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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

DEPT. R8

HONORABLE J. MICHAEL GUNN, JUDGE

CHINO BASIN MUNICIPAL
WATER DISTRICT,

PLAINTIFF,

VS.

CITY OF CHINO,

DEFENDANT.

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RCV 51010

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS
MONDAY, AUGUST 27, 2007

COPY

REPORTED BY:

GAIL GREENLEE, C-8647
OFFICIAL REPORTER

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CHINO BASIN **SANDRA S. ROSE**
WATERMASTER BOARD: **CHARLES FIELD**
SHERI ROJO
SANDRA S. ROSE

MONTE VISTA **MARK KINSEY**
WATER DISTRICT:

REPORTED BY: **GAIL GREENLEE**, C-8647
OFFICIAL REPORTER

1 RANCHO CUCAMONGA, CALIFORNIA; MONDAY, AUGUST 27, 2007

2 P.M.

3
4 DEPT. R8

HONORABLE J. MICHAEL GUNN, JUDGE

5
6 APPEARANCES: SET FORTH ON APPEARANCE PAGES.

7 (GAIL GREENLEE, C-8647, OFFICIAL REPORTER)

8 ---###---

9 THE COURT: Okay. Let's go on the record in the
10 matter of City of -- Well, it's RCV 51010, Watermaster case.
11 There's a motion to continue a hearing set up for
12 September 13th.

13 Let's get everybody's name for the record. And then
14 I will hear from anybody that wishes to be heard. I yesterday
15 wrote a tentative. I've had certain discussions with -- okay.

16 MS. SCHURR: Judith Schurr, research attorney for
17 special referee.

18 MR. FIFE: Michael Fife, general counsel, Chino Basin
19 Watermaster.

20 MR. SLATER: Scott Slater, general counsel, Chino
21 Basin Watermaster.

22 MR. ERICKSON: Jim Erickson of counsel for the city
23 attorney of Chino.

24 MR. HENSLEY: Mark Hensley, attorney for the City of
25 Chino Hills.

26 MS. CALCIANO: Elizabeth Calciano, City of Chino
27 Hills.

28 MR. HILL: Boyd Hill, Monte Vista Water District.

1 THE COURT: Okay.

2 MS. SCHNEIDER: Anne Schneider by phone, special
3 referee.

4 THE COURT: Okay. Even though they are not
5 attorneys, I have always put on the record who was present in
6 the audience. So let's start either right or left here.

7 MR. FIELD: Charles Field. I'm a member of the Board
8 of the Chino Basin Watermaster, retired judge.

9 THE COURT: Okay.

10 MR. MANNING: Ken Manning, CEO of Chino Basin
11 Watermaster.

12 MS. ROJO: Sheri Rojo, assistant general manager,
13 Chino Basin Watermaster.

14 MS. ROSE: Sandra Rose, member, Chino Basin
15 Watermaster board.

16 MR. KINSEY: Mark Kinsey, Monte Vista Water District.

17 THE COURT: All right. You've read the Intended.
18 First of all, let's hear from the moving party. I think that
19 was you, Mr. Hensley; right?

20 MR. HENSLEY: Yes, Your Honor. In discussion with
21 Watermaster's counsel, I think the parties are ready to
22 stipulate to the order with requests that the dates be
23 generally moved out fourteen days. And Mr. Slater wanted to
24 address that.

25 MR. SLATER: Yes, Your Honor, if I might. Subject to
26 the referee and special assistant's availability, our general
27 thesis is that we can accommodate Chino Hills' motion by
28 bumping dates on the Intended Order by two weeks. And to begin

1 with, if we look at Arabic 2 on Page 2 of the Court's Intended
2 Order.

