THE AMENDED PRAYER OF THE MOVING PARTIES ON THE  
10 MOTION FOR REVIEW WHICH WAS FILED ON THE 30TH AND SERVED ON  
11 YOU AND WE SUBSTITUTE ANOTHER PARAGRAPH FOR PARAGRAPH NO. 3.

12 THE COURT: NOW, THE AMENDED PRAYER THAT I SEE  
13 TALKS ABOUT PARAGRAPH 2 RATHER THAN 3.

14 MS. TRAGER: YES, YOUR HONOR. AND WHAT I ADDED IS  
15 THAT -- THROUGH OVERSIGHT WHAT DID NOT -- WHAT WAS NOT  
16 INCLUDED IN THE AMENDED PRAYER WAS ALSO THE ELIMINATION OF THE  
17 REFERENCE TO THE ONE TIME AG TRANSFER IN PARAGRAPH 3 OF THE  
18 ORIGINAL PRAYER.

19 MR. DOUGHERTY: MY CONFUSION, YOUR HONOR --  
20 UNFORTUNATELY, I HAVE NOT YET RECEIVED A COPY OF THIS AMENDED  
21 PRAYER.

22 AND IF COUNSEL STIPULATES THAT IN EFFECT WHAT IS  
23 BEING REMOVED IS ALSO PARAGRAPH 2 OF THE ORIGINAL PRAYER  
24 BEGINNING ON PAGE 18, LINE 27, AND CONTINUING THROUGH PAGE 19,  
25 LINE 8, THEN I HAVE NO PROBLEM WITH THAT.

26 IT DOES ELIMINATE THE ENTIRE ISSUE OF THE ONE TIME  
27 AG TRANSFER.

28 MS. TRAGER: PERHAPS THE EASIEST THING TO DO IS TO

1 PROVIDE YOU AN EXTRA COPY OF WHAT HAS BEEN SUBSTITUTED FOR NO.  
2 2 SO THAT YOU CAN REVIEW IT.

3 MR. SMITH: YOUR HONOR, I WOULD NOTE ALSO THAT I  
4 HAVE NOT RECEIVED A COPY OF THAT PRIOR TO TODAY.

5 THE COURT: THE AMENDED PRAYER?

6 MR. SMITH: YES, YOUR HONOR.

7 MS. TRAGER: YOUR HONOR, THEY WERE SERVED IN TIME  
8 TO BE PRESENT AND AVAILABLE AND DISTRIBUTED FOR THIS HEARING.

9 THE COURT: WE -- WE RECEIVED OURS ON JANUARY  
10 30TH. AND THEORETICALLY EVERYBODY WAS SUPPOSED TO RECEIVE IT  
11 AT THE SAME TIME.

12 MR. DOUGHERTY: SOMETIMES WE GET OUR MAIL BY PONY  
13 EXPRESS, UNFORTUNATELY.

14 THE COURT: I KNOW.

15 MS. TRAGER: MAY I PRESENT OPPOSING COUNSEL WITH  
16 COPIES, YOUR HONOR?

17 THE COURT: SURE. GO AHEAD.

18 MR. DOUGHERTY: HAVING SEEN THIS AMENDED PRAYER,  
19 YOUR HONOR, THE CITY OF ONTARIO WOULD ALSO OPPOSE IN THE SAME  
20 MANNER AS WE HAVE OPPOSED THE PREVIOUS PRAYER REGARDING THE  
21 ONE TIME AGRICULTURAL TRANSFER.

22 AND I BELIEVE THAT THE REASONS THAT WE GAVE  
23 PREVIOUSLY WOULD ALSO APPLY TO THIS.

24 WOULD OPPOSE ANY TAMPERING WITH THE ONE TIME AG  
25 TRANSFER.

26 MR. DUBIEL: THAT'S ACTUALLY BEING ELIMINATED AS  
27 AN ISSUE AS FAR AS THE MOVING PARTY IS CONCERNED. SO WOULDN'T  
28 BE AN ISSUE BEFORE THIS COURT.



1 THE COURT: OKAY. YOU --

2 MR. DOUGHERTY: I DON'T KNOW.

3 THE COURT: I DON'T UNDERSTAND HOW IT IS BEING  
4 ELIMINATED.

5 MR. DUBIEL: ELIMINATED AS REQUESTING ANY RELIEF  
6 FROM THIS COURT TO VALIDATE ANY OF THAT TRANSFER FROM THE  
7 AGRICULTURAL POOL TO THE APPROPRIATIVE POOL.

8 ONCE IT ARRIVES AT THE APPROPRIATIVE POOL, IT IS  
9 DISTRIBUTED. THAT'S BEING QUESTIONED, BUT NOT THE TRANSFER  
10 FROM ONE POOL TO THE OTHER.

11 THE COURT: OKAY.

12 MR. DOUGHERTY: WHEN IT GETS DOWN TO THAT, YOUR  
13 HONOR, I THINK THAT AS FAR AS HOW IT'S DISTRIBUTED, THE COURT  
14 DOES NOT HAVE RESERVE JURISDICTION OVER THAT ISSUE. WE HAVE  
15 DISCUSSED THAT.

16 THE COURT: WE ARE NOT ARGUING ANY OF THAT NOW.  
17 ALL HE'S DOING IS SAYING THERE WAS ONE ISSUE WHICH IS NO  
18 LONGER AN ISSUE.

19 MR. DUBIEL: THAT'S RIGHT.

20 THE COURT: ALL RIGHT.

21 NOW, I THINK IT MIGHT BE HELPFUL IN THE WAY OF  
22 SETTING THE STAGE FOR THIS IF MISS TRAGER COULD GIVE US A SORT  
23 OF A CHRONOLOGY OF THE EVENTS WHICH LEAD UP TO HER MOTIONS.  
24 AND SPECIFICALLY WHAT IT IS SHE IS REQUESTING.

25 MS. TRAGER: THANK YOU, YOUR HONOR.

26 MR. SMITH: YOUR HONOR, BEFORE WE GO ONTO THAT,  
27 COULD WE PLEASE HAVE FOR THE RECORD A CLARIFICATION OF  
28 COUNSEL'S POSITION IN THESE PROCEEDINGS?

1 WE HAD RAISED THE ISSUE OF HER PARTICIPATION AS  
2 COUNSEL OF RECORD FOR THE PARTIES.

3 I HAVE NOT SEEN BUT I HAVE BEEN TOLD THAT THERE  
4 WAS AN ASSOCIATION OF COUNSEL FILED TODAY. AND I WOULD LIKE TO  
5 HAVE THE COURT CLARIFY AS TO PRECISELY WHAT HER STATUS IS  
6 SINCE THAT HAS NOT BEEN CLARIFIED FOR THE RECORD.

7 THE COURT: WOULD YOU CLARIFY THAT FOR US, MISS  
8 TRAGER?

9 MS. TRAGER: CERTAINLY, YOUR HONOR.

10 I AM HERE TODAY REPRESENTING THE CITIES OF CHINO,  
11 NORCO, AND ON BEHALF OF WATERWORKS & FOR THE COUNTY OF SAN  
12 BERNARDINO.

13 I FILED A SUBSTITUTION OF ATTORNEYS, SUBSTITUTING  
14 MYSELF INSTEAD OF THE FIRM OF HIGGS, FLETCHER AND MACK, WHICH  
15 FORMERLY WAS REPRESENTING THE CITY OF CHINO IN A SPECIAL  
16 COUNSEL CAPACITY ALONG WITH THE CITY OF CHINO'S REGULAR CITY  
17 ATTORNEY.

18 I AM HERE TODAY AS SPECIAL COUNSEL. I HAVE NOT  
19 FILED A SUBSTITUTION -- I HAVE NOT FILED AN ASSOCIATION OF  
20 COUNSEL, AS NONE IS NECESSARY.

21 THE INDIVIDUAL ENGAGEMENT OF COUNSEL BY EACH OF  
22 THE CITIES IN THE COUNTY IS REALLY A MATTER UP TO THE CITY AND  
23 THE COUNTY.

24 THERE ARE DECLARATIONS ON FILE FROM  
25 REPRESENTATIVES OF EACH OF THOSE ENTITIES SAYING THAT I HAVE  
26 BEEN DULY ENGAGED BY THE CITY COUNSEL AND BY THE COUNTY OF SAN  
27 BERNARDINO BOARD OF SUPERVISORS TO BE HERE TODAY.

28 THE SUBSTITUTION OF COUNSEL WAS FILED -- IF YOU

1 BEAR WITH ME -- IT WAS FILED ON FEBRUARY 7TH, 1989.

2 IF COUNSEL HAS NOT RECEIVED IT, IT SHOULD BE IN  
3 THE MAIL TODAY.

4 THE COURT: THAT WAS YESTERDAY.

5 MS. TRAGER: YES. AND THE DOCUMENT WAS EXECUTED BY  
6 THE FIRM OF HIGGS, FLETCHER AND MACK ON FEBRUARY 2ND AFTER  
7 THE MATTER WAS CALLED TO MY ATTENTION BY MR. SMITH.

8 IT TOOK THE FIRM SOMETIME TO DETERMINE WHO HAD  
9 HANDLED THE MATTER, WHETHER THAT PARTNER WAS STILL THERE. AND  
10 TO REVIEW THE FILE.

11 THE COURT: OKAY.

12 WAS THAT SUBSTITUTION FILED WITH MY CLERK IN THIS  
13 DEPARTMENT?

14 MS. TRAGER: YES, IT WAS, YESTERDAY. I BELIEVE  
15 YESTERDAY AFTERNOON.

16 THE COURT: OKAY.

17 THE COURT: I HAVEN'T SEEN IT BUT THAT DOESN'T MEAN  
18 IT WASN'T FILED.

19 AN AWFUL LOT OF PAPERS WERE FILED. HERE IT IS.

20 CITY OF CHINO HEREBY SUBSTITUTES THE LAW OFFICES  
21 OF SUSAN M. TRAGER AS ITS ATTORNEY OF RECORD IN THIS ACTION  
22 AS SPECIAL COUNSEL FOR ALL PURPOSES IN LIEU AND PLACE OF  
23 HIGGS, FLETCHER AND MACK.

24 THAT WAS EXECUTED FEBRUARY 3RD. PROOF OF SERVICE  
25 WAS FEBRUARY 3RD.

26 THE DOCUMENTS WERE EXECUTED JANUARY 31 AND  
27 FEBRUARY 1ST.

28 MR. SMITH: THANK YOU, YOUR HONOR.

1 BUT JUST FOR THE RECORD AGAIN, MAY WE HAVE A COURT  
2 ORDER STATING THAT SHE IS APPEARING ON BEHALF OF THE OTHER TWO  
3 PARTIES AS ASSOCIATED COUNSEL?

4 THE COURT: IS THAT TRUE?

5 MS. TRAGER: YES, IT IS, YOUR HONOR.

6 THE COURT: OKAY. COURT WILL SO FIND.

7 GO AHEAD.

8 MS. TRAGER: THANK YOU, YOUR HONOR.

9 WITH RESPECT TO HOUSEKEEPING MATTERS, WOULD YOU  
10 LIKE ME TO PROCEED WITH THE MATTER THAT WAS BROUGHT TO THE  
11 COURT'S ATTENTION AS TO REQUESTS FOR CORRECTION ON THE  
12 ELEVENTH ANNUAL WATER REPORT -- WATERMASTER'S REPORT?

13 WOULD YOU LIKE ME TO PROCEED WITH THAT OR WITH THE  
14 MAIN MOTION?

15 THE COURT: WELL, FIRST BEFORE WE DO EITHER OF  
16 THAT, WHAT I WOULD LIKE IS A SORT OF A CHRONOLOGY IN WHICH YOU  
17 SET THE STAGE FOR THE MOTION.

