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RANCHO CALIFORNIA WATER
6 DISTRICT on behalf of the Santa Margarita
River Watershed Watermaster Steering
7 Committee

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 FALLBROOK PUBLIC UTILITY
DISTRICT, et al.,
15 Defendants.

Case No. 51-cv-01247-GPC-RBB
Judge: Hon. Gonzalo P. Curiel

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO APPOINT
REPLACEMENT WATERMASTER
FOR SANTA MARGARITA RIVER
WATERSHED

Date: November 18, 2016
Time: 1:30 p.m.
Dept.: 2D

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1 Defendant Rancho California Water District, on behalf of the Santa
2 Margarita River Watershed Watermaster Steering Committee, respectfully submits
3 the following memorandum of points and authorities in support of the motion to
4 appoint a replacement watermaster for the Santa Margarita River Watershed.

5 **Background**

6 In 1966, a Modified Final Judgment and Decree (“Judgment”) was entered
7 by the United States District Court (“Court”) in the case of the *United States v.*
8 *Fallbrook Public Utility District, et al.*, Case No. 1247-SD-T, pursuant to which the
9 Court retained continuing jurisdiction of all surface waters, and all underground or
10 subsurface waters, within the Santa Margarita River Watershed (“Watershed”) to
11 administer and enforce the provisions of the Judgment.

12 On February 3, 1989, the Court entered an Order for the Appointment of a
13 Steering Committee (“1989 Steering Committee Order”), [Doc. No. 4805],
14 appointing a steering committee known as the Santa Margarita River Watershed
15 Watermaster Steering Committee (“Steering Committee”). Initially, the Steering
16 Committee was comprised of a representative appointed by each of the following
17 parties: the United States of America, Fallbrook Public Utility District, and Rancho
18 California Water District. The Steering Committee is currently comprised of a
19 representative appointed by the United States of America, Fallbrook Public Utility
20 District, Rancho California Water District, Eastern Municipal Water District,
21 Metropolitan Water District of Southern California, Pechanga Band of Luiseño
22 Mission Indians, and Western Municipal Water District.

23 Pursuant to the 1989 Steering Committee Order, the duties and
24 responsibilities of the Steering Committee include recommending to the Court a
25 candidate for the position of Watermaster in the Santa Margarita Watershed
26 (“Watermaster”). On November 15, 2005, the Court entered an order authorizing
27 the Steering Committee to negotiate and execute an employment contract with
28 Charles W. Binder to serve as the Watermaster for the Watershed. Thereafter, on

1 February 21, 2006, the Steering Committee entered into a written agreement with
2 Binder & Associates Consulting, Inc., to serve as the Watermaster for the
3 Watershed. Mr. Binder has served as the Watermaster since that time.

4 On or about January 4, 2016, Mr. Binder announced his decision to cease
5 serving as the Watermaster as of the end of 2016. Following this announcement,
6 the Steering Committee developed and undertook a proposed process for the search
7 and selection of the new Watermaster. On April 6, 2016, Mr. Binder and some of
8 the members of the Steering Committee and their representatives met with the
9 Court to discuss the proposed search and selection process. The Court consented to
10 the Steering Committee undertaking the search process and making a
11 recommendation for the appointment of a new Watermaster.

12 Thereafter, the Steering Committee appointed a Watermaster Selection
13 Committee, which conducted the selection process and which has designated three
14 candidates to be considered for the appointment as the new Watermaster upon the
15 retirement of Mr. Binder. The three finalists, in order of preference, are (1) Brian J.
16 Brady of Brian J. Brady and Associates, (2) Michael J. Preszler of ECORP, and (3)
17 Robert C. Wagner/David Shaw of Wagner & Bonsignore & Balance Hydrologics,
18 Inc.

19 The Steering Committee now respectfully requests that the Court enter the
20 proposed order attached to the Notice of Motion and Motion as Exhibit "B,"
21 selecting Mr. Brady as the next Watermaster and authorizing the Steering
22 Committee to complete negotiations of an agreement with him. The appointment
23 of the current Watermaster Mr. Binder shall cease upon the effective date for Mr.
24 Brady to commence serving as the new Watermaster.

25 A hearing on the Motion has been scheduled for November 18, 2016, at 1:30
26 p.m., in Department 2D (2nd Floor – Schwartz), Suite 2190, of the United States
27 District Court Southern District Of California, located 221 West Broadway in San
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Diego, California, 92101. The Steering Committee provided notice of the motion and hearing as follows:

1. Electronic filing through the CM/ECF system for parties receiving electronic notice and notice by mail for those mail-only parties registered with the Court;
2. Mailing to recipients on the current Watermaster Distribution List;
3. Physical posting of Notice of Hearing at Fallbrook Public Utility District, Rancho California Water District, and the Anza Post Office; and
4. Publication in the following three newspapers: (a) High Country Journal; (b) Press Enterprise; and (c) San Diego Union-Tribune (North County).

Pursuant to Civil Rule 7.1.e.2, the Notices provided that any opposition to this motion must be filed and served no later than November 4, 2016.

Dated: September 30, 2016

BEST BEST & KRIEGER LLP

By: /s/ James B. Gilpin
JAMES B. GILPIN
Attorneys for Defendant
RANCHO CALIFORNIA WATER
DISTRICT on behalf of the Santa
Margarita River Watershed
Watermaster Steering Committee