3 THE COURT: Anybody have a copy of my Order? Here we
4 go. I have the original right here. Okay.

5 MR. SLATER: We would propose that the Special
6 Referee Workshop be concluded no later than October 12th, in
7 substitution for the date of September 27, 2007. That's
8 intended to allow the parties a little more time to get ready
9 for the Workshop and to accommodate a vacation schedule of
10 Mr. Manning who's planning to leave the next day. So our
11 intent was --

12 THE COURT: The next day from what?

13 MR. SLATER: From, he's leaving October 13th.

14 MR. MANNING: Yes, for Europe.

15 MR. SLATER: For Europe.

16 THE COURT: Uh-huh.

17 MR. SLATER: So we would like to complete that
18 workshop no later than 10-12. And then if we did that, Your
19 Honor, we would want to move each of the affected dates by two
20 weeks contained in Arabic 3, Arabic 4. And so those new dates
21 would be, if acceptable again to the Court, and to the referee,
22 in Line 14 in Arabic 3, we would propose October 19; in Line
23 15, substitute the date of November 2nd for October 20. Then
24 in Lines 16 and 17 -- or actually 17, substitute the date of
25 the revised hearing date for September 27th. Then the
26 evidentiary workshop by October 25, 2007. In line 18, comments
27 or objections to the report are to be filed no later than
28 November 8, 2007.

1 So that would be the list of the proposed dates,
2 again subject to the availability of the referee and in the
3 Court's discretion.

4 This does create an issue we would like to address
5 regarding the timing of the now presently-scheduled motion in
6 November for a court hearing on the Peace documents, Peace II
7 Measures. And I think Mr. Fife would like to address some of
8 those scheduling issues.

9 THE COURT: He wants it coterminous. I read that
10 word so many times.

11 MR. FIFE: And I don't know, Your Honor, would you
12 like to address these revised dates first before we move on to
13 this next issue?

14 THE COURT: Yeah, I think we should. I was
15 listening, and you said Mr. Manning is going to Europe which,
16 you know, I'll try to accommodate him on it. But you said he's
17 going October 13, and you want him to move the dates back. So
18 how is that a reason to move the dates?

19 MR. SLATER: No. I am saying it was a reason, Your
20 Honor, not to move it further. We are trying to accommodate a
21 request from the moving party, and we are comfortable in moving
22 it two weeks but not more. That will be a way of stating it.
23 So the presently-scheduled date is September 27th. We would be
24 willing to accommodate that by extending it no later than
25 October 12. That was the offer.

26 THE COURT: Another thing, is Dennis Williams going
27 to be making a report?

28 MR. HENSLEY: He is.

1 THE COURT: Are you going to be sharing that?

2 MR. HENSLEY: Yes, Your Honor.

3 THE COURT: So everybody will get a copy of that. I
4 believe it was September 21st or 23rd that he was going to have
5 it done.

6 MS. CALCIANO: 27th was the outside date.

7 THE COURT: Was the outside date.

8 MR. HENSLEY: For that purpose too, it would help to
9 move -- Well, I would suspect the special referee might want to
10 review that prior to that hearing process.

11 MR. SLATER: Your Honor, it may be helpful to hear
12 the balance of our comments. Then you may be able to revisit
13 the --

14 THE COURT: Hang on a second. I'm hung up on Dennis
15 Williams right now, Dr. Dennis Williams. You said
16 September 21st in your motion.

17 MS. CALCIANO: I apologize, Your Honor.

18 THE COURT: On Page 4 of your motion, Declaration of
19 Mark C. Hensley.

20 MR. HENSLEY: That's correct, Your Honor.

21 MS. CALCIANO: I apologize, Your Honor.

22 THE COURT: All right. So the 21st. And you'd make
23 it available. My date was really, my date was -- this is what
24 I was thinking. My date was only giving you a week to look
25 over that. Of course you give fax notice to everybody so they
26 wouldn't have to worry about that.

27 MR. HENSLEY: Yes, Your Honor.

28 THE COURT: The mail. And you guys would accept fax

1 notice on Dr. Williams' report.

2 MR. SLATER: Yes, Your Honor.

3 THE COURT: And what do you say about those other
4 dates? Because you had some problems too; didn't you?

5 MS. SCHNEIDER: Are you asking me, Judge?

6 THE COURT: Yes.

7 MS. SCHNEIDER: I can do it. I need to check with
8 Judge Scalmanini who is not on the phone call. But what, I
9 want to make sure I understood it. So the 27th would go to the
10 12th which is a Friday, and the deadline for special referee
11 comments are moved from October 11 to what? I didn't hear.

12 MR. HENSLEY: It would be two weeks.

13 MR. SLATER: Two weeks.

14 MR. HENSLEY: 25TH.

15 MR. SLATER: 25th is the date, Anne.

16 MS. SCHNEIDER: I have to check with Joe, but
17 something around there is probably okay.

18 THE COURT: I think Mr. Scalmanini, if my memory is
19 correct, he was planning a trip with his wife after he got --
20 after they became empty nesters. I don't think he used the
21 word, but he's getting three kids off to college. And he
22 was -- they were going to take a trip too. What we need to do
23 is coordinate Mr. Manning.