18 THEN YOU CAN TALK TO ME ABOUT WHAT THE MOTION IS.

19 MS. TRAGER: CERTAINLY, YOUR HONOR.

20 WHEN THE JUDGMENT WAS ENTERED IN THIS MATTER BACK  
21 IN 1978 --

22 THE COURT: AND LET ME WARN ALL OF YOU, AND YOU  
23 PARTICULARLY.

24 THIS IS A BEAUTIFUL OLD COURTROOM. IT'S ONE OF  
25 THE ORIGINAL ONES DESIGNED IN THE BUILDING HERE.

26 IT HAS GOOD ACOUSTICS. IT UNFORTUNATELY HAS  
27 MOUNTED ON ITS CEILING THE VENTILATION SYSTEM FOR THIS END OF  
28 THE BUILDING AND IT CREATES QUITE A HUM.

1 AND THAT HUM HAS A REMARKABLE EFFECT OF MASKING  
2 VOICES.

3 IF YOU WANT TO BE HEARD AND IF YOU WANT TO GET IT  
4 CORRECTLY INTO THE RECORD, YOU ALL HAVE TO SPEAK UP.

5 FOR SOME PEOPLE THAT'S VERY EASY. SOME OF US IT'S  
6 NOT SO EASY.

7 SO I WARN YOU ALL. AND MISS TRAGER, PLEASE KEEP  
8 YOUR VOICE UP.

9 MS. TRAGER: I WILL DO MY BEST, YOUR HONOR.

10 IN 1978 WHEN THE JUDGEMENT WAS ENTERED AND AROUND  
11 THAT TIME, THE WATERMASTER ADOPTED TWO SETS OF RULES AND  
12 REGULATIONS.

13 THAT WOULD HAVE BEEN IN 1978 AND 1979.

14 THE JUDGMENT REPRESENTED, I WOULD THINK, A MAJOR  
15 EFFORT ON THE PART OF ALL OF THE PRODUCERS IN THE BASIN TO  
16 COME TOGETHER AND TO RESOLVE AMONG THEMSELVES HOW TO ALLOCATE  
17 THE WATER AS THEY SAW -- AS THE RIGHTS HAD BEEN DEVELOPED.

18 IN ADDITION, THEY AGREED AMONG THEMSELVES AND THE  
19 COURT APPROVED A PHYSICAL SOLUTION WHICH ENABLED THE  
20 WATERMASTER TO MANAGE THE BASIN IN A MANNER WHICH WOULD PUT IT  
21 TO THE MOST EFFECTIVE USE FOR ALL OF THE PRODUCERS FOREVER  
22 MORE.

23 THE PARTICULAR JUDGMENT THAT WAS APPROVED BY THE  
24 COURT AT THIS TIME WAS ONE OF THE MORE ADVANCED JUDGMENTS IN  
25 THE STATE OF CALIFORNIA.

26 IT CONTAINED REMARKABLY POWERFUL TOOLS TO  
27 ACCOMPLISH JUST ABOUT WHATEVER NEEDED TO OCCUR, INCLUDING THE  
28 HANDLING OF POLLUTANTS.

1           AND THE JUDGMENT HAS BEEN EFFECTIVE IN ADJUSTING  
2 TO PROPOSED IMPLEMENTATIONS, SOLUTION FOR THE STRINGFELLOW  
3 ACID PITS. SO THE TOOLS ARE THERE TO MANAGE THE BASIN.

4           BUT WHAT HAPPENED AFTER THE MANY MANY YEARS OF  
5 DIFFICULT NEGOTIATING SESSIONS IS THAT THE PARTIES -- THE  
6 PRODUCER WENT BY THERE WAYS BACK TO REGULAR BIG BUSINESS AND  
7 NOT A WHOLE LOT HAS BEEN DONE IN THIS BASIN SINCE THAT TIME.

8           WATER QUALITY IS A MAJOR CONCERN FOR THE THREE  
9 MOVING PARTIES AND FOR OTHERS WHO ARE NOT BEFORE THE COURT AT  
10 THIS TIME.

11           A NUMBER OF STUDIES HAVE BEEN DONE ON THIS BASIN,  
12 SOME OF THEM IN CONNECTION WITH THE ADJUDICATION ITSELF, SOME  
13 OF THEM IN CONNECTION WITH MANAGEMENT EFFORTS IN THE SANTA ANA  
14 RIVER.

15           THEY ARE HIGHLIGHTED AND ALLUDED TO IN A  
16 DECLARATION BY MARK WILDEMUTH WHICH WAS SUBMITTED IN SUPPORT  
17 OF THE PAPERS BY THE WATERMASTER AND ALSO REFERRED TO IN A  
18 LETTER INCLUDED IN A DECLARATION, THE SECOND DECLARATION  
19 THAT'S FILED IN THESE PROCEEDINGS BY MR. JIM ASHCRAFT, WHO IS  
20 THE DIRECTOR OF PUBLIC WORKS FOR THE CITY OF NORCO.

21           A LOT OF STUDIES HAVE GONE ON, BUT THE WATERMASTER  
22 HIMSELF HAS NOT CONDUCTED THOSE STUDIES.

23           THE CONCERN HERE IS A MOVEMENT OF GROUND WATER  
24 WHICH IS HIGH IN NITRATES WHICH HAS BEEN THERE FOR A LONG  
25 TIME.

26           NO ONE IS TALKING ABOUT THE CAUSE OF THE NITRATES,  
27 BUT IT IS MOVING. IT'S MOVING FIRST INTO THE SOUTH END OF THE  
28 BASIN WHERE NITRATE LEVELS ARE VERY HIGH.

1           IT'S BEEN FELT BY PEOPLE WHO ARE KNOWLEDGEABLE  
2 ABOUT GROUND WATER MANAGEMENT ISSUES THAT UNLESS AN AGGRESSIVE  
3 MANAGEMENT PROGRAM IS COMMENCED ON THIS BASIN, THAT THE GROUND  
4 WATER WILL DEGRADE, THAT THE THREE MOVING PARTIES AND OTHERS  
5 WILL BE LEFT WITH AN ALLOCATION OF RIGHTS WHICH IN EFFECT MEAN  
6 NOTHING.

7           THE JUDGMENT WAS -- THE JUDGMENT CONTAINS A GREAT  
8 DEAL OF LANGUAGE, MANY TOOLS FOR THE WATERMASTER TO BE ABLE TO  
9 GO TO -- GO INTO THE BASIN, TO MANAGE THE BASIN, SO THAT  
10 DEGRADATION DOESN'T OCCUR.

11           IN FACT, IT'S NOT JUST A MAINTENANCE JUDGMENT  
12 THAT'S HERE BUT THE WATERMASTER'S GIVEN TOOLS TO IMPROVE WATER  
13 QUALITY IN THE BASIN.

14           THOSE TOOLS ARE SET FORTH IN THE RULES AND  
15 REGULATIONS.

16           SO THE WATERMASTER CAN BE PRO-ACTIVE.

17           FOR THE LAST THREE YEARS, THE MOVING PARTIES, IN  
18 PARTICULAR THE CITIES OF CHINO AND NORCO, WERE FEELING THE  
19 BRUNT FIRST, HAVE URGED THE WATERMASTER TO LOOK AT THE WATER  
20 QUALITY ASPECTS OF THE BASIN.

21           THEY ASK THE WATERMASTER TO INITIATE THE  
22 DEVELOPMENT OF THE OPTIMUM BASIN MANAGEMENT PROGRAM WHICH  
23 WOULD PROVIDE A FRAMEWORK FOR THE MANAGING, A PLAN.

24           THE WATERMASTER HAS THE TOOLS NOW, BUT THE  
25 WATERMASTER DOESN'T HAVE THE FRAMEWORK WITHIN WHICH TO USE THE  
26 TOOLS TO EFFECT SOUND WATER RESOURCES MANAGEMENT PRACTICES.

27           AGAIN, THEY ARE REQUIRED BY THE CONSTITUTION OF  
28 THE STATE WHICH SERVES AS THE UMBRELLA TO THIS COURT'S POWER

1 TO IMPLEMENT AND OVERSEE A PHYSICAL SOLUTION.

2 BASICALLY NOTHING HAS BEEN DONE, ALTHOUGH THINGS  
3 CAN BE DONE TO IMPROVE THAT WATER QUALITY TO OFFSET OTHER  
4 MANAGEMENT PRACTICES IN THE BASIN, WHICH INCLUDE REPLENISHMENT  
5 THAT GOES ON.

6 THE MOVING PARTIES DO NOT OBJECT TO WHAT IS BEING  
7 DONE IN TERMS OF REPLENISHMENT. THAT'S WHAT THIS JUDGMENT IS  
8 ABOUT AND THAT'S NOT WHAT THE CONCERN IS.

9 THE CONCERN IS ALSO NOT THAT THE TERMS OF THE  
10 UNDERLYING ALLEGATIONS BE CHANGED WHICH IS NOT AN EVEN RUN  
11 AROUND THE JUDGMENT.

12 WE WOULD NOT BE PROPERLY BEFORE THE COURT TO TRY  
13 TO HAVE THIS COURT REALLOCATE THE WATER IN THE BASIN. THAT'S  
14 NOT WHAT THIS IS ABOUT.

15 WHAT THE PARTIES ARE HERE FOR IS TO BRING TO THE  
16 COURT'S ATTENTION THE FACT THAT OVER THE YEARS, CERTAIN  
17 STUDIES, CERTAIN DATA GATHERING, HAS NOT BEEN UNDERTAKEN BY  
18 THE WATERMASTER. AND THESE STUDIES HAVE BEEN MANDATED BY THE  
19 JUDGMENT AND SIMPLY HAVEN'T HAPPENED.

20 THE MOVING PARTIES HAVE ASKED THIS COURT'S  
21 GUIDANCE TO URGE THE WATERMASTER TO GET ON WITH WHAT IT'S  
22 SUPPOSED TO BE DOING UNDER THIS STUDY.

23 THERE AREN'T SUFFICIENT EXCUSES. YOU CAN'T POINT  
24 TO TASK ORDERS IN EACH OF THE ANNUAL REPORTS YEAR AFTER YEAR  
25 AND SEE THAT MUCH HAS OCCURRED SINCE THE FIRST -- SINCE THE  
26 FIRST WATERMASTER REPORT WAS PUBLISHED UNTIL THE CURRENT  
27 WATERMASTER REPORT.

28 IN TERMS OF THE WATERMASTER REPORT, THERE ARE



1 CERTAIN THINGS THIS REPORT DOESN'T EVEN REPORT ON.

2 FOR INSTANCE, IT DOESN'T REPORT ABOUT WATER  
3 LOSSES.

4 IT DOES NOT REPORT OR ACCOUNT TO THE AMOUNT OF  
5 WATER THAT'S IN STORAGE UNDER THE EXCHANGE AGREEMENT.

6 THERE ARE THINGS THAT HAVE NEVER BEEN REPORTED IN  
7 THAT REPORT.

8 WE FEEL -- I'M SPEAKING ON BEHALF OF THE MOVING  
9 PARTIES -- THAT THERE IS A CLEAR VIOLATION OF THE JUDGMENT IN  
10 THAT NO SOCIOECONOMIC STUDY HAS BEEN PREPARED.

11 THERE WAS A TEN-YEAR REQUIREMENT IN THE JUDGMENT  
12 SPECIFICALLY STATING THAT THAT STUDY SHOULD BE UNDERTAKEN  
13 WITHIN TEN YEARS OF THE JUDGMENT.

14 TEN YEARS CAME AND PASSED. THE ISSUE HAS BEEN  
15 RAISED BASED ON A REVIEW OF THE MINUTES OF THE WATERMASTER  
16 TWICE.

