

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

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4 CHINO BASIN MUNICIPAL WATER DISTRICT,)
5 Plaintiff,)
6 vs.) Case No. RCVRS51010
7 CITY OF CHINO, et al.,)
8 Defendants.)
9

10 REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

11 BEFORE HON. STANFORD E. REICHERT, JUDGE

12 DEPARTMENT C-1
13 CHINO, CALIFORNIA
14 Friday, December 11, 2009

15 APPEARANCES:

16 For Chino Basin Watermaster: BROWNSTEIN, HYATT, FARBER & SCHRECK
17 BY: SCOTT S. SLATER
18 Attorney at Law
19 and
20 MICHAEL T. FIFE
21 Attorney at Law

22 For Three Valleys Municipal Water District: BRUNICK, MCELHANEY & BECKETT
23 BY: STEVEN M. KENNEDY
24 Attorney at Law

25 For Cucamonga Valley Water District: BEST, BEST & KRIEGER
26 BY: JILL N. WILLIS
27 Attorney at Law

28 For the City of Ontario: NOSSAMAN, LLP
BY: FREDERIC A. FUDACZ
Attorney at Law

24 **COPY**

25 (Appearances continued on following page.)

26
27 Reported by: VICTORIA E. VILLEGAS, CSR NO. 9843
28 Official Reporter

1 (Appearances continued:)

2
3 For the Agricultural REID & HELLYER
4 Pool of the Chino BY: STEVEN G. LEE
5 Basin: Attorney at Law

6 For the California ATTORNEY GENERAL
7 Dept. of Corrections BY: JENNIFER F. NOVAK
8 & Rehabilitation: Deputy Attorney General

9 For the Monte Vista MCCORMICK, KIDMAN & BEHRENS, LLP
10 Water District: BY: TRAM TRAN
11 Attorney at Law

12 For the City of JENKINS & HOGIN, LLP
13 Chino Hills: BY: JOHN C. COTTI
14 Attorney at Law

15 For the Inland Empire CIHIGOYENETCHE, GROSSBERG & CLOUSE
16 Utilities Agency: BY: JEAN CIHIGOYENETCHE
17 Attorney at Law

18 Also Present: DAVID CROSLEY
19
20 KEN JESKE
21
22 BEN PAK
23
24 MARSHA WESTROPP
25
26 KEN MANNING
27
28

1 CHINO, CALIFORNIA; FRIDAY, DECEMBER 11, 2009

2 A.M. SESSION

3 DEPARTMENT C-1

HON. STANFORD E. REICHERT, JUDGE

4 (Appearances as noted on title page.)

5 (Victoria E. Villegas, Official Reporter,

6 CSR No. 9843.)

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8 THE COURT: This is -- we are going on the record in
9 the Watermaster case. This is an initial hearing scheduled so
10 we could get this case back on track after Judge Wade's
11 retirement.

12 I have been reviewing the transcripts from the
13 previous hearings. Judge Wade had all of the hearings over
14 the last year transcribed, and I've been reading through them.
15 And I wanted to let you know that I do have some familiarity
16 with this case because when I was a research attorney in 2000,
17 2002 over in -- sorry -- 2000, 2001 over in the Rancho
18 Cucamonga courthouse, I worked with Judge Gunn on this case,
19 so I got some familiarity with it at that time. I know my
20 information is old. The major event that happened while I was
21 involved in this case over in Rancho was the Peace Agreement,
22 and so that was a huge deal at that time.

23 And then I moved onto other things. I've went over
24 to the state bar court. I was a state bar court judge for a
25 year, and a commissioner in Los Angeles County for three
26 years. Then I've been back out here in San Bernardino County
27 as a judge since 2005. So that was the purpose for my calling
28 this hearing so that I could introduce myself to you, get a

1 status on what's going on.

2 I understand there's been some recent legislation.
3 I don't know how that's affecting this case. I'd be
4 interested in hearing some information about that.

5 So having given that kind of very general
6 introduction of myself, is there someone who would like to
7 take the lead and give me some initial information?