24 MS. SCHNEIDER: I could either get off, stop being on
25 this phone call, see if I could check with him and get back on.
26 Would you like me to do this?

27 THE COURT: Yeah, why don't I have the attorneys go
28 get a cup of coffee and come back. This is important. I have

1 some other attorneys with some jury instructions that will be,
2 if they are not here already. I can work on those for a
3 second. So we have a jury coming in at 10.

4 MS. SCHNEIDER: Can I just ask a quick question of
5 Mr. Fife?

6 THE COURT: Sure.

7 MS. SCHNEIDER: You have a motion setting a hearing on
8 the Peace II insurance.

9 MR. FIFE: We have not filed a motion yet. There
10 was, I think there was a inquiry to the Court about a
11 November 15th hearing date. But we're going to need to discuss
12 that, as Mr. Slater indicated.

13 MS. SCHNEIDER: I just wanted to make sure there was
14 no pending motion.

15 MR. FIFE: Correct. There's no pending motion.

16 MS. SCHNEIDER: Okay. Well, Judge, do you want to
17 come back in a few minutes or what?

18 THE COURT: 9:30.

19 MS. SCHNEIDER: Okay.

20 THE COURT: I'll see what else I can do in the
21 meantime.

22 (Proceedings regarding other matters were reported
23 and not transcribed for purposes of this transcript.)

24 THE COURT: Back on Watermaster. Okay. We're back on
25 the record in Case Number RCV 51010, Chino Basin Municipal
26 Water District vs. City of Chino, etc. And the same people
27 that were present before are present now. Unless somebody
28 wants to be heard on that subject. All right.

1 Ms. Schneider is on the phone, and she's talking to
2 Mr. Scalmanini. And apparently, there's some further
3 discussion necessary.

4 What, Ms. Schneider, what did you find out from
5 Mr. Scalmanini?

6 MS. SCHNEIDER: Mr. Scalmanini is not available the
7 second half of the month basically, or he wants to be
8 unavailable as much of the month as possible. So we looked at
9 calendars. And we could have a workshop on either October 3rd
10 or 4th. And we would turn a report around by October 11th. He
11 just can't move it as far into October as it was suggested
12 previously.

13 MR. HENSLEY: The 3rd.

14 MS. SCHNEIDER: And if Dr. Williams' report is done
15 by October or September 21st and circulated by email that day,
16 that's fine, for us, as far as I can see, to be prepared for
17 that workshop.

18 MR. SLATER: Your Honor, those days are acceptable
19 with Watermaster. The question is moving party.

20 MR. HENSLEY: Yes, October 3 will be preferred date,
21 Your Honor.

22 THE COURT: Okay. Let's go to Page 2 of the order.
23 And so move the September 27th day to October 3rd.

24 MR. SLATER: Correct, Your Honor.

25 MS. SCHNEIDER: And then just leave me one day more
26 for processing. I just prefer that the report would be due
27 October 12th.

28 THE COURT: October 12th. That will be on Line 17

1 then? And what other --

2 MR. HENSLEY: All the other days that that we proposed
3 will be changed by two weeks.

4 MR. SLATER: Two weeks, Your Honor.

5 THE COURT: Okay. October 5th. That might be an
6 issue. October 5 would go to the 19th.

7 MR. SLATER: The report is due on October 2, Your
8 Honor.

9 MR. HILL: 12.

10 MR. FIFE: October 12.

11 MR. SLATER: 12. Sorry. October 12.

12 THE COURT: So you got a little bit of a problem
13 there; right?

14 MR. SLATER: Comments or objections on the report will
15 be due two weeks later.

16 THE COURT: So change Line 14 from the 5 to 19. Is
17 that what you're suggesting?

18 MR. HENSLEY: Correct.

19 MR. SLATER: Correct, Your Honor.

20 THE COURT: Okay.

21 MS. SCHNEIDER: I'm lost. Excuse me. Are you
22 talking about Line 18?

23 THE COURT: Well, okay. Line 17 was previously
24 October 11. You wanted the 12th, so I changed that to the 12.
25 They were saying on Line 14, October 5th needs to be changed to
26 the 19th. Then it gives them one week past your time. Then
27 the October 25th which is on Line 18, which is six days past
28 their briefs -- actually, that can stay the same; couldn't it?