17 THE FIRST TIME THE WATERMASTER'S SPECIAL SERVICES  
18 DIRECTOR, MR. PETERS, TOLD THE GROUP, "WELL, LET'S" -- TO THE  
19 BEST OF MY RECOLLECTION, "LET'S DEFER THAT UNTIL COMPLETION OF  
20 METROPOLITAN WATER DISTRICT'S ENVIRONMENTAL IMPACT REPORT ON  
21 ITS PROPOSED CONJUNCTIVE USE STORAGE PROGRAM."

22 THAT OCCURRED IN 1987.

23 TO DATE, THAT REPORT HAS NOT BEEN FINALIZED. IT  
24 HAS NOT BEEN SERVED CERTIFIED. AND WHETHER OR NOT IT IS  
25 FINALLY CERTIFIED IS A DISCRETIONARY ACT WHOLELY WITHIN THE  
26 POWER OF ANOTHER ENTITY THAT THE WATERMASTER AT LEAST FOR THE  
27 PURPOSES OF THE E.R.I. DOES NOT REQUIRE.

28 THAT IS THE MOST OBVIOUS OMISSION. HAD THAT

1 SOCIOECONOMIC STUDY BEEN DONE, THE WATERMASTER WOULD HAVE  
2 COME IN THE COURT TODAY AS PART OF A DECLARATION AND SAID,  
3 "HERE. IT'S COMPLETED."

4 BUT IT HASN'T BEEN STARTED.

5 THE MAIN THRUST OF THE MOTION IS THAT AN OPTIMUM  
6 BASIN MANAGEMENT PROGRAM BE PREPARED.

7 IT HASN'T BEEN STARTED. THERE HAS BEEN ALLEGATIONS  
8 IN THE RESPONSE TO THE MOVING PARTY'S PAPERS THAT THE RULES  
9 AND REGULATIONS, COUPLED WITH THE JUDGMENT ITSELF AND SOME  
10 APPROVED COURT FORMS, ACTUALLY CONSTITUTE THAT PROGRAM.

11 THAT COULDN'T BE FURTHER FROM THE TRUTH.

12 WHILE THE WATERMASTER HAS EXCELLENT TOOLS TO  
13 AFFECT A PROGRAM IN THE FORM OF THE RULES AND REGULATIONS, IN  
14 ITS ABILITY TO IMPOSE AN ASSESSMENT OF A FACILITIES  
15 ASSESSMENT, IN ITS ABILITY TO CHARGE ASSESSMENTS, IN ITS  
16 ABILITY TO REPLENISH AND HAVE HIM MOVE STORAGE AND ENTER INTO  
17 STORAGE AGREEMENTS. FOR ALL OF THOSE REASONS IT CAN BE A VERY  
18 EFFECTIVE GROUND WATER RESOURCES MANAGEMENT PROGRAM IN CHINO  
19 BASIN. THERE REALLY ISN'T ONE. THINGS WHICH CHANGE.

20 THIS CAN BE DONE BETTER. THERE ARE A NUMBER OF  
21 AGENCIES NOT A PARTY TO THESE PROCEEDINGS AND NOT A PARTY --  
22 NOT PARTIES TO THE JUDGMENT WHO ACTUALLY HAVE SCRATCHED OUT,  
23 HIGHLIGHTED AND EXPENDED SUMS OF MONEY AND TIME IN ITEMIZING  
24 WHAT OUGHT TO BE INCLUDED IN A REQUEST FOR PROPOSAL FOR  
25 ENGINEERING SERVICES TO COME IN AND DO THAT PROGRAM.

26 THERE ARE -- AS I RECALL, NOT EVEN THE CITY OF  
27 ONTARIO IS OPPOSING THE CONCEPT OF IMPLEMENTING AN OPTIMUM  
28 BASIN MANAGEMENT PROGRAM.

1 I KNOW THAT METROPOLITAN IN ITS EFFORTS TO COME IN  
2 AS A PARTY TODAY HAS ASSERTED IN ITS PAPERS THAT IT DOES NOT  
3 OPPOSE THAT.

4 AND FOR THE FIRST TIME IN REVIEWING THE PAPERS OF  
5 THE WATERMASTER AND THIS IS THE FIRST TIME IN RESPONSE TO MANY  
6 ORAL INQUIRES BY THE CITIES OF CHINO AND NORCO AND SAN  
7 BERNARDINO WATERWORKS NO. 8 WHO HAVE ATTENDED GENERALLY MOST  
8 OF THE WATERMASTER MEETINGS AND THE ADVISORY MEETINGS AND THE  
9 POOL COMMITTEE MEETINGS, IT'S THE FIRST TIME THERE IS AN  
10 ACKNOWLEDGMENT ON THE PART OF THE WATERMASTER THAT THERE IS A  
11 RESPONSIBILITY ON THE PART OF THE WATERMASTER TO MONITOR AND  
12 MANAGE WATER QUALITY.

13 NOW, IN REVIEWING THE OPPOSITION PAPERS WHICH ARE  
14 ILLUMINATED BECAUSE THERE WERE NO DIRECT NEGOTIATIONS BETWEEN  
15 THE WATERMASTER AND THE MOVING PARTIES AS AMONG COUNSEL, WHAT  
16 WE SEE IS AN EFFORT QUITE CLEARLY STATED IN THE MOVING PAPERS  
17 THAT PERHAPS THE MOVING PARTIES WOULD HAVE BEEN BETTER TO  
18 EXHAUST ADMINISTRATIVE REMEDIES BEFORE HERE.

19 WELL, THERE ARE NONE. WE DON'T HAVE TO MAKE A  
20 RECORD. THIS IS NOT AN ADMINISTRATIVE AGENCY.

21 THIS IS A WATERMASTER. IT'S A DIFFERENT KIND OF  
22 THING.

23 IT IS TRULY NEITHER FISH NOR FOWL. IT'S A  
24 CREATURE OF THIS COURT AND THERE ARE NO PROVISIONS IN THE  
25 JUDGMENT FOR MAKING A RECORD, ALTHOUGH ONE IS.

26 AND PAPER THAT HAD BEEN SUBMITTED IN CONNECTION  
27 WITH DECLARATIONS MAKE THAT RECORD FOR THIS COURT'S REVIEW.

28 THERE HAS BEEN A SUGGESTION THAT PERHAPS THE

1 MATTER OF WATER QUALITY LIES WITHIN THE JURISDICTION OF THE  
2 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD.

3 NOTHING COULD BE FURTHER FROM THE TRUTH.

4 I COULDN'T GET ANY MORE OR ANY LESS RELIEF WERE I  
5 TO TAKE THIS MATTER AND POSE IT TO THE STATE VETERINARY  
6 COMMISSION.

7 THIS BOARD HAS NO JURISDICTION TO COMPEL THE  
8 WATERMASTER TO IMPLEMENT AN OPTIMUM BASIN WATER MANAGEMENT  
9 PROGRAM.

10 I CAN'T TELL THE WATERMASTER WHAT ITS IN LIEU  
11 PROCEDURE SHOULD BE OR WHERE TO SPREAD WATER OR WHEN TO BUY  
12 WATER OR WHAT QUALITY OF WATER TO BUY.

13 THE REGIONAL BOARD DOESN'T HAVE THAT POWER AND IT  
14 DOESN'T HAVE THAT AUTHORITY AND IT'S A DISTRACTING MEANS FOR  
15 THIS COURT -- FOR THE WATERMASTER TO COME IN AND SAY THAT'S  
16 WHERE WE SHOULD LOOK FOR RELIEF.

17 THE RELIEF IS UNDER THE JUDGMENT AND THE RELIEF IS  
18 IN THIS COURT.

19 WE ARE ALSO TOLD IN THE MOVING PAPERS THAT PERHAPS  
20 WE SHOULD HAVE LOOKED TO A WHOLE LIST OF THINGS THAT WE HAVE  
21 BEEN TOLD THAT WE NEED TO DO.

22 WE HAVE BEEN TOLD THAT THIS IS A NATURE OF A WRIT  
23 OF MANDATE AND AS SUCH WE HAVE BEEN TOLD THAT WE HAVE THE  
24 BURDEN OF PROOF -- COMING INTO THIS PROCEDURE THAT WE ARE  
25 DEFINITELY GOING TO BE JUDGED IN A SPECIFIC AMOUNT OF MONEY IF  
26 THE WATERMASTER DOESN'T DO A PARTICULAR THING.

27 THAT'S NOT WHAT THIS HEARING IS ABOUT.

28 THIS HEARING IS NOT ABOUT MONEY.

1           THIS HEARING IS ABOUT GETTING WATERMASTER TO DO  
2   WHAT HE IS MANDATED TO DO UNDER THE JUDGMENT TO DO, WHICH IS  
3   TO PREPARE A STUDY, TO GATHER DATA, TO DO A SOCIOECONOMIC  
4   STUDY.

5           WE HAVE PRESENTED AND GATHERED AT -- AND IT TOOK  
6   A GREAT DEAL OF EFFORT TO FIND OUT EXACTLY WHAT THE  
7   WATERMASTER HAD COLLECTED OVER THE PAST TEN YEARS BY WAY OF  
8   DATA.

9           AND WHAT WE HAVE FOUND OUT IS THAT A NUMBER OF  
10  PRODUCERS TO PRODUCE IN EXCESS OF FIVE ACRE FEED ARE NOT  
11  METERED. AND SO WHAT THE WATERMASTER DOES IS HE CALCULATES  
12  BASED ON AN ASSUMPTION OF WHAT'S GROWN ON THE LAND TIMES WHAT  
13  THE CONSUMPTIVE USE WOULD BE TIMES THE AMOUNT OF LAND TO  
14  DETERMINE WHAT MIGHT BE CONSUMED.

15           AGAIN, NO MEASUREMENT, NO COLLECTION OF DATA.

16           WE HAVE DETERMINED THAT ALTHOUGH WATERMASTER FORMS  
17  HAVE BEEN DISTRIBUTED AMONG THE PRODUCERS IN THE BASIN, THE  
18  FORMS ARE GENERALLY NOT COMPLETELY CORRECT -- COMPLETELY  
19  FILLED OUT BY THE PRODUCERS.

20           AND SO WHAT THE WATERMASTER DOESN'T HAVE WHICH  
21  WOULD BE VERY USEFUL IS A HISTORY OF STATIC WATER LEVELS IN  
22  THE WELLS.

23           THAT'S NOT AVAILABLE TO THE WATERMASTER AND HENCE  
24  IT'S NOT AVAILABLE FOR THE PUTTING TOGETHER OF HOW OPTIMALLY  
25  TO MANAGE THE BASIN. PLUS WE FEEL THAT THERE ARE MORE THINGS  
26  THAT CAN BE DONE, MORE AGGRESSIVE MANAGEMENT TECHNIQUES THAT  
27  COULD PREVENT THE ULTIMATE DEGRADATION AND LOSS OF THE  
28  ALLOCATIVE RIGHTS FOR ABOUT A HUNDRED THOUSAND WATER USERS AT

1 THE WEST END OF THE BASIN.

2 NOW, IT'S NOT AS IF THE CONCEPT OF MANAGING A  
3 BASIN IS A NEW CONCEPT OR NOVEL CONCEPT.

4 THE JUDGEMENT WAS PUT TOGETHER BY AN EXTREMELY  
5 TALENTED ENGINEERING FIRM AND AN EXTREMELY TALENTED LAWYER  
6 WITH A GREAT DEAL OF KNOWLEDGE ABOUT GROUND WATER BASIN  
7 MANAGEMENT.

8 SOME OF THE MOST SOPHISTICATED MANAGEMENT IS DONE  
9 IN A NEIGHBORING DOWN STREAM BASIN, THE LOWER SANTA ANA BASIN,  
10 AND IS IMPLEMENTED BY THE ORANGE COUNTY WATER DISTRICT.