8 Counsel, please.

9 MR. SLATER: Your Honor, Scott Slater, general
10 counsel for Watermaster, and along with me today is Michael
11 Fife.

12 THE COURT: Could you spell Mr. Fife's name for the
13 record, please?

14 MR. FIFE: F- as in "Frank" -i-f again -e, your
15 Honor.

16 THE COURT: Okay. Thank you.

17 MR. SLATER: And Ken Manning who is chief executive
18 of Watermaster.

19 THE COURT: Okay. Good morning, Mr. Manning.

20 MR. MANNING: Hello.

21 THE COURT: M-a-n-n-i-n-g?

22 MR. MANNING: Correct.

23 MR. SLATER: And Slater is S-l-a-t-e-r.

24 THE COURT: Thank you.

25 MR. SLATER: If it pleases Your Honor, I think that
26 we have gone through an extended process with Judge Wade
27 following his replacement for Judge Gunn. Michael Fife is
28 prepared to summarize the status of the present matter, and

1 I'd be happy to address the subject of the legislation in the
2 context of what we're trying to accomplish under the Peace
3 Agreement and Peace II.

4 THE COURT: Great. Okay. Mr. Fife, then.

5 MR. SLATER: Michael.

6 MR. FIFE: Yes, your Honor.

7 THE COURT: You're welcome to come up to counsel
8 table, or however you're comfortable addressing the court is
9 fine with me.

10 MR. FIFE: Okay.

11 THE COURT: Okay.

12 MR. FIFE: Your Honor, as you know, we --

13 THE COURT: Make yourselves comfortable.

14 MR. FIFE: -- we went through a period -- I'll do
15 this (demonstrating) in case --

16 THE COURT: Okay.

17 MR. FIFE: We went through a long and extended
18 process of a series of educational hearings for Judge Wade, as
19 you know. We're mindful that in some -- there were a lot of
20 power point presentations being given, and in some cases that
21 might make the transcript difficult to glean information from.
22 So we could provide further education to Your Honor if you're
23 interested.

24 THE COURT: Always interested.

25 MR. FIFE: At the conclusion of that there was a
26 case management order which Judge Wade approved. I think
27 there was a confusion before he left about the actual
28 signature on that order, but that's from a September 17th

1 hearing.

2 THE COURT: Okay.

3 MR. FIFE: That was the last hearing that we had
4 with Judge Wade. He did indicate an intent to sign that
5 order, and that case management order was intended to provide
6 you with a starting point for your coverage of the case.

7 THE COURT: Oh, okay.

8 MR. FIFE: And that order indicated that Watermaster
9 is in compliance with all of its current deadlines with
10 implementation of the OBMP. And the next -- the next deadline
11 that we have is to submit what is called our Recharge Master
12 Plan --

13 THE COURT: Okay.

14 MR. FIFE: -- to you for approval in July of this
15 year.

16 THE COURT: Okay.

17 MR. FIFE: But before that we have no deadlines that
18 will require court approval or court supervision.

19 THE COURT: Okay. Question on that then. With the
20 Recharge Master Plan being due in July, is that presented to
21 the court as a single document to be reviewed and approved, or
22 are there hearings that lead up to that? What's the process?

23 MR. FIFE: The process will be at your pleasure,
24 whatever is the most useful for you. It will be a single
25 document that we -- would be submitted to you, along with a
26 transmittal pleading from Watermaster that would explain the
27 standards that you would employ to approve it.

28 THE COURT: Okay.

1 MR. FIFE: You would provide -- there would be court
2 approval of it. And we would anticipate a hearing. And it
3 would be our hope that this would be an uncontested hearing
4 and that Watermaster would come for approval. You would have
5 the parties in front of you like this, and if anybody had an
6 objection to the content of the plan, they would voice it.

7 THE COURT: Okay. At that hearing.

8 MR. FIFE: Yes.

9 THE COURT: Okay.

10 MR. SLATER: I think as the court will become
11 familiar, there are express procedures built into the judgment
12 for review and approval of Watermaster actions. And in this
13 case there's not only the judgment that requires the court
14 approval, but the earlier order of the court focused on the
15 importance of the Recharge Master Plan and we are following
16 that process. So as this final plan makes its way to you, it
17 will have been vetted thoroughly through the Watermaster
18 process over a period of approximately two-and-a-half years,
19 having gone through draft stages, been filed and been vetted
20 through party comments. So it won't be finding its way to you
21 as a new document.