1 MS. SCHNEIDER: Yeah. That's only -- we gave it two
2 weeks after when we were going to get the report done the 11th.
3 And that just changed one day.

4 MR. SLATER: Right.

5 MS. SCHNEIDER: Changed to the 26th, I guess.

6 MR. SLATER: Your Honor, I offer this. I think we'd
7 be willing to leave Line 14, October 5. I think our view was
8 that the briefing is independent from the workshop, and
9 consequently we could live with October 5 as the date.

10 MR. HENSLEY: Well, Your Honor, we would like
11 additional time to prepare our opposition which is one of the
12 reasons that we requested the stipulation be after the two
13 weeks on the date.

14 MR. SLATER: We're not opposed. If they need the
15 extra time, Your Honor, we're not opposed.

16 THE COURT: Okay. Back to October 19; was it?

17 MR. HENSLEY: Yes. Thank you, Your Honor.

18 THE COURT: Okay. So, let me see how many changes we
19 have on this. We have a change on Page 2, Line 4 to
20 October 3rd from September 27.

21 We have a change on Page 2 of Line 14, from
22 October 5 to October 19th.

23 And we have a change on Page 2, Line 17 from
24 October 11th to October 12th.

25 And everybody can live with those dates?

26 MR. HILL: And Line 21, Page 2, is that the 31st?

27 THE COURT: Your separate action will be on your
28 confidentiality.

1 MR. BOYD: I think they said the 31st is.

2 MS. CALCIANO: The 31st is our intent. The
3 declaration had said the 21st. But there was a discrepancy
4 with our motion is we meant the 31st. That was --

5 MR. SLATER: Your Honor, we are willing to give them
6 whatever time they want with regard to that. It's within their
7 discretion as to whether they wish to file something. The 31st
8 is fine.

9 MR. HENSLEY: Your Honor, on the first page, with the
10 intent the parties are stipulating to continue the actual
11 hearing date also which is consistent with when papers are
12 filed to November 15th.

13 THE COURT: Anybody wish to be heard on that?

14 MS. SCHURR: No, but I got lost on Page 2. Are we
15 changing anything beyond Line 17?

16 THE COURT: Yeah. We're changing Line 21 to
17 August 31st from August 29th.

18 MR. FIFE: And we're changing --

19 THE COURT: She said beyond line 18.

20 MR. FIFE: Sorry.

21 MS. SCHURR: Changing Line 18?

22 MS. CALCIANO: Yes.

23 THE COURT: On Page 1, there's an additional change
24 on Line 24 from the 1st to the 15th. And that, Ms. Schneider,
25 what do you have to say about that?

26 MS. SCHNEIDER: Well, I was asking Mr. Fife whether
27 there had been a motion that I had missed that was trying to
28 set a hearing on the Peace II instruments. And the answer was

1 no. So the question was what was the date to which they wanted
2 to be coterminous, with which they wanted to be coterminous.
3 Is that November 15th then, Mr. Slater?

4 MR. FIFE: Well, Ms. Schneider, we still want to have
5 a discussion about that and we are going to need to have a
6 fairly lengthy discussion. Because we, on reflexion from our
7 Friday papers, we do not want them to be coterminous. So I
8 think we should resolve all this other scheduling stuff first,
9 and then we can discuss the issue of the Peace II hearing.

10 MS. SCHNEIDER: But you have no motion before the
11 Court to set hearing for Peace II; right?

12 MR. HANSLEY: Correct.

13 MR. SLATER: I think the issue -- let's get -- we did
14 ask for coterminous with regard to revolution. The issue
15 relates to the sequencing of the decisions on the subject
16 matter. So that, as the Court is aware, there is a Peace II
17 process underway in which a wide suite of documents and
18 proposed changes are going to find their way to the court. And
19 the resolution of this question, meaning the Watermaster's
20 obligation as it relates to Management Zone I, is material to
21 whether or not the balance of the Peace II measures are going
22 to go forward. So we are hopeful because these matters are
23 inextricably intertwined that the Management Zone I issues
24 would be resolved prior to final rulings on the Peace II
25 measures. And that is what we mean by coterminous. The
26 hearings indeed can be sequential.

