

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

\*\*E-filed 1/15/09\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

UNITED STATES OF AMERICA,  
  
  Plaintiff,

v.

ALISAL WATER CORPORATION, et al.,  
  
  Defendants.

Case Number C 97-20099 JF (HRL)

ORDER<sup>1</sup> AUTHORIZING RECEIVER TO RETAIN AN ADDITIONAL \$5,000 FROM THE SALE PROCEEDS TO PAY OPERATING AND MAINTENANCE EXPENSES OF THE SAN JERARDO WATER SYSTEM

[re: doc. no. 871]

Pending before the Court are: (1) the Receiver’s Ex Parte Application for Authority to Retain Certain Funds to Pay Monthly Operation and Maintenance Expenses, Insurance, and Well Removal Costs for the San Jerardo Water System, filed April 11, 2008; (2) the Receiver’s Status Report for the period November 1, 2007 through April 30, 2008; and (3) the Receiver’s Status Reports for the periods spanning November 1, 2006 through October 31, 2007.<sup>2</sup> The Court has

<sup>1</sup> This disposition is not designated for publication in the official reports.

<sup>2</sup> The Court previously approved payment of 80% of the Receiver’s claimed expenses for these periods, but deferred consideration of the remaining 20% of these expenses.

1 received extensive briefing, particularly with respect to the Receiver's application to retain the  
2 bulk of the sale proceeds he is holding. The issues presented are quite complicated. It thus has  
3 taken the Court some time to sort through the evidence and arguments presented by the Receiver,  
4 Defendants, and the County of Monterey (appearing as amicus). The Court expects to issue a  
5 ruling shortly.

6 In the meantime, the Receiver has indicated that he does not have sufficient funds to pay  
7 even the basic operating expenses of the San Jerardo system. At the hearing on May 29, 2008,  
8 the Court authorized the Receiver to utilize \$4,000 of the funds he is holding to pay such  
9 expenses. On June 20, 2008, the Court authorized the Receiver to retain an additional \$4,000.  
10 However, monthly operating expenses have continued to accrue. As of December 10, 2008, the  
11 Receiver held \$407.00 in the San Jerardo operating account, an amount insufficient to cover  
12 PG&E bills or other necessary operating expenses. *See* Suppl. Decl. Of Diana Donabedian filed  
13 12/10/08, ¶ 4.

14 The Court has reviewed Defendants' opposition to the Receiver's application for an  
15 additional \$5,000. However, the Court concludes that the Receiver's retention of such funds is  
16 necessary for the health and welfare of the individuals who rely upon the San Jerardo system for  
17 their water needs. The Court will consider the fact that the Receiver has retained \$13,000 of the  
18 sale proceeds when analyzing the Receiver's pending motions regarding the remainder of the sale  
19 proceeds.

20 Accordingly, the Receiver's application to retain an additional \$5,000 from the sale  
21 proceeds to pay the operating and maintenance expenses of the San Jerardo water system is  
22 GRANTED.

23 IT IS SO ORDERED.

24  
25  
26 DATED: 1/15/09

27   
28 JEREMY FOGEL  
United States District Judge

1 This Order was served on the following persons:  
2 County of Monterey perrym@co.monterey.ca.us  
3 David Patrick Nemecek , Jr dnemecek@manatt.com, mchavez@manatt.com  
4 Diana Donabedian ddonabedian@luce.com  
5 Frank G. Tiesen tiesenf@co.monterey.ca.us, ontiveross@co.monterey.ca.us  
6 J. Michael Hogan hoganm@co.monterey.ca.us  
7 Joe Alfred Izen , Jr joeizen@joeizen.com, joeslowgo@hotmail.com  
8 Jonathan Mark Schwartz jms01@i.frys.com  
9 Kevin T. Haroff kharoff@ssd.com, sdavid@ssd.com  
10 Lenard Garsen Weiss lweiss@steefel.com, ycano@steefel.com  
11 Lori Jonas lori.jonas@usdoj.gov  
12 Marc Peter Fairman Mfairman@pacbell.net  
13 Mary Grace Perry perrym@co.monterey.ca.us, andradar@co.monterey.ca.us,  
14 coatsir@co.monterey.ca.us  
15 Paul Daniel Gullion pauldgullion@aol.com, ndgullion@aol.com  
16 Stephen Gary Varga Vargalaw@mbay.net, Vargalaw@SBCGlobal.net  
17 Steven O'Rourke Steve.ORourke@usdoj.gov  
18 Vanessa W. Vallarta vanessav@ci.salinas.ca.us, julian@ci.salinas.ca.us  
19 City of Salinas  
20 Office of the City Attorney  
21 200 Lincoln Avenue  
22 Salinas, CA 93901  
23 Charles O'Connor  
24 U.S. Attorney's Office  
25 450 Golden Gate Avenue  
26 P.O. Box 36055  
27 San Francisco, CA 94102  
28 Christopher Alan Callihan  
Office of the City Attorney  
200 Lincoln Ave  
Salinas, CA 93901-2639

1 John David Rothman  
2 United States Environmental Protection Agency  
3 Region IX  
4 75 Hawthorne Street  
5 San Francisco, CA 94105

6 John W. Richardson  
7 5161 Soquel Dr., Suite F  
8 Soquel, CA 95073  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28