11 BUT UP HERE IN THE CHINO BASIN, THIS IS THE ONLY  
12 ENTITY THAT HAS THAT POWER AND HAS THAT AUTHORITY. AND WE ARE  
13 ASKING YOUR GUIDANCE TO SEE THAT THE WATERMASTER GETS DOWN TO  
14 BUSINESS AND GOES INTO THE SECOND PHASE.

15 HE HAS ALLOCATED -- WE HAVE ALLOCATED WHO GETS  
16 WHAT IN THE BASIN AND NOW IT'S TIME TO TAKE CARE OF THE ISSUE  
17 OF WHAT IS THE QUALITY OF WHO GETS WHAT IN THE BASIN BECAUSE  
18 IF YOU DON'T HAVE THE QUALITY, IF IT'S NOT USEABLE, THEN YOUR  
19 RIGHT TO THE QUANTITY IS GONE.

20 THERE ARE A NUMBER OF ISSUES THAT ARE KIND OF  
21 COLLATERAL BUT SHED SOME LIGHT.

22 WE --

23 THE COURT: LET ME ASK YOU A FEW QUESTIONS BEFORE  
24 WE GET INTO THOSE.

25 MS. TRAGER: CERTAINLY.

26 THE COURT: UNDER THE JUDGMENT NOW, THE WATERMASTER  
27 HAS THE JOB AND -- THAT IS THE CHINO BASIN DISTRICT HAS THE  
28 JOB OF ADMINISTERING THE BASIN, RIGHT?

1 MS. TRAGER: YES.

2 THE COURT: UNDER THE JUDGMENT, THE WATERMASTER IN  
3 EFFECT CONTROLS AND REGULATES THE INPUT AND OUT TAKE OF WATER  
4 FROM THE BASIN BY AN AWFUL LOT OF PEOPLE.

5 MS. TRAGER: THAT'S CORRECT.

6 THE COURT: COMPANIES, LAND OWNERS, FARMERS,  
7 WHATEVER.

8 UNDER THE JUDGMENT, WHAT INPUT DO THESE VARIOUS  
9 COMPANIES OR INDIVIDUALS HAVE AS TO THE WORK DONE BY THE  
10 WATERMASTER?

11 MS. TRAGER: THE PRODUCERS IN THE BASIN ARE  
12 DIVIDED INTO THREE POOLS WHICH MEET FROM TIME TO TIME AND HAVE  
13 THEIR OWN RULES AND REGULATIONS AND THEY REPORT TO AN ADVISORY  
14 COMMITTEE WHO REPORTS TO THE -- WHICH IS THE WATERMASTER. AND  
15 REPORTS TO THE WATERMASTER.

16 THE COURT: THE ADVISORY COMMITTEE CONSISTS OF HOW  
17 MANY?

18 MS. TRAGER: I DON'T HAVE THAT NUMBER.

19 THE COURT: I MEAN, IS IT TWO OR THREE PEOPLE?

20 MS. TRAGER: NO. LARGER. THE GROUP IS LARGER THAN  
21 THAT.

22 IT'S APPROXIMATELY FIFTEEN, BUT MR. PETERS WOULD  
23 KNOW THE ANSWER TO THAT.

24 THE COURT: ARE ANY OF YOUR CLIENTS MEMBERS OF THE  
25 ADVISORY COMMITTEE?

26 MS. TRAGER: YES.

27 THE COURT: ALL OF THEM?

28 MS. TRAGER: NO.

1 THE COURT: WHO IS?

2 MS. TRAGER: MR. WELLINGTON IS ON THE ADVISORY  
3 COMMITTEE.

4 THE COURT: AND HE IS --

5 MS. TRAGER: REPRESENTS CHINO.

6 THE COURT: OKAY.

7 MS. TRAGER: NOW, WHAT HAPPENS IN THE ADVISORY  
8 COMMITTEES IS THAT THE MEMBERS VOTE AND THERE IS A COMPLICATED  
9 VOTING STRUCTURE SO THAT THE WATERMASTER IN EFFECT IS A  
10 POLITICAL BODY DETERMINED BY THE VOTES AND WE ARE AT AN  
11 IMPASSE POLITICALLY AS TO EFFECTING A SOUND WATER RESOURCES  
12 MANAGEMENT PROGRAM IN THE BASIN BECAUSE IT HAS BEEN VOTED  
13 AGAINST.

14 AND THE REASONS IT'S BEEN VOTED AGAINST IS BECAUSE  
15 THE WATERMASTER STAFF AND THE WATERMASTER, WHICH IS IN EFFECT,  
16 YOUR HONOR, YOUR HONOR.

17 I MEAN, YOU ARE THE SUPERVISOR OF THIS BASIN AND  
18 THE WATERMASTER IS IN EFFECT YOUR STAFF.

19 WHAT HAS HAPPENED IS AN ECONOMIC INCENTIVE HAS  
20 BEEN CREATED IN FAVOR OF A LARGE VOTING BLOCK WHICH WOULD BE  
21 PRIMARILY THE CITY OF ONTARIO, WHICH FOR ALL PRACTICAL  
22 PURPOSES VOTES ITS POCKETBOOK. AND PROP. 13 ERA, FROM ITS  
23 POINT OF VIEW, THAT'S A VERY SENSIBLE THING TO DO.

24 AND THAT IS CREATED BY THE EXCHANGE AGREEMENT THAT  
25 THE QUESTION OF WHICH -- THE VALIDITY OF WHICH IS BEFORE THIS  
26 COURT AND FROM WHICH THE MOVING PARTIES HAD ASKED SOME  
27 RELIEF.

28 PRIMARILY WE ARE ASKING YOU TO TAKE A LOOK AT THAT



1 AGREEMENT OR THE SET OF AGREEMENTS FOR YOU TO DETERMINE THAT  
2 THEY WERE PROPERLY ENTERED INTO.

3 AND THE FOCUS HERE IS HOW THE WATERMASTER WENT  
4 ABOUT GETTING IT APPROVED RATHER THAN THE FACT THAT SUCH  
5 AGREEMENT EXISTS.

6 BUT IN ANY EVENT, IT SITS AS A BLOCK TO CHANGING  
7 THE MANAGEMENT PRACTICES THAT EXIST.

8 THE COURT: I UNDERSTAND.

9 MS. TRAGER: AND IT CAN'T BE OVERCOME.

10 THE COURT: WE SEE THAT A LOT IN WASHINGTON AND  
11 SACRAMENTO, TOO.

12 IT IS A FACT OF LIFE, I SUPPOSE. BUT MY  
13 RECOLLECTION -- AND PERHAPS I'VE BEEN READING IT WRONG, BUT MY  
14 RECOLLECTION OF THE JUDGMENT WAS THAT IT WAS DESIGNED TO BE  
15 WITHIN THE LIMITS OF THE JUDGMENT TO BE A SELF-GOVERNING GROUP  
16 OF WATER USERS.

17 MS. TRAGER: THAT'S CORRECT.

18 THE COURT: WHO WOULD REGULATE THEMSELVES AGAIN  
19 WITHIN THE LIMITS OF THE JUDGMENT.

20 IT WAS NOT DESIGNED FOR THE COURTS TO RUN. WE ARE  
21 NOT IN THE BUSINESS OF RUNNING BUSINESSES.

22 MS. TRAGER: YOU WOULDN'T WANT TO.

23 THE COURT: RIGHT.

24 I CAN UNDERSTAND THAT THERE MAY BE SITUATIONS  
25 WHERE THE LAW IS NOT BEING FOLLOWED, WE WILL SAY.

26 AND THIS CASE THE JUDGMENT NOT BEING FOLLOWED AND  
27 SOMEBODY MIGHT HAVE TO GO TO COURT TO COMPEL WHOEVER IS DOING  
28 IT TO DO IT ACCORDING TO LAW, WHETHER OR NOT THE PEOPLE WHO

1 ARE INVOLVED OBJECT.

2 BUT IN ANY EVENT, I WANTED TO BE SURE THAT WE HAD  
3 ON THE RECORD THE FACT THAT THE WATERMASTER DOES REPRESENT AN  
4 ADVISORY COMMITTEE IN THE CONDUCT OF HIS BUSINESS AND I WAS  
5 VAGUELY UNDER THE IMPRESSION THAT THE ADVISORY COMMITTEE HAD  
6 UNANIMOUSLY RECOMMENDED THAT THIS REPORT BE APPROVED.

7 IS THAT NOT TRUE?

8 MS. TRAGER: THE WATERMASTER REPORT?

9 THE COURT: YES.

10 MS. TRAGER: I BELIEVE IT DID UNANIMOUSLY  
11 RECOMMEND THAT THE WATERMASTER -- THAT THAT WATERMASTER  
12 REPORT, ELEVENTH ANNUAL REPORT BE APPROVED.

13 THE COURT: DID I INTERPRET YOUR MOTION CORRECTLY  
14 AS BEING -- AS OPPOSING THE APPROVAL OF IT?

15 MS. TRAGER: YES, YOUR HONOR.

16 MS. TRAGER: IT'S NOT THAT --

17 THE COURT: AND YET YOUR OWN CLIENT VOTED TO  
18 APPROVE IT.

19 MS. TRAGER: THAT'S CORRECT, YOUR HONOR.

20 THE COURT: EXPLAIN THAT TO ME.

21 MS. TRAGER: ONE OF THEM -- WELL, SOMETIMES CLIENTS  
22 CHANGE THEIR MIND, YOUR HONOR.

23 THE COURT: OKAY. ALL RIGHT.

24 MS. TRAGER: ESPECIALLY WHEN IT IS POINTED OUT TO  
25 THEM THAT ONE ACTION MAY BE INCONSISTENT WITH ANOTHER AND AT  
26 THE SAME TIME THEY ARE FEELING PRESSURE TO NOT ALWAYS BE THE  
27 PEOPLE WHO ARE VOTING IN THIS VERY PECULIAR WATERMASTER VOTING  
28 STRUCTURE WHICH IS POLITICAL TO SAY NO, NO, NO, NO, NO.

1                   SOMETIMES YOU HAVE TO SAY YES.

2                   AND WE HAVE THAT PECULIARITY.

3                   UNFORTUNATELY SOME VERY SERIOUS THINGS THAT CAN'T  
4 BE RECTIFIED.

5                   THE COURT: YOU MAKE A LOT MORE WAVES WITH LAWSUITS  
6 LIKE THIS THAN YOU DO BY VOTING "NO" IN SOME COMMITTEE  
7 MEETING.

8                   MS. TRAGER: THAT WAS THE THOUGHT.

9                   THE COURT: YEAH. ALL RIGHT.

10                  GO AHEAD. YOU WERE ABOUT TO GO THROUGH WHAT YOUR  
11 REQUESTS WERE.

12                  MS. TRAGER: WELL, THE VERY CENTER OF ALL OF THIS  
13 MATTER IS THAT THE PRODUCERS GET TOGETHER AND DECIDE THAT THEY  
14 ARE IN EFFECT GOING TO SPEND SOME MONEY TO MANAGE THE BASIN IN  
15 A WAY THAT WILL PROTECT PEOPLE WHO WILL FIRST FACE WATER  
16 DEGRADATION BECAUSE EVENTUALLY IT WILL SPREAD AND MORE AND  
17 MORE PRODUCERS ARE GOING TO BE FACING THE NITRATE PROBLEM.

18                  SOMETHING HAS TO BE DONE ABOUT THAT.

19                  AND IT NEEDS TO BE DONE AND THE WATERMASTER NEEDS

20 --

21                  THE COURT: NITRATE PROBLEMS COMES FROM A LAYER OF  
22 THE SUBSTRATA, THAT IS, HEAVY NITRATES, IS THAT --

23                  MS. TRAGER: YES. FROM LONG STANDING AGRICULTURAL  
24 AND DAIRY USE.

25                  THE COURT: OKAY.

26                  MS. TRAGER: IT'S A LAND USE PROBLEM GRADUALLY  
27 MIGRATING DOWN BECAUSE GROUND WATER MOVES.

28                  THERE ARE OTHER ENTITIES WHO HAVE -- THERE ARE

1 THINGS THAT YOU CAN DO TO SOLVE IT, TO CORRECT IT, TO MANAGE  
2 IT, TO MOVE IT AROUND. BUT IT TAKES A WILLINGNESS OF PARTIES  
3 TO DO IT.