27 THE COURT: Hang on one second. I will print this
28 out and you guys take a look at it. November 2nd.

1 THE CLERK: Yes, Your Honor.

2 MR. ERICKSON: Your Honor.

3 THE COURT: Hang on one second.

4 MR. ERICKSON: Okay.

5 THE COURT: I'm trying to multitask, but failing
6 miserably. Let me change these one things, and I'll go back
7 and change them again.

8 Okay. I will be right back. It's printing out right
9 now. You guys can take a look at it. I will give the original
10 right to you before I sign it.

11 MR. SLATER: Your Honor, I am sorry. We have a
12 stipulation as it relates to these dates. Again, we are trying
13 to cooperate. We had one clarification we'd like to ask before
14 we finalize the order.

15 THE COURT: Okay. This was only meant to be
16 temporary anyway. You guys can write on it, whatever you want.

17 MR. SLATER: Okay. Well, we may have a substantive
18 issue. It may be procedural. I'd like to get it out before we
19 take the next step.

20 THE COURT: All right. Play away.

21 MR. SLATER: Okay. Your Honor, we read your order
22 to indicate that the due process rights of the parties arising
23 under Paragraph 31 of the Judgment are being satisfied in
24 really two fashions. One is there's going to be an evidentiary
25 hearing in front of the referee at which point everybody gets
26 to hear about the plan itself, and then opposition to the plan.
27 And then that would subsequently be followed by briefing and
28 then hearing in front of this court in which live testimony

1 might be offered, again subject to cross-examination.

2 We do not read the order to permit discovery.

3 THE COURT: That's correct.

4 MR. SLATER: Okay.

5 THE COURT: When you meet with a special referee and
6 you take testimony, it should cover all that. So have your
7 witnesses ready. And conspicuous in its absence is
8 replenishment credits. So we will argue that later.

9 MR. ERICKSON: I am sorry. Could the Court amplify
10 that last statement?

11 THE COURT: Yeah. You have the issue of
12 replenishment which is one of the main motivating factors with
13 Chino Hills and the City of Chino. You had that one lawsuit
14 where that's going to be continued, I suppose.

15 MR. ERICKSON: If I may just advise the Court, we
16 have the hearing set for the 14th of September. We'd like to
17 have it continued until after the decision is made on the
18 Watermaster's long-term plan, sometime after that.

19 THE COURT: Well, you'll have to do another ex parte
20 on that.

21 MR. ERICKSON: Yes, we will do that. I just wanted to
22 advise that we are going to do that.

23 THE COURT: But you have other things that are in
24 play which kind of struck me. And I'll let you guys argue it
25 later. But it strikes me that certain actions have been taken
26 at among other times, during 2006. And then I got the
27 impression because continue, because I grant a continuance
28 here, that the replenishment would be delayed until 2008, and

1 any monetary consequences. And I am not really saying that.
2 We could discuss it later. You can discuss it at the workshop
3 with the referee.

4 MR. HENSLEY: Your Honor, on the issue of discovery,
5 City of Chino Hills would like to undertake some limited
6 discovery. And --

7 THE COURT: They will, when the special referee is
8 there, do it all at that time. I am not sure you're really
9 entitled to go through a discovery process. We are on such a
10 short time frame now that we'd just throw an insurmountable
11 hurdle in the way because there's always going to be somebody
12 that can't make it, they need a continuance. You had years now
13 to do that type of discovery too. How long has it been since
14 that one lawsuit? I remember I read in the paper where you
15 paid, was it Troutline Construction, the money for that one
16 line, and then you rehired them and paid them again because you
17 settled your lawsuit, and of course you know they had stopped,
18 taken their equipment away, and then had to bring it back on.
19 So there was no problem with repaying them. But that has been
20 out there for a long time as far as replenishment goes.

21 MR. HENSLEY: I don't disagree, Your Honor, that the
22 issue has been out there a long time. The City's never been
23 able, to my knowledge, to notice the deposition of the experts
24 that had been hired by the Watermaster with regard to being
25 able to examine them about their studies or reports
26 particularly under oath.

27 THE COURT: You mean Wildermuth.

28 MR. HENSLEY: Wildermuth, and be able to see all the

1 documents relating to the reports they developed.