22 THE COURT: Okay. All right. I appreciate that.
23 Thank you.

24 All right. Mr. Fife, anything else at this time?

25 MR. FIFE: None, unless you have questions.

26 THE COURT: Mr. Slater?

27 MR. SLATER: Yes, your Honor. I think we are
28 pleased, I want to emphasize, that there are no contested

1 present motions before Your Honor, and that we are focused on
2 completing the next important task which is the completion of
3 the Recharge Master Plan.

4 THE COURT: Okay.

5 MR. SLATER: So we'd expect to see you in July.

6 THE COURT: Okay.

7 MR. SLATER: In the context of the broader issues
8 that are facing us, the court may be aware of the recent round
9 of the legislation that was passed.

10 THE COURT: Yes.

11 MR. SLATER: There are provisions in that -- in that
12 plan that have some direct application to a lot of areas but
13 fortunately for us -- or sorry -- with regard to monitoring
14 water withdrawals, the quantity of water and the overlying
15 activities, because of the progressive activities or the
16 progressive monitoring that has occurred in this basin for the
17 last 20 years, and more focused in the last ten, we are
18 actually exempt or are qualifying through our present
19 monitoring activities, so there won't be any form of a
20 superimposition of the state standards because our standards
21 do satisfy the criteria.

22 THE COURT: Okay.

23 MR. SLATER: The second element of the legislation,
24 besides the monitoring of ground water, is the availability of
25 funds. It -- the legislation contemplates new moneys being
26 made available under a bond. And if that bond indeed passes,
27 there are provisions in the bond that would allow money to be
28 made available for various activities in the basin, including

1 the Recharge Master Plan, and potentially other things such as
2 the desalter activities which are occurring in the
3 southwesterly portion of the basin.

4 THE COURT: Okay.

5 MR. SLATER: So to the extent that that third party
6 money or bonds or grants become available, that can defray
7 local costs and make the projects more economical and more
8 financially feasible.

9 THE COURT: Good. Appreciate that.

10 Anything further at this time, Mr. Slater?

11 MR. SLATER: No, your Honor.

12 THE COURT: Mr. Fife?

13 MR. FIFE: No.

14 THE COURT: Let me get all your appearance so I can
15 start to associate faces with names.

16 I see counsel standing here on my right. Could I
17 get your name and appearance?

18 MR. KENNEDY: Thank you, your Honor. Steve Kennedy
19 on behalf of the Three Valleys Municipal Water District.

20 THE COURT: Okay. Mr. Kennedy, give me just a half
21 sec. There it is. Okay. Thank you. Got it. Thank you,
22 Mr. Kennedy.

23 Ma'am?

24 MS. WILLIS: Jill Willis, W-i-l-l-i-s, on behalf of
25 Cucamonga Valley Water District.

26 THE COURT: Okay. Let me find you on my sheet, Ms.
27 Willis. Just a moment, please. Why am I having trouble with
28 these names? Did you give us a card?

1 MS. WILLIS: I did.

2 THE COURT: Oh, there we are. Okay. Thanks. Got
3 it. Okay. Thank you.

4 MR. FUDACZ: Fred Fudacz on behalf of the City of
5 Ontario.

6 THE COURT: Okay, yes. I've got F-u-d-a-c-z?

7 MR. FUDACZ: Yes. That's my burden through life.

8 THE COURT: Fudacz?

9 MR. FUDACZ: Fudacz, that's correct.

10 THE COURT: All right. Thank you, Mr. Fudacz.

11 MR. LEE: Steven Lee, legal counsel for the
12 Agricultural Pool of the Chino Basin.

13 THE COURT: Oh, okay. Yes, from Reid and Hellyer.
14 Thank you, Mr. Lee. H-e-l-l-y-e-r. S-t-e-v-e-n.

15 MS. NOVAK: Jennifer Novak, N-o-v-a-k, deputy
16 attorney general representing the California Department of
17 Corrections and Rehabilitation which is the State of
18 California representative with respect to its water rights.