4 THIS WATERMASTER CAN'T DEVELOP THAT WILLINGNESS.  
5 IT HASN'T STARTED. IT IS DELAYING.

6 I -- WE NEED YOUR GUIDANCE AS TO THE NECESSITY OF  
7 DOING THAT.

8 PART OF THAT SHOULD BE THE SOCIOECONOMIC STUDY  
9 WHICH IS JUST A WAY OF FIGURING OUT HOW THE COST OF IT IS  
10 ALLOCATED.

11 THE TOOLS OF IMPLEMENTING THE LEVY FOR THAT ARE  
12 AVAILABLE IN THE JUDGMENT.

13 IN ADDITION TO THAT, THE WATERMASTER NEEDS TO BE  
14 DIRECTED TO BE MORE SCRUPULOUS ABOUT THE COLLECTION OF HIS  
15 DATA.

16 WE UNDERSTAND FROM MARK WILDEMUTH'S DECLARATION  
17 THAT HE WAS HIRED SOME 21 DAYS AFTER WE FILED THE MOTION TO DO  
18 SOME DATA COLLECTION WHICH IS NEEDED.

19 WE NEED THE WATERMASTER TO FACE UP TO THE FACT  
20 THAT THE VERY BIGGEST THING THAT'S EVER HAPPENED IN THIS  
21 BASIN, EVEN BIGGER THAN THE JUDGMENT, IS THE PROPOSAL BY  
22 METROPOLITAN WATER DISTRICT TO STORE WATER, WHICH WOULD, IF  
23 IT'S A SUCCESSFUL PROGRAM, BE ABLE TO ACCOMMODATE THE NEEDS OF  
24 THE PRODUCERS IN THE BASIN PLUS THE STORAGE NEEDS FOR MANY OF  
25 THE WATER USERS OUTSIDE OF THE BASIN IN SOUTHERN CALIFORNIA.

26 IT WOULD BE A SUBSTANTIAL BENEFIT TO MANY PEOPLE  
27 IN THE STATE TO HAVE THIS PROGRAM.

28 BUT THE INSTITUTIONAL STRUCTURE HERE IN THE BASIN

1 IS DIFFICULT.

2 WHAT IS HAPPENING IS THAT THE WATERMASTER SEEMS TO  
3 BE HOLDING IN ABEYANCE ALL OF THE THINGS THAT HE OUGHT TO BE  
4 DOING UNDER THE JUDGMENT BECAUSE HE THINKS THAT METROPOLITAN  
5 COMING IN IS GOING TO SOLVE THOSE PROBLEMS. DEVELOP A PROGRAM  
6 AND THEN WHAT WE WILL SEE INEVITABLY IS METROPOLITAN BY  
7 DEFAULT OPERATING THE BASIN, PERHAPS TO THE DETRIMENT OF SOME  
8 OF THE PRODUCERS.

9 WE DON'T KNOW THAT. THAT HASN'T BEEN WORKED OUT.  
10 OUR CLIENT -- MY CLIENTS HAVE URGED THE  
11 WATERMASTER TO GET INVOLVED IN THE ALLOCATION OF THOSE DUTIES  
12 AND THE RISKS AND THE PRIORITY OF, AND TO DEFEND THE PRIORITY  
13 OF THE WATER USERS AND PRODUCERS WHO ARE ALREADY THERE IN THE  
14 FORM OF COMMENTING ON METROPOLITAN'S ENVIRONMENTAL IMPACT  
15 REPORT ON THAT PROGRAM.

16 THE WATERMASTER HAS REFUSED TO DO THAT ON THE  
17 GROUNDS THAT THERE ARE TOO MANY DIVERGENT VIEWS IN THE BASIN.

18 I DON'T KNOW WHO THOSE DIVERGENT VIEWS ARE BECAUSE  
19 THE CITY OF ONTARIO ITSELF WHICH IS HERE OPPOSING THE MOTION  
20 IS ITSELF CONCERNED ABOUT WATER QUALITY AND IN ITSELF WROTE A  
21 RATHER STRONG LETTER CRITICIZING METROPOLITAN'S ENVIRONMENTAL  
22 IMPACT REPORT SO THAT IT HAS TO GO BACK AND REDO THAT AND  
23 APPARENTLY THE DOING OF IT IS IN THE PROCESS.

24 AND WE WILL SEE A FINAL REPORT WHICH MAY OR MAY  
25 NOT BE ADOPTED.

26 THE PROGRAM MAY OR MAY NOT BE APPROVED.

27 BUT IN ANY EVENT, MANY OF -- THE WATERMASTER'S  
28 HOLDING OFF OF DOING CERTAIN OF THE VERY EXPENSIVE STUDIES AND

1 PROGRAMS UNDER THE JUDGMENT SEEM TO BE HELD IN ABEYANCE  
2 PENDING WHAT ANOTHER AGENCY IS OR ISN'T GOING TO DO. AND  
3 THAT'S NOT WHAT THE JUDGMENT PROVIDES.

4 THE JUDGMENT DOESN'T MANDATE THAT THE  
5 WATERMASTER'S SPECIAL SERVICES CHIEFS SAVE MONEY IN THAT  
6 WAY.

7 HE NEEDS TO MOVE FORWARD WITH HIS TASK AND HE  
8 NEEDS TO PULL TOGETHER A CONSENSUS SO THAT WHEN THE VOTING  
9 OCCURS, HE'LL HAVE DONE THE STAFF WORK SO THAT THE PEOPLE  
10 UNDERSTAND FULLY WHAT NEEDS TO BE DONE, HOW MUCH -- WHAT IS  
11 INVOLVED, HOW MUCH IT IS GOING TO SPEND.

12 WHAT THE BENEFITS WOULD BE TO THEM.

13 WHAT THE BENEFITS WOULD BE TO OTHERS. WHAT THE  
14 DEBT AMOUNTS WOULD BE.

15 WHAT WOULD OCCUR AND RESULT IN FIVE YEARS, TEN  
16 YEARS, 15 YEARS, SO THAT REGIONAL WATER QUALITY CONTROL BOARD  
17 REQUIREMENTS WOULD BE MET SO THAT YOU CAN ACCOMMODATE THE FACT  
18 THAT WATER QUALITY IS GOING TO CHANGE AS THE SOURCE OF SUPPLY  
19 SHIFTS FROM STATE PROJECT WATER TO COLORADO RIVER WATERS.

20 THOSE THINGS HAVE TO BE PLANNED FOR, AND RIGHT NOW  
21 CITIES OF CHINO, NORCO AND WATERWORKS DISTRICT NO. 8 DON'T  
22 FEEL THAT THEIR PARTICULAR CONCERNS -- BECAUSE THEY ARE GOING  
23 TO BE IMPACTED FIRST AS THIS WAVE COMES THROUGH. THAT THINGS  
24 THAT ARE PLANTED IN PLACE AND TIME TO PROTECT THEM AND TO  
25 PROTECT THEIR RIGHTS UNDER THE JUDGMENT. BECAUSE AGAIN,  
26 DEGRADED WATER UNDER AN ALLEGATION PLAN ISN'T -- YOU HAVE  
27 NOTHING IF YOU CAN'T USE IT.

28 IN ADDITION TO THE QUESTION ABOUT THE GATHER --

1 BASICALLY GOES -- BOILS DOWN TO THIS WATERMASTER HASN'T  
2 GATHERED ALL DATA THAT HE IS TO UNDER THE RULES AND  
3 REGULATIONS AND UNDER THE JUDGMENT.

4 IT IS ASSEMBLED IN A WAY THAT CAN BE PUT TOGETHER  
5 FOR THE PLAN. NO STEPS HAVE BEEN TAKEN TO INITIATE THE  
6 PROGRAM.

7 I HAVE PROPOSED AS AN OUTLINE -- A MINIMAL  
8 OUTLINE OF HOW WATERMASTER MIGHT WANT TO GO ABOUT THIS UNDER  
9 THIS COURT'S GUIDANCE WITH THE SERIES OF NEGOTIATING SESSIONS  
10 AND MEETINGS SO THAT WE COULD AT LEAST TALK ABOUT WHAT MIGHT  
11 BE DONE AND A TIME FRAME WITHIN WHICH TO DO THAT.

12 I HAVE DONE THIS IN THE REPLY MEMORANDUM OF POINTS  
13 AND AUTHORITIES WHICH WAS FILED YESTERDAY AFTERNOON WITH YOUR  
14 CLERK HERE WHICH WAS FAXED TO THE CITY OF ONTARIO, TO THE  
15 WATERMASTER, AND TO METROPOLITAN WATER DISTRICT.

16 I WAS INFORMED BY METROPOLITAN THAT HE HAD GONE  
17 BEFORE HE RECEIVED THE FAX AND SO I HANDED HIM A COPY TODAY  
18 AND I DOUBT THAT ANYONE HAD A CHANCE TO REVIEW IT BECAUSE WE  
19 HAVE SUBMITTED -- IT'S ABOUT A HALF INCH OF DOCUMENTS.

20 BASICALLY WHAT IS BEING PROPOSED, YOUR HONOR, IN  
21 THE INTERESTS OF MOVING THE WATERMASTER FORWARD SO THAT THE  
22 COMMUNITY OF INTEREST CAN BE MET.

23 THIS WOULD BE THE MOST RECENT DOCUMENT ENTITLED  
24 "REPLY MEMORANDUM."

25 MR. DOUGHERTY: MAY I INTERRUPT, YOUR HONOR?

26 DID YOU SAY THAT WAS FAXED TO US AT SOME POINT?

27 MS. TRAGER: IT WAS FAXED TO YOUR FIRM YESTERDAY  
28 AFTERNOON AND YESTERDAY EVENING. YOU SHOULD HAVE IT.

1 MR. DOUGHERTY: NOT IF I DIDN'T GO INTO THE OFFICE  
2 THIS MORNING. AND I DON'T HAVE IT.

3 THE COURT: THAT IS THE ONE STARTS OUT "MOVING  
4 PARTY'S REPLY MEMORANDUM OF POINTS AND AUTHORITIES"?

5 MS. TRAGER: YES, YOUR HONOR.

6 MR. GLEASON: YOUR HONOR, FROM METROPOLITAN WE  
7 STAYED THERE UNTIL AT LEAST 5:30 OR SO AND NOTHING CAME INTO  
8 OUR OFFICE BECAUSE WE WERE ANTICIPATING SOMETHING BY 4:30.

9 MR. DOUGHERTY: YOUR HONOR, IF SHE IS GOING TO GO  
10 INTO A DOCUMENT THAT WAS ONLY FAXED TO US LAST NIGHT AFTER I  
11 LEFT MY OFFICE, I WOULD ASK THAT THIS HEARING BE CONTINUED  
12 FOLLOWING ORAL ARGUMENT TODAY BECAUSE -- GIVE US AN  
13 OPPORTUNITY TO RESPOND SHOULD THE COURT BE INCLINED TO GRANT  
14 ANY RELIEF.

15 THE COURT: WE WILL WORRY ABOUT THAT AFTER WE HAVE  
16 HAD THE ARGUMENT. BUT QUITE POSSIBLY WE WILL HAVE TO DO THAT  
17 BECAUSE AN AWFUL LOT OF PAPERS WERE -- THERE WAS A GREAT  
18 FLURRY OF PAPERWORK AT THE LAST MINUTE.