2 THE COURT: Well, I anticipate that Wildermuth and
3 Dennis, was it, Williams would be present at the hearing.

4 MR. HNELSEY: So they would be subject to
5 cross-examination then under oath?

6 THE COURT: Yeah, and you should probably have a
7 court reporter there also.

8 MR. SLATER: Yes, Your Honor. We understand that the
9 hearing would be conducted with full evidentiary considerations
10 and we would intend to bring to that presentation everybody
11 who's -- we are going to rely on the substance of the report.

12 THE COURT: Okay. Remember, we have taken longer
13 than it took Kennedy to get a man on the moon. So we can do
14 this. All right. Anything else before I run back in and do
15 this?

16 MR. FIFE: Your Honor, there is the issue that you
17 touched upon about replenishment. When we originally submitted
18 the schedule to you for the completion of the Peace II items
19 that included MZ1, etc. in April, the schedule we proposed to
20 you had the MZ1 hearing occurring, and then 60 days later, we
21 are proposing the hearing on the balance of the Peace II
22 measures. The reason for this is that the MZ1 issues and the
23 resolution of those issues become a component of the overall
24 Peace II process. And so if we're going to move this schedule,
25 we are also going to have to move the schedule for the balance
26 of the Peace II issues.

27 We had originally scheduled 60 days. Your May 24th
28 order separated them by 60 days. And really we think that's an

1 appropriate amount of time because the parties will need to
2 review what happens in this hearing, the MZ1 hearing, and make
3 decisions based on that with regard to the rest of the
4 Peace II issues.

5 Now that's not a problem unless we move over into
6 2008. And the reason for that is that the end of the calendar
7 year, Watermaster is required to assess for the production of
8 the desalters. Now we are going to take care of all of that
9 and we are going to address all of that with the
10 Peace II filings. But there could be a gap where at the end of
11 this year, if the Peace II hearing has been pushed into 2008,
12 Watermaster would technically be required to assess. And this
13 could be a huge financial liability on all of the other parties
14 in the basin. And so we haven't had time this weekend, since
15 we have just been dealing with this since Friday.

16 THE COURT: Hey, I can feel sorry for you, but you
17 guys did your filings on Friday and ruined my Sunday. So
18 you'll get no sympathy from this court.

19 MR. FIFE: And we are not asking for sympathy. We
20 are just letting you know that we've not been able to consult
21 with the board, and we have not been able to receive direction.
22 So we just want to let you know that if this moves into 2008 on
23 the Peace II measures -- which we think if we are putting the
24 MZ1 hearing in mid November, it will have to move the Peace II
25 process into 2008 -- we will be returning to you to ask you to
26 provide relief to all of the other parties so that they are not
27 prejudiced from the requirement to levy these assessments.

28 THE COURT: No, I don't buy that. But you can

1 discuss that at the hearing with the special referee and we
2 will consider it more later. But if use water, and this gets
3 continued two weeks, then we give up the reimbursement, I, it
4 just doesn't play.

5 MR. SLATER: Your Honor, I think, if I can, I think
6 Mr. Fife is just trying to draw the attention to the focus that
7 there is hundreds of millions of dollars potentially at risk in
8 the whole Peace II process. And parties are reluctant to sign
9 up for those firm commitments if there is an unfirm liability
10 that relates to the Management Zone 1 process. So an earlier
11 resolution, when we use again in our papers coterminous, the
12 parties are going to want to know how the MZ1 process was
13 resolved before they are signing up for all these related
14 commitments. That's the point.

15 THE COURT: On October 3rd, I believe was the date we
16 finally agreed on, you'll have Dennis Williams there too to
17 give his 2 cents; right?

18 MR. HENSLEY: Yes, Your Honor.

19 THE COURT: Everybody will know what they are looking
20 at.

21 MR. HILL: Yes, Your Honor. We support the
22 Watermaster's request to move the Peace II approval process
23 coterminous with the motion on the MZ1 for other good reasons.
24 We have other components that were not yet complete, the
25 Wildermuth model, relook the socioeconomic report is in draft
26 form. And we believe that there needs to be a process to
27 consider the socioeconomic report and its impact on
28 assessments. So there are good reasons to move this to January

1 or --

2 THE COURT: There's good reason to keep your feet to
3 the fire too. What you guys need to do is what you've done so
4 well in the past. And that's by consensus building, resolve
5 some of these problems. Because I usually roll with you when
6 you guys have engaged in consensus building and come to
7 stipulations and mutual agreements. But you know I understand
8 we are in one of those positions right now where Peace II is
9 dependent upon resolving, among other things, probably the deep
10 water mining down in the Chino Hills, anyway.