19 THE COURT: All right. Thank you very much,
20 counsel. Nice to meet you.

21 And, ma'am, your appearance?

22 MS. TRAN: Good morning. Tram Tran on behalf of
23 Monte Vista Water District.

24 THE COURT: T-r-a-m, T-r-a-n. Thank you, Ms. Tran.
25 Counsel?

26 MR. COTTI: John Cotti, C-o-t-t-i, for the City of
27 Chino Hills.

28 THE COURT: Okay, Mr. Cotti. I've got you.

1 MR. CIHIGOYENETCHE: You have trouble with Fudacz.

2 MR. SLATER: Just pull out the alphabet.

3 MR. CIHIGOYENETCHE: Jean Cihigoyenette. I
4 represent the Inland Empire Utilities Agency.

5 THE COURT: You know, I've seen your name so many
6 times and I've heard Judge Gunn say it.

7 MR. CIHIGOYENETCHE: Cihigoyenette.

8 THE COURT: Ready for this? J-e-a-n,
9 C-i-h-i-g-o-y-e-n-e-t-c-h.

10 MR. CIHIGOYENETCHE: e.

11 THE COURT: e. Sorry. The photocopy machine cut
12 off the last letters of your name.

13 MR. CIHIGOYENETCHE: Happens all the time.

14 THE COURT: Cihigoyenette.

15 MR. CIHIGOYENETCHE: Very good.

16 THE COURT: Got it. Thanks. And counsel or anyone
17 else? You are on another case.

18 In the back.

19 MR. CROSLY: Good morning, your Honor. My name's
20 David Crosley, C-r-o-s-l-e-y, the water manager for the city
21 of Chino.

22 THE COURT: Oh, thank you very much. Thank you very
23 much. And anybody else here on this case then? No. That's
24 another case.

25 Oh, yes. Sir?

26 MR. JESKE: I'm Ken Jeske, J-e-s-k-e, representing
27 the city of Ontario as a consultant.

28 THE COURT: Thank you very much. Anyone else on

1 this case that I --

2 MS. WESTROPP: I'm Marsha Westropp, W-e-s-t-r-o-p-p,
3 Orange County Water District.

4 THE COURT: Okay. Thank you very much. Nice to
5 meet you, ma'am.

6 MR. PAK: Ben Pak, P-a-k, with the Chino Basin
7 Watermaster.

8 THE COURT: Thank you. Nice to meet you.

9 All right. Anything further that we need to do at
10 this time? Mr. Slater, do you want me to set a date in July
11 then?

12 MR. SLATER: I believe that the date is set by the
13 -- for the completion of the plans.

14 MR. FIFE: Right. The date for submittal of the
15 plan is set but not the date for the hearing. We could
16 probably wait until July just since it's --

17 THE COURT: I can set a hearing for all you people
18 on that short a notice in July?

19 MR. SLATER: Your Honor, I'm looking at the group.
20 August is typically a vacation month.

21 THE COURT: Right.

22 MR. SLATER: If we are going to submit the paperwork
23 in July, perhaps a September hearing date --

24 THE COURT: Oh, okay.

25 MR. SLATER: -- would be wise to allow the parties
26 appropriate time to digest the plan, file their papers. So
27 without objection from counsel, a September hearing date on
28 the Recharge Master Plan would be useful.

1 THE COURT: Want me to go ahead and set that now to
2 put it on your calendars?

3 MR. SLATER: That would be great, your Honor.

4 THE COURT: Give me just a moment, please.

5 Here's something else I needed to tell you folks
6 about. You might have noticed I set this at an odd time,
7 10:30 on a Friday, because with the regular calendar that I
8 have in this courtroom -- it's a criminal calendar. We're
9 really busy everyday. I handle all aspects of criminal cases
10 from arraignment through trial. We do trials in the
11 afternoons here. So Fridays are really the only -- generally
12 the only day I have available for these hearings.