19 AND AS I RECALL, THIS ARRIVED HERE JUST, I  
20 BELIEVE, ON THE STROKE OF 5:00.

21 MS. TRAGER: IT DID.

22 MR. SMITH: I WOULD NOTE, YOUR HONOR, I WAS IN MY  
23 OFFICE THIS MORNING AT 6:00 A.M. AND IT WAS NOT THERE IN MY  
24 MACHINE.

25 THE COURT: OKAY.

26 BUT LET ME QUICK JUST LOOK AT THIS. AND YOU SAY  
27 THIS CONTAINS YOUR OUTLINE?

28 MS. TRAGER: YES, YOUR HONOR.



1 BEGINNING AT PAGE 11.

2 THE COURT: WELL, THE DOCUMENT I'M LOOKING AT HAS  
3 FOUR PAGES. SO SCRATCH THAT.

4 MS. TRAGER: THIS IS THE REPLY.

5 THE COURT: IT SAYS "MOVING PARTY'S REPLY  
6 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR  
7 REVIEW."

8 MS. TRAGER: OF WATERMASTER'S ACTIONS?

9 THE COURT: OF WATERMASTER'S ACTION.

10 MS. TRAGER: AND DECISION REPLY TO WATERMASTER.

11 THERE WERE THREE REPLY MEMORANDUM FILED LAST  
12 NIGHT.

13 THE ONE THAT CONTAINS THE OUTLINE WOULD BE THE ONE  
14 -- THE REPLY TO THE WATERMASTER.

15 THERE'S ALSO ONE TO METROPOLITAN AND ONE TO THE  
16 CITY OF ONTARIO. IT'S THE LONG ONE.

17 THE COURT: OKAY. IS IT BIGGER THAN THAT WAS?  
18 BIGGER THAN THIS?

19 MS. TRAGER: YES.

20 THE COURT: IT DOES HAVE 7 PAGES, 8 PAGES.

21 MS. TRAGER: LAST -- THE LAST TWO -- IT SAYS  
22 "REPLY TO WATERMASTER" IN THE CAPTION AT THE VERY END.

23 MR. DOUGHERTY: DID YOU FAX ALL THREE MEMOS TO ALL  
24 THREE PARTIES?

25 MS. TRAGER: ALL THREE MEMOS TO ALL THREE PARTIES.  
26 I AM NOT SURE THAT ALL THE ADDENDUMS -- APPENDICES TO THE THREE  
27 MEMOS WENT, BUT THE DECLARATION WENT.

28 MR. DUBIEL: YOUR HONOR, ON BEHALF OF THE STATE OF

1 CALIFORNIA, WE ALSO REPRESENT APPROXIMATELY EIGHT HUNDRED  
2 AGRICULTURAL PEOPLE.

3 AND ALTHOUGH WE DIDN'T REPLY, THERE IS NO  
4 PROVISION IN THE JUDGMENT THAT WE SHOULDN'T BE NOTICED ON  
5 EVERYTHING.

6 AND WE'D APPRECIATE THAT WHOEVER THE ATTORNEYS  
7 ARE, EITHER FOR THE MOTION OR AGAINST THE MOTION, SERVE ALL  
8 PARTIES BECAUSE WE DON'T KNOW WHAT COMES ON IN THESE MOTIONS  
9 AND WE MAY WISH TO COME IN ON SOMETHING TO THIS NATURE.

10 MS. TRAGER: YOUR HONOR, WE BEGAN SERVICE BY MAIL  
11 OF ALL OF THESE PAPERS LAST NIGHT IN THE OFFICE.

12 NOT EVERYONE COULD BE FAXED. I HAD ONE FAX MACHINE  
13 AND CAN ONLY SEND THINGS OUT ONE SHEET AT A TIME.

14 THE COURT: SURE.

15 MS. TRAGER: BUT THEY ARE SERVED AND WE FILED WITH  
16 THE LOCAL COURT RULES IN OUR REPLY MEMORANDUM.

17 THE COURT: I DON'T SEE -- I SEE SEVERAL REPLY  
18 MEMOS, BUT NOTHING THAT APPEARS TO BE A LONG DOCUMENT.

19 MS. TRAGER: OKAY. WE FILED A REPLY TO THE  
20 WATERMASTER, TO THE WATERMASTER'S OPPOSITION.

21 WE FILED A REPLY TO ONTARIO'S OPPOSITION.

22 ONE TO METROPOLITAN'S OPPOSITION.

23 THE COURT: WHICH ONE IS IT YOU ARE TALKING ABOUT  
24 HERE?

25 MS. TRAGER: I'M TALKING ABOUT THE WATERMASTER'S  
26 OPPOSITION.

27 THE COURT: I HAVE MOVING PARTY'S REPLY MEMORANDUM  
28 OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR MOTION FOR

1 REVIEW OF WATERMASTER ACTIONS AND DECISIONS, REPLY TO THE CITY  
2 OF ONTARIO.

3 MS. TRAGER: THERE IS --

4 THE COURT: THAT'S NOT --

5 MS. TRAGER: THAT'S NOT IT.

6 THE COURT: REPLY TO METROPOLITAN. THAT'S NOT IT.

7 I REALLY HAVEN'T HAD A CHANCE TO ORGANIZE THIS TO  
8 WHERE I CAN FIND IT WITH ANY ALACRITY.

9 REPLY MEMORANDUM -- REPLY TO METROPOLITAN'S  
10 RESPONSE.

11 THAT'S NOT IT.

12 REPLY MEMORANDUM -- REPLY TO OPPOSITION OF  
13 METROPOLITAN AND WATERMASTER.

14 MS. TRAGER: YOUR HONOR, I HAVE AN EXTRA COPY.

15 THE COURT: HOW THICK IS IT?

16 MS. TRAGER: HOW MANY --

17 THE COURT: HOW MANY PAGES IS IT?

18 MS. TRAGER: 15 PAGES, YOUR HONOR.

19 THE COURT: OKAY. WELL --

20 MR. DOUGHERTY: YOUR HONOR, ON BEHALF OF ONTARIO,  
21 I'M NOT REALLY PREPARED TO SIT HERE AND BRIEF THROUGH AN  
22 OPPOSITION AT THIS POINT AND ADDRESS IT IN DETAIL.

23 THE COURT: WELCOME TO THE CLUB. NEITHER AM I.

24 BUT ANYWAY LET'S GO AHEAD AND SORT OF LAY THE ORAL  
25 GROUNDWORK AND WE MAY HAVE TO PUT THIS OVER TO A TIME WHEN WE  
26 CAN DIGEST ALL OF THIS AND SEE IF THERE IS -- WHAT I  
27 OBVIOUSLY WOULD HOPE THAT SOMETHING COULD BE WORKED OUT IN THE  
28 WAY OF AN AGREEMENT THAT WOULD NOT SATISFY EVERYBODY BUT AT

1 LEAST BE A STEP FORWARD FROM EVERYBODY'S POINT OF VIEW.

2 WITHOUT REALLY HAVING HAD A CHANCE TO GO OVER ALL  
3 OF THIS AND UNDERSTAND EXACTLY WHAT YOUR COMPLAINTS ARE, JUST  
4 SPEAKING IN GENERAL AND HISTORICALLY, IT IS NOT AT ALL UNUSUAL  
5 FOR AN AGENCY OF THIS SORT TO GET TO WHERE IT'S DOING THINGS  
6 IN A LESS THAN IDEAL FASHION.

7 AND IT'S NOT AT ALL UNUSUAL FOR THE ECONOMICS OF  
8 THE MAJOR BLOCKS OF PEOPLE INVOLVED TO DICTATE HOW A THING IS  
9 RUN SO THAT IT'S NOT FOR THE LONG RANGE BEST INTERESTS OF  
10 EVERYBODY, EVEN FOR THOSE WHO ARE ECONOMICALLY POWERFUL.

11 AND SOMETIMES SOMEBODY DOES HAVE TO BE A LITTLE  
12 BIT OF A GADFLY TO CALL THAT TO THE ATTENTION OF ALL OF THE  
13 PARTIES AND TO GET THE THING BACK ON THE TRACT AND TO TAKE A  
14 LONGER RANGE VIEW.

15 I DON'T KNOW THAT THAT'S TRUE IN THIS CASE AT  
16 ALL.

17 I'M JUST SAYING HISTORICALLY THAT'S NOT AT ALL  
18 UNCOMMON.

19 YOU WANT TO SAY SOMETHING?

20 MR. DUBIEL: YES, YOUR HONOR.

21 MAYBE TO HELP THE COURT SET UP A PROCEDURE, MAYBE  
22 IT MIGHT BE ADVISABLE TO HAVE -- ORDER ALL THESE PARTIES TO  
23 MEET WITHIN THE NEXT WEEK OR TWO, GET DOWN -- AND THEN BRING  
24 IN A DOCUMENT TO THIS COURT THAT SETS OUT WHAT EACH PARTY'S  
25 POSITION IS, WHAT ARE THE ISSUES, SO THAT THE COURT CAN FOLLOW  
26 IT WITHOUT -- AND GIVE, YOU KNOW, GIVE AN ENTIRE DOCUMENT.

27 NOW, WE'D BE GLAD TO PROVIDE THE NUCLEUS FOR IT,  
28 THE STATE OF CALIFORNIA, AND TYPE UP SUCH A DOCUMENT SO THAT

1 WE CAN GIVE THE ACTUAL ISSUES AND MAYBE THE POINTS AND MAYBE  
2 EVERYTHING CAN BE HANDLE -- MAYBE ONE POINT CAN BE BROUGHT TO  
3 THE COURT'S ATTENTION OR TWO POINTS CAN BE BROUGHT TO THE  
4 COURT IN THAT TYPE OF MANDATORY ORDER.

5 I JUST SUGGEST THAT.

6 THE COURT: THAT WOULD BE VERY HELPFUL TO THE  
7 COURT.

8 I AM GOING TO HAVE TO PUT THIS OVER UNTIL WE HAVE  
9 ALL HAD A CHANCE TO LOOK AT ALL THESE PAPERS.

10 WHAT'S GOING TO HAPPEN RIGHT NOW IS THE  
11 WATERMASTER'S GOING TO BE EXTREMELY DEFENSIVE AND IS GOING TO  
12 BE AUTOMATICALLY RESISTING LIKE CRAZY ANYTHING THAT'S BEING  
13 PROPOSED, GOOD OR BAD.

14 I THINK IF WE TOOK SOME TIME TO GO OVER THIS, IT  
15 MIGHT VERY WELL BOIL DOWN TO THE FACT THAT THERE'S REALLY JUST  
16 TWO OR THREE THINGS THAT HAVE TO BE DONE TO SATISFY THE MOVING  
17 PARTIES AND THAT MAYBE THOSE ARE LEGITIMATE THINGS.

18 I DON'T KNOW IF THIS IS TRUE, BUT MAYBE THEY ARE.

19 AND THAT IF IT COULD BE AGREED THAT CERTAIN THINGS  
20 WOULD BE DONE AND WE WOULD PUT THE MATTER OVER FOR SIX MONTHS  
21 TO BE SURE THEY WERE DONE, SOMETHING OF THE SORT, THAT WE  
22 COULD GET THE THING GOING IN A DIRECTION THAT WOULD BRING  
23 COMFORT TO THE MOVING PARTIES AND PERHAPS IN THE LONG RANGE  
24 CREATE A MUCH BETTER ADMINISTRATION OF THE DISTRICT.

25 I DON'T KNOW, BUT THAT WOULD BE A POSSIBILITY.

26 MR. DOUGHERTY: WELL, YOUR HONOR, SPEAKING ON  
27 BEHALF OF ONTARIO, CERTAINLY WE ARE WILLING TO DISCUSS  
28 ANYTHING AT ANY TIME WITH THE MOVING PARTIES AND OTHER

1 PARTIES.

2                   HOWEVER, ANY CONTINUANCE IN THE NATURE OF SIX  
3 MONTHS OR MORE OR EVEN FOR THAT MATTER TWO MONTHS OR MORE  
4 COULD HAVE SERIOUS ADVERSE CONSEQUENCES FOR ONTARIO,  
5 PARTICULARLY I'M REFERRING TO THE PROPOSED EXCHANGE AGREEMENT  
6 WITH MET AND THE PROPOSED LOCAL STORAGE AGREEMENT OF TEN  
7 THOUSAND ACRE FEE.

