

1 NOSSAMAN LLP
2 FREDERIC A. FUDACZ, State Bar No. 050546
3 ffudacz@nossaman.com
4 ALFRED E. SMITH, State Bar No. 186257
5 asmith@nossaman.com
6 777 South Figueroa Street, 34th Floor
7 Los Angeles, CA 90017
8 Telephone: (213) 612-7800
9 Facsimile: (213) 612-7801

10 Attorneys for Main San Gabriel Basin Watermaster

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

UPPER SAN GABRIEL VALLEY
MUNICIPAL WATER DISTRICT,

Plaintiff,

vs.

CITY OF ALHAMBRA, et al.

Defendant.

Case No: C 924 128

Assigned for all purposes to:
Honorable Maureen Duffy-Lewis, Dept. 38

**EX PARTE APPLICATION RE: PETITION OF
MAIN SAN GABRIEL BASIN
WATERMASTER FOR APPOINTMENT OF
WATERMASTER MEMBERS FOR
CALENDAR YEAR 2022 TERM;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Hearing

Date: December 23, 2021

Time: 8:30 a.m.

Place: Dept. 38


1 **EX PARTE APPLICATION**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that on December 23, 2021, at 8:30 a.m., or as soon
4 thereafter as the matter may be heard, in Department 38 of the above-entitled Court, located at
5 111 North Hill Street, Los Angeles, California, the Main San Gabriel Basin Watermaster
6 (“Watermaster”) will, and hereby does, apply ex parte for an order appointing Watermaster
7 members for Calendar Year 2022 term (“Application”).

8
9
10 DATED: December 22, 2021

NOSSAMAN LLP
Frederic A. Fudacz
Alfred E. Smith

11
12
13 

14 By: _____
15 Alfred E. Smith
16 Attorneys for Main San Gabriel Basin Watermaster

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 This ex parte application seeks a court order granting the Main San Gabriel Basin
4 Watermaster’s (“Watermaster”) petition to confirm 2022 Watermaster board members for
5 calendar year 2022 (“Petition” attached hereto as Exhibit “A”). During a court hearing on
6 December 17, 2021, Judge Maureen Duffy-Lewis approved the Petition. However, after the
7 hearing, Department 38 issued a minute order saying, upon further reflection, the hearing will
8 be continued due to improper notice. (Exhibit “B”).

9 The Petition was properly noticed. The Judgment in this action allows the Petition to be
10 filed on 10 calendar days’ notice. The relevant provisions of the Judgment are attached hereto
11 as Exhibit “C”. Watermaster filed and served the Petition on November 30, 2021, which is 17
12 days before the hearing. (Smith Decl, ¶ 5).

13 Watermaster seeks this Court order by ex parte application to avoid irreparable harm
14 and immediate danger. Watermaster board members must be confirmed by the Court prior to
15 year-end. Otherwise, Watermaster will be powerless to act, thereby hamstringing the
16 management of water resources to over 1.5 million people during a critical drought period.
17 (Smith Decl, ¶ 9).¹

18 **II. BACKGROUND.**

19 The Watermaster is the court-appointed entity responsible for managing water
20 resources for 1.5 million people in the vast San Gabriel Groundwater Basin, which covers an
21 area of approximately 167 square miles. The fresh water storage capacity of the Basin is
22 estimated to be about 8.6 million acre-feet. The Watermaster was appointed by the court
23 following a multi-party water rights litigation, where the Court entered a Judgment and retained
24 continuing jurisdiction. (Smith Decl, ¶ 3).

25
26
27 ¹ Pursuant to California Rules of Court 3.1202(a), the attached service list states the name,
28 address, e-mail address, and telephone number of all parties and attorneys to this action.
(Smith Decl., ¶ 13). There was no opposition to Watermaster’s petition to Department 38 to
confirm the Watermaster board members for 2022. (Smith Decl., ¶ 13).

1 Part of the court-appointed Watermaster’s responsibilities under the Judgment includes
2 filing a petition each year to the Court confirming the members nominated by the parties to
3 serve on the Watermaster board. (Smith Decl, ¶ 4). As stated in Watermaster’s moving
4 papers to Department 38, pursuant to section 29(d) of the Judgment herein, Watermaster
5 nominations may be promptly certified by the Court upon 10 calendar days’ notice thereof.
6 (Exhibit “C”).

7 **III. THE PETITION WAS PROPERLY NOTICED.**

8 Watermaster timely filed the Petition to confirm 2022 Watermaster board members on
9 November 30, 2021, which is seventeen days before the court hearing before Judge Duffy-
10 Lewis. (Smith Decl., ¶ 5). During the hearing on the Petition, Judge Duffy-Lewis approved the
11 Petition, noted there is no opposition to the Petition, and directed Watermaster counsel to give
12 notice of the Court’s Order. (Smith Decl., ¶ 5).

13 After the hearing, Department 38 issued a minute order continuing the hearing on the
14 Petition until March 11, 2022. The minute order states: “The Court, upon further reflection,
15 notes that notice was not adequate for the motion. The Court will continue the motion to allow
16 the moving party to give proper notice.” (Exhibit “B”).

17 While it is true that most court motions require additional notice, the Judgment in this
18 action expressly provides that the annual petition for Court confirmation of Watermaster board
19 members may be heard upon 10 calendar days’ notice. (Exhibit “C”). The filed and endorsed
20 Petition papers attached hereto as Exhibit “A” clearly show that the Petition was filed 17 days
21 before the hearing.

22 Judge Duffy-Lewis was in trial the week of Watermaster’s hearing. (Smith Decl, ¶¶ 7-8).
23 Given Judge Duffy-Lewis’ heavy docket calendar and the disability leave of absence by the
24 court clerk who regularly handles Watermaster court filings, Watermaster believes Department
25 38 simply overlooked the shortened notice period under the Judgment. (Smith Decl., ¶¶ 7-8).
26
27
28

1 The requested ex parte relief is proper. The Petition was timely filed. Moreover, if the
2 Watermaster board members are not confirmed before year-end, it will hamstring water
3 management for 1.5 million people during a critical drought period. (Smith Decl., ¶ 9).

4 **IV. CONCLUSION.**

5 For the foregoing reasons, Watermaster respectfully requests Court approval of this ex
6 parte application to confirm Watermaster board members for 2022.

7
8 DATED: December 22, 2021

NOSSAMAN LLP
Frederic A. Fudacz
Alfred E. Smith

9
10
11 

12 By: _____
13 Alfred E. Smith
14 Attorneys for Main San Gabriel Basin Watermaster