13 Now, the reason why I set it at 10:30 is I didn't
14 want to spoil your afternoon. I can set it at 1:30 but that's
15 kind of my only available date -- day of the week, I should
16 say, to set these hearings. And even on Fridays I have a
17 calendar that it -- mixes in with something as significant as
18 the Watermaster case -- they're small claims appeals and
19 unlawful detainers and traffic court trials. So I'm willing
20 to work with counsel on setting up a date when you want to
21 come in. I could do this during the week.

22 MR. SLATER: Your Honor, I think Fridays are a
23 convenient day for Watermaster. Our board meetings and
24 committee meetings tend to happen on Thursday.

25 THE COURT: Okay.

26 MR. SLATER: So Friday is a good date for us. And I
27 think as -- I think it would be our preference given the
28 commutes involved to do it at -- a 10:30 hearing time is fine.

1 THE COURT: Okay. We'll just keep the Friday at
2 10:30 hearing date. I see general nodding so I guess
3 everybody is okay with that. We will keep that. And let's
4 come back on this again, and it looks like a Friday in
5 September. How about the 17th, Friday the 17th -- the 10th,
6 the 17th or the 24th.

7 MR. SLATER: I think 17th or the 24th.

8 THE COURT: How about -- how about the last Friday
9 in September then?

10 MR. SLATER: 24th.

11 THE COURT: Does that sound good?

12 MR. SLATER: That would be good, your Honor.

13 THE COURT: Okay. So I understand -- counsel was
14 kind enough to fill me in a little bit earlier on how the
15 notice provisions work on this because when I looked at the
16 court file and saw our own court had only notified four
17 parties, and then I looked at some of the proofs of service, I
18 thought something -- there was a disconnect with one -- one of
19 our counsel -- I'm so bad with names. Mr. Cotti, I believe --

20 MR. COTTI: And Ms. Tran.

21 THE COURT: -- filled me in earlier on how the
22 notice provisions work; that Watermaster -- the court sets the
23 date and Watermaster notifies the rest of the parties.

24 MR. SLATER: That's correct, your Honor.

25 THE COURT: So let's set the hearing date for the
26 Recharge Master Plan for September -- did I say 24?

27 MR. SLATER: 24th.

28 THE COURT: September 24th at 10:30 a.m. in this

1 department, and that will be the -- that will be the next
2 hearing then unless something comes up in the meantime.

3 MR. SLATER: That would be great.

4 THE COURT: Thank you very much.

5 MR. SLATER: Thank you for your time.

6 THE COURT: Thank you for your attendance and
7 appreciate your time.

8 MR. FIFE: One logistical matter with your
9 permission. We tend to try to work with the reporter with
10 regard to transcripts, and I can explain all the details to
11 her.

12 THE COURT: Ms. Villegas is very competent and
13 accommodating.

14 MR. FIFE: Thank you.

15 THE COURT: So please feel free to do that.

16 MR. FIFE: Thank you, your Honor.

17 (Proceedings in the above-entitled matter
18 were concluded.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

3 --o0o--

4 CHINO BASIN MUNICIPAL WATER DISTRICT,)

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7 CITY OF CHINO, et al.,)

8 Defendants.)

Case No. RCVRS51010

REPORTER'S
CERTIFICATE

9
10 I, VICTORIA E. VILLEGAS, CSR, Official Reporter of
11 the above-entitled court, do hereby certify:

12 That I am a Certified Shorthand Reporter of the
13 State of California, duly licensed to practice; that I did
14 report in Stenotype oral proceedings had upon hearing of the
15 aforementioned cause at the time and place hereinbefore set
16 forth; that the foregoing pages numbered 1 through 13,
17 inclusive, constitute to the best of my knowledge and belief a
18 full, true, and correct computer-aided transcription from my
19 said shorthand notes so taken for the date of Friday, December
20 11, 2009.

21 Dated at Chino, California, this 22nd day of
22 December, 2009.

23
24
25  CSR
26 Official Reporter, CSR No. 9843
27
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