8                   THE TIME TO GET OUR WATER FOR THIS YEAR TAKEN CARE  
9 OF IS NOW.

10                   THE COURT: WHAT IS THE STATUS OF THAT PENDING  
11 AGREEMENT?

12                   MR. DOUGHERTY: IT'S SORT OF SITTING THERE PENDING  
13 THIS MOTION DETERMINATION.

14                   AND WE REALLY NEED TO HAVE A DETERMINATION BY THE  
15 COURT REGARDING THESE ITEMS IN ORDER TO GO AHEAD.

16                   MR. SMITH: ON BEHALF OF WATERMASTER, YOUR HONOR,  
17 I WOULD NOTE THAT THE JUDGMENT DOES PROVIDE FOR A NUMBER OF  
18 INTERMEDIARY STEPS PRIOR TO THE ADOPTION OF A BUDGET FOR ANY  
19 NEW FISCAL YEAR.

20                   IN THE WATERMASTER OPERATIONS, THE TIME FOR  
21 COMMENCING THAT BUDGETARY PROCESS FOR THE YEAR WHICH COMMENCES  
22 JULY 1ST OF THIS YEAR IS FEBRUARY.

23                   THE BUDGETS -- PROPOSED BUDGETS ARE NORMALLY RUN  
24 THROUGH THE SEPARATE COMMITTEES IN THEIR MARCH OR APRIL  
25 MEETINGS.

26                   AND THEY USUALLY MEET ON A QUARTERLY BASIS, AS  
27 DOES THE WATERMASTER.

28                   IT TAKES TIME TO PREPARE THE BUDGET. TAKES TIME

1 TO PLAN THE MAJOR PURCHASES AND TO CIRCULATE ALL OF THE  
2 DOCUMENTATION BEFORE ALL OF THE PARTIES AND HAVE ALL THE  
3 NECESSARY MEETINGS AND PROPER NOTICE, BECAUSE WE DO HAVE A  
4 FISCAL YEAR CONSTRAINT LOOKING AT US. DIRECTLY, WE WOULD ASK  
5 THAT THIS BE MOVED FORWARD AS QUICKLY AS POSSIBLE.

6 MR. DUBIEL: YOUR HONOR, MY PROPOSAL WOULD BE THAT  
7 WE MEET NEXT WEEK WITH THE ATTORNEYS, SET THIS ALL OUT.  
8 WITHIN TWO WEEKS COME BACK TO THE COURT.

9 I THINK WHAT THE COURT IS TALKING ABOUT IS  
10 ORDERING US NOW -- WOULD BE COMING BACK TO THE COURT AND  
11 SAYING, "OKAY. THESE ARE THE ISSUES."

12 AND YOU KNOW, ONE PARAGRAPH OR HALF PARAGRAPH  
13 SAYING WE NEED ORDERS ON THIS.

14 IN OTHER WORDS, THERE IS -- LIKE THE WITHHOLDING  
15 OF MONEY.

16 WHAT HAS TO BE DONE WITH THAT MONEY. WHAT HAS TO  
17 BE DONE HERE.

18 SO THAT ALL THE PARTIES CAN SAY THESE ISSUES HAVE  
19 GOT TO BE DECIDED, THESE ISSUES DON'T HAVE TO BE DECIDED. AND  
20 THE LENGTH OF TIME.

21 I'M ONLY PROPOSING THAT THIS TYPE OF A THING BE  
22 SET UP FOR AT LEAST, YOU KNOW, ONE WEEK NEXT WEEK AND THEN  
23 MEET BACK IN COURT.

24 IN OTHER WORDS, NO GREAT DELAY.

25 THE COURT: THE SIX MONTHS THING I HAD IN MIND WAS  
26 BASED UPON THE FACT THAT MISS TRAGER -- AND SHOULD MENTION  
27 THAT THEY ARE COMPLAINING ABOUT NO SOCIOECONOMIC STUDY, THE  
28 E.R.I. OF METROPOLITAN HASN'T BEEN FINALIZED.

1           SOME SORT OF AN OPTIMUM BASIN MANAGEMENT PROGRAM.  
2 THINGS LIKE THAT CAN'T BE DONE IN TWO WEEKS.

3           MR. DOUGHERTY: GRANTED, YOUR HONOR, THAT THOSE  
4 THINGS CANNOT BE DONE IN TWO WEEKS.

5           BUT I UNDERSTAND THOSE THINGS ARE ON THE WAY.

6           TALKING ABOUT THINGS THAT ARE NOT REALLY AFFECTED  
7 BY THE SOCIOECONOMIC STUDY. THAT STUDY ONLY GOES TO WHAT THE  
8 ASSESSMENT FORMULA MAY BE MODIFIED TO, IF THERE IS A  
9 MODIFICATION AT ALL.

10          AND IF THERE IS A MODIFICATION, IT CAN ONLY BE  
11 DONE SO ON A 67 PERCENT WEIGHTED VOTE OF THE APPROPRIATIVE  
12 POOL.

13          SOCIOECONOMIC STUDY I DO NOT THINK IN ANY WAY  
14 AFFECTS WATER QUALITY.

15          AS FAR AS THIS OPTIMUM BASIN PLAN, WHATEVER THAT  
16 MAY BE, IT'S NEVER BEEN DEFINED FOR US BY THE MOVING PARTIES,  
17 WHAT THEY THINK IT OUGHT TO BE.

18          CERTAINLY HAS NO AFFECT -- OR SHOULD HAVE NO  
19 AFFECT ON WHAT WE ARE TALKING ABOUT IN THE WAY OF A VERY  
20 MINUSCULE EXCHANGE AGREEMENT, SIX THOUSAND ACRE FEE WITH MET  
21 AND A TEN THOUSAND ACRE FEE STORAGE AGREEMENT.

22          PARTICULARLY WITH TWO OF THE PARTIES. BOTH  
23 WATERWORKS 8 AND CHINO HAVE ALREADY ENTERED INTO STORAGE  
24 AGREEMENTS WITH THE WATERMASTER. STORAGE AGREEMENTS -- AND  
25 WATERWORKS 8 AT LEAST HAS OVER TEN THOUSAND ACRE FEE ITSELF IN  
26 STORAGE.

27          WE DO NOT BELIEVE THAT THOSE ISSUES SHOULD BE HELD  
28 UP PENDING THE SOCIOECONOMIC STUDY OR WHATEVER THIS OPTIMUM



1 BASIN STUDY PLAN TURNS OUT TO BE.

2 THE COURT: LET ME ASK THIS: IS THERE ANY OF THE  
3 PROBLEMS WHICH THEY ARE TALKING ABOUT THAT CAN BE FOR THE  
4 MOMENT SET ASIDE SO THE THINGS CAN GO AHEAD?

5 YOU CAN HAVE YOURSELF A MEETING.

6 YOU CAN COME BACK HERE IN TWO OR THREE WEEKS. I'LL  
7 SET ASIDE A HALF DAY AGAIN.

8 MR. DOUGHERTY: BE MORE THAN HAPPY TO HAVE A  
9 MEETING AND COME BACK IN TWO OR THREE WEEKS AND SEE WHAT WE  
10 CAN DO.

11 BUT I WOULD CERTAINLY RESIST PUTTING THESE VITAL  
12 ISSUES OFF FOR A LONGER PERIOD OF TIME.

13 THE COURT: NO, NO.

14 I WANT TO HAVE YOU BACK RIGHT AWAY.

15 WE DO HAVE TO GIVE YOU A CHANCE TO READ ALL THIS  
16 STUFF THAT'S BEEN --

17 MR. DOUGHERTY: -- FAXED TO US.

18 THE COURT: -- SENT ABOUT.

19 AND YOU HAVE TO GET YOURSELF ORGANIZED AMONG  
20 YOURSELVES AS TO WHAT WE ARE REALLY ARGUING ABOUT AND FIND OUT  
21 WHAT EACH PERSON REALLY WANTS FROM THIS COURT.

22 MR. DUBIEL: YOUR HONOR, IN WHATEVER YOU DO, I  
23 SUGGEST YOU PUT ORDERS AGAINST THE INDIVIDUALS SO THAT THEY  
24 ARE THERE. YOU KNOW, IF THEY WANT TO. SO THERE ARE SPECIFIC  
25 DATES WITH ORDERS ON MEETINGS.

26 MS. TRAGER: I WOULD WELCOME THE TYPE OF GUIDANCE  
27 THAT YOU ARE GIVING RIGHT NOW.

28 I THINK AFTER THE WATERMASTER AND OPPOSING PARTIES

1 HAVE AN OPPORTUNITY TO REVIEW THE DOCUMENTS THAT HAVE BEEN  
2 PREPARED IN RESPONSE TO THEIR OWN DOCUMENTS, I THINK THEY MAY  
3 VIEW THIS A LITTLE DIFFERENTLY.

4 I THINK IT WOULD BE GOOD TO BE BACK AND TO REPORT  
5 TO THIS COURT AS TO THE PROGRESS THAT'S BEING MADE IN TWO  
6 WEEKS.

7 I WOULD ALSO LIKE YOU TO ORDER US TO RETURN IN SIX  
8 MONTHS AS TO THE PROGRESS ON THE DEVELOPMENT OF THE  
9 SOCIOECONOMIC STUDY.

10 THE COURT: WORRY ABOUT THAT WHEN WE COME BACK IN  
11 TWO WEEKS.

12 RIGHT NOW I DON'T KNOW WHETHER I WANT YOU BACK IN  
13 SIX MONTHS, BUT WE CAN FIND OUT IN A COUPLE OF WEEKS WHEN WE  
14 SEE WHAT THE ISSUES REALLY ARE.

15 MR. DOUGHERTY: YOUR HONOR, I AM PREPARED TO MEET  
16 ANY DAY OF THE WEEK NEXT WEEK, BUT TUESDAY AND WEDNESDAY UPON  
17 WHICH I HAVE DEPOSITIONS SCHEDULED.

18 THE COURT: OKAY. DO YOU HAVE ANY SUGGESTIONS AS TO  
19 WHERE YOU MIGHT MEET AND WHEN YOU MIGHT MEET?

20 MR. DUBIEL: WE CAN PROVIDE SECRETARIAL STAFF FOR  
21 THAT MEETING IN OUR OFFICE.

22 I KNOW MR. GLEASON COULD DO SO.

23 MR. GLEASON: WE CAN MEET AT OUR OFFICES, IF THAT  
24 WOULD BE ACCEPTABLE TO EVERYONE.

25 MR. DUBIEL: THE AGENCIES CAN PROVIDE THAT.

26 THE COURT: WHERE'S THE METROPOLITAN WATER --

27 MR. GLEASON: THAT'S IN LOS ANGELES. PERHAPS --  
28 WELL, AS LONG AS WE DON'T MEET AT 9 O'CLOCK SO I'M CAUGHT IN

1 GRID LOCK.

2 MR. DUBIEL: WE CAN START AT 7:00, IF YOU'D LIKE.

3 THE COURT: WOULD IT BE EASIER FOR YOU TRAFFIC WISE  
4 AND ALL THAT TO MEET IN THE WEST END OF THIS COUNTY, LIKE  
5 ONTARIO?