11 MR. SLATER: In that spirit, I have one final offer
12 to make to perhaps expedite us towards a consensus. We have
13 filed a pleading in the Prayer, Arabic 5, references a finding
14 that Watermaster seeks. And it, as this paragraph is
15 potentially construed, it is potentially ambiguous as to the
16 origin.

17 THE COURT: You're going to have to litigate that. 4
18 and 5, I assume that you're going to litigate both of those.

19 MR. SLATER: I am offering a clarification as to the
20 Prayer, Your Honor. And it is as it's presently framed, it
21 could be read that Watermaster is seeking a determination of
22 the parties' rights under the Peace Agreement. That was not
23 intended. I want to emphasize that was not intended.

24 What is intended is a resolution of section 5.4 as it
25 is applicable to Watermaster and the directions provided by
26 this Court to proceed in accordance with the Peace Agreement
27 and Watermaster's own rule which is verbatim, that section of
28 the Peace Agreement. It is 4.5 (C), Your Honor. And the

1 purpose for doing that, Your Honor, is to make it clear to the
2 moving parties that we're not seeking to determine their rights
3 under the contract; that we are seeking a determination of
4 Watermaster's responsibility vis-a-vis the Court with regard to
5 the Court's own orders and Watermaster's own rules and
6 regulations, not the contract.

7 THE COURT: Put that in your notice that you're
8 moving to amend that then, you're offering that as that
9 potential solution to any and all dilemmas that we face. But
10 we will discuss it.

11 MR. SLATER: Okay.

12 THE COURT: Or you guys will discuss it. I won't be
13 present on October 3rd. I will look forward to getting a copy
14 of Dr. Dennis Williams' report too, how all problems can be
15 solved. Okay. Let me go get it and I'd let you guys look at
16 it.

17 I'm just wondering if Mr. Slater would rather prepare
18 his own order for the Court's signature adding his proposed
19 changes to Paragraph 5, I believe it was.

20 Just took out the word "intended."

21 MR. HILL: Line 17, that will be the 16 and 17, the
22 date of referee Workshop is October 3. That just needs to be
23 repeated again. Page 2, Line 16 and 17.

24 THE COURT: Yes, it should be October 3rd. To file a
25 report on the October 3rd evidentiary hearing; right? Is that
26 correct?

27 MR. HILL: Yes.

28 MR. SLATER: That's what we understand, Your Honor.

1 THE COURT: Any thing else in there?

2 MR. SLATER: No. I think, Your Honor, we're fine with
3 the one change identified by Mr. Hill. I think we would
4 appreciate the opportunity to prepare a brief summation of the
5 offered stipulation that I just prepared and add that into the
6 order for your signature. Otherwise, we can do it
7 independently.

8 THE COURT: Your choice. I can do it either way. I
9 can print out one right now with that change. I already made
10 the change. I can print it, sign it, and then you can --

11 MR. SLATER: What would you prefer, Your Honor?

12 THE COURT: We have all agreed on these dates. Let's
13 add this in there, and if there's any fight about what you
14 agreed to, stipulate to, then we can at least it will be
15 severable.

16 MR. SLATER: Okay. Fair, Your Honor.

17 THE COURT: I'm printing it right now and I will --
18 let me print another copy too.

19 (Proceedings concluded.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

3 REPORTER'S CERTIFICATE

4 RCV 51010

5 STATE OF CALIFORNIA)
6)
7 COUNTY OF SAN BERNARDINO)

8 I, Gail Greenlee, CSR, Official Reporter of the
9 Superior Court of the State of California, County of
10 San Bernardino, do hereby certify that the foregoing,
11 Pages 1 through 21, inclusive, constitute to the best of my
12 knowledge and belief a true and correct transcript from my
13 shorthand notes so taken for the oral proceedings reported by
14 me in this matter on August 27, 2007.

15 Dated this 13th day of September, 2007.

16
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18  C-8647
19 Official Reporter

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