6 MR. DOUGHERTY: WE WOULD BE MORE THAN HAPPY TO  
7 OFFER OUR CONFERENCE ROOM. ONTARIO IS CENTRALLY LOCATED.

8 MS. TRAGER: OR WE COULD HAVE IT AT CHINO.

9 MR. DUBIEL: THAT'S FINE.

10 THE COURT: THE CITY?

11 THE WATERMASTER: SURE.

12 MR. DUBIEL: THE CITY.

13 MR. SMITH: THE CITY.

14 MR. DOUGHERTY: OR WE COULD HAVE IT AT THE  
15 WATERMASTER HEADQUARTERS THERE, THE CONFERENCE ROOM.

16 THE COURT: DOES THE WATERMASTER HEADQUARTERS HAVE  
17 A CONFERENCE ROOM BIG ENOUGH, COMFORTABLE ENOUGH? DO YOU HAVE  
18 THE FACILITIES YOU NEED THERE IN THE WAY OF SECRETARIAL  
19 SERVICES OR WHATEVER?

20 THE WATERMASTER: YES, WE DO.

21 THE COURT: IS THAT AGREEABLE?

22 MS. TRAGER: THAT'S AGREEABLE.

23 MR. DOUGHERTY: MEET EITHER THURSDAY OR FRIDAY OF  
24 NEXT WEEK?

25 MR. DUBIEL: FRIDAY I HAVE MEETINGS.

26 THE COURT: HOW ABOUT THURSDAY OF NEXT WEEK?

27 LET'S SEE. TODAY IS THE 8TH OF FEBRUARY. THAT  
28 WOULD BE THE 16TH OF FEBRUARY.

1 MR. DOUGHERTY: 10 O'CLOCK?

2 THE COURT: ALL RIGHT. THEN YOU WILL MEET ON  
3 THURSDAY, THE 16TH OF FEBRUARY, AT 10 O'CLOCK IN THE MORNING.

4 MR. DUBIEL: ALL RIGHT.

5 THE COURT: ALL RIGHT. AT 10 O'CLOCK IN THE  
6 MORNING AT THE OFFICE OF THE WATERMASTER IN -- THAT'S IN  
7 CHINO, IS IT?

8 THE WATER MASTER: YES -- NO. IN RANCHO  
9 CUCAMONGA.

10 THE COURT: ALL RIGHT.

11 DO YOU KNOW WHERE THAT IS?

12 MS. TRAGER: WE DO, YOUR HONOR. COULD YOU GIVE US  
13 SOME CLARIFICATION ON WHAT KIND OF NOTICE NEEDS TO BE SERVED  
14 ABOUT THIS MEETING?

15 THE COURT: ON WHAT?

16 MS. TRAGER: WHAT KIND OF NOTICE YOU WOULD HAVE US  
17 SERVE ABOUT THIS MEETING?

18 MR. DOUGHERTY: I WOULDN'T THINK THERE WOULD BE  
19 ANY REQUIREMENT FOR NOTICE, YOUR HONOR. ANY PARTY THAT WOULD  
20 HAVE BEEN INTERESTED IN APPEARING TODAY IS HERE.

21 MR. DUBIEL: THIS IS JUST A CONTINUATION OF THESE  
22 PROCEEDINGS.

23 THE COURT: THAT'S RIGHT.

24 NOTICE WAS PROPERLY GIVEN OF THIS MEETING.

25 NOW, THIS IS JUST MY DIRECTING YOU TO GET TOGETHER  
26 AND CONFER AMONG YOURSELVES AND I DON'T THINK YOU NEED TO GIVE  
27 ANY NOTICE.

28 MR. DOUGHERTY: THAT'S RIGHT.

1 THE COURT: IF YOU WANT TO TELL YOUR CLIENTS ABOUT  
2 IT.

3 MR. DUBIEL: COULD WE HAVE A DATE THE FOLLOWING  
4 WEEK, YOUR HONOR, TO REPORT BACK, OR THE WEEK AFTER?

5 THE COURT: NOW, HOW MUCH TIME DO YOU WANT AFTER  
6 THAT MEETING TO SORT OF GET YOUR PAPERWORK TOGETHER BEFORE YOU  
7 COME BACK?

8 MR. DUBIEL: LET'S SEE. WE ARE TALKING ABOUT THE  
9 16TH.

10 CAN WE HAVE IT AROUND MARCH 1ST, YOUR HONOR?

11 MR. DOUGHERTY: PERHAPS -- YES, THAT WOULD BE --

12 MR. DUBIEL: THAT WOULD GIVE US TIME TO DO THE  
13 PAPERWORK.

14 THE COURT: I THINK THAT'S ALL RIGHT, ISN'T IT?

15 I THINK MARCH 1ST AT 9:30 IN THE MORNING BE WOULD  
16 BE GOOD. JUST SET ASIDE THE MORNING.

17 ALL RIGHT.

18 BE BACK HERE THEN WEDNESDAY, MARCH 1ST, 9:30 IN  
19 THE MORNING AND WE WILL SET ASIDE THE WHOLE MORNING FOR  
20 ANYTHING FURTHER.

21 NOW --

22 MR. DUBIEL: CAN WE HAVE ONE OTHER THING. ALL  
23 PAPERS ARE TO BE FILED WITH THE COURT BY FEBRUARY 27TH?

24 OR WOULD YOU WANT THEM EARLIER, YOUR HONOR?

25 THE COURT: CAN YOU GET THEM TO ME BY THE CLOSE OF  
26 BUSINESS ON THE 24TH?

27 THAT WILL GIVE ME THE WEEKEND TO LOOK OVER THEM.

28 MR. DUBIEL: YES, YOUR HONOR. WE WILL.

1 THE COURT: OBVIOUSLY, WHAT I AM VERY MUCH  
2 INTERESTED IN IS EACH ONE OF YOU SORT OF SUMMARIZE, SOMETHING  
3 THAT I CAN JUST PICK UP WITHOUT THUMBING THROUGH A WHOLE STACK  
4 OF PAPERS, SUMMARIZATION OF THE HISTORY OF THE PROBLEM AS YOU  
5 SEE IT AND THE ISSUES AS YOU SEE THEM AND THE SOLUTIONS AS YOU  
6 SEE THEM.

7 AND I WILL READ EACH ONE OF YOUR DOCUMENTS AND  
8 THEN I'LL HAVE A PRETTY GOOD IDEA OF THE DIFFERENCES THAT YOU  
9 HAVE ABOUT THE HISTORY LEADING UP TO IT AND WHAT THE PROBLEMS  
10 ARE AND WHAT THE SOLUTIONS SHOULD BE.

11 AND THEN I'LL LISTEN TO YOUR ARGUMENTS AND GIVE  
12 YOU WHATEVER ORDERS ARE NECESSARY AT THE TIME.

13 MR. DUBIEL: FINE.

14 THE COURT: FAIR ENOUGH?

15 OKAY. THANK YOU VERY MUCH.

16 MR. SMITH: ONE QUESTION. CLARIFICATION ON THOSE  
17 PAPERS.

18 SHOULD THEY BE SELF-CONTAINED PAPERS? CAN WE MAKE  
19 ANY REFERENCE TO ANY DOCUMENTS FILED IN THIS PROCEDURE?

20 THE COURT: SHOULD BE SELF-CONTAINED PAPERS.

21 MR. SMITH: THANK YOU.

22 THE COURT: IDEA IS I WANT TO PICK UP SOMETHING  
23 FROM EACH ONE OF YOU AND READ IT AND BE THROUGH WITH YOU AND  
24 GO ON TO THE NEXT PERSON.

25 AND WHEN YOU GET YOUR STUFF INTO ME ON THE 27TH,  
26 WHY, THERE IS SOME WAY YOU CAN ALSO GET IT TO EACH OTHER?

27 MR. DUBIEL: 24TH, YOUR HONOR. NOT THE 27TH.

28 THE COURT: I'M SORRY. I WAS LOOKING AT THE WRONG

1 -- YES. THE 24TH. IT IS FRIDAY, THE 24TH.

2 MR. DOUGHERTY: BY PERSONAL SERVICE ON ALL COUNSEL  
3 PRESENT NOT LATER THAN CLOSE OF BUSINESS ON THE 27TH.

4 MR. DUBIEL: 24TH.

5 THE COURT: 24TH.

6 MR. DOUGHERTY: 24TH. OKAY.

7 THE COURT: I'M SORRY. CLOSE OF BUSINESS ON THE  
8 24TH.

9 THAT WILL GIVE YOU ALL THEN THAT WEEKEND AND THE  
10 NEXT FEW DAYS TO KIND OF GO OVER IT AND THINK OVER THE OTHER  
11 PERSON'S POSITION.

12 VIEW THE WHOLE THING FROM A HEALING POINT OF VIEW.  
13 SEE IF THERE IS SOME WAY THAT YOU CAN WORK THINGS OUT TO  
14 SATISFY THE NEEDS OF EVERYBODY INVOLVED IN THIS THING WITHOUT  
15 GREATLY TROUBLING YOURSELVES, WITHOUT MUCH DETRIMENT TO YOUR  
16 OWN CLIENTS.

17 ANYTHING THAT CAN BE DONE, WHY, OBVIOUSLY YOU  
18 PEOPLE HAVE TO LIVE TOGETHER AND WORK TOGETHER FOR A LONG TIME  
19 AND THIS WATER BASIN'S GOING TO BE GOOD OR BAD OR INDIFFERENT  
20 IN THE FUTURE, DEPENDING ON HOW WELL IT'S MANAGED.

21 I'M NOT AT ALL INTERESTED IN YOUR PAPERS IN HAVING  
22 YOU TELL ME WHAT A JERK THE OTHER PERSON IS. THAT'S NO HELP AT  
23 ALL.

24 OKAY. SEE YOU THEN.

25 MR. DUBIEL: THANK YOU, YOUR HONOR.

26 MR. SMITH: YOUR HONOR, WE ALSO DEFER THE  
27 WATERMASTER REPORT APPROVAL UNTIL THAT TIME?

28 THE COURT: I'M SORRY?

1 MR. SMITH: ARE WE ALSO DEFERRING THE APPROVAL OF  
2 THE WATERMASTER --

3 THE COURT: YES. ALL ISSUES ARE CONTINUED TO THAT  
4 TIME.

5 (WHEREUPON THESE PROCEEDINGS WERE CONTINUED TO  
6 MARCH 1, 1989, AT 9:30 AM, IN THIS DEPARTMENT.)

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

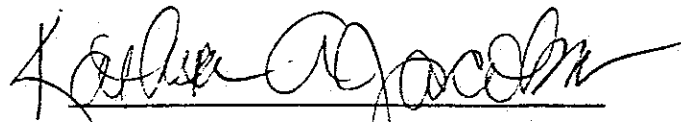
CHINO WATER DISTRICT, )  
 )  
 PLAINTIFF, )  
 )  
 VS. )  
 )  
 CITY OF CHINO, ) SCV-164-327  
 )  
 DEFENDANT. )

REPORTER'S CERTIFICATE

I, KATHERINE A. JACOBSEN, C.S.R, AN OFFICIAL  
REPORTER OF THE SUPERIOR COURT, DO HEREBY CERTIFY:

THAT I AM A CERTIFIED SHORTHAND REPORTER OF THE  
STATE OF CALIFORNIA, DULY LICENSED TO PRACTICE (4012); THAT  
I DID REPORT IN STENOTYPE ORAL PROCEEDINGS HAD UPON HEARING  
OF THE AFOREMENTIONED CAUSE AT THE TIME AND PLACE  
HEREINBEFORE SET FORTH; THAT THE FOREGOING PAGES NUMBERED 1  
TO 46 CONSTITUTE TO THE BEST OF MY KNOWLEDGE AND BELIEF  
A FULL, TRUE AND CORRECT TRANSCRIPTION FROM MY SAID  
SHORTHAND NOTES SO TAKEN ON FEBRUARY 8, 1989.

DATED AT SAN BERNARDINO, CALIFORNIA, THIS 10TH  
DAY OF FEBRUARY, 1989.

  
OFFICIAL REPORTER (C-4012)