

SCOTT S. SLATER (State Bar No. 117317)
BRADLEY J. HERREMA (State Bar No. 228976)
BROWNSTEIN HYATT FARBER SCHRECK, LLP
21 East Carrillo Street
Santa Barbara, CA 93101-2706
Telephone: 805.963.7000
Facsimile: 805.965.4333

FEE EXEMPT

Attorneys for CHINO BASIN WATERMASTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendant.

Case No. RCV 51010

[Assigned for All Purposes to the
Honorable STANFORD E. REICHERT]

RECHARGE MASTER PLAN STATUS
REPORT

Hearing Date: NA
Hearing Time: NA
Dept: C-1

Watermaster submits this status report pursuant to the Court's October 8, 2010 and December 16, 2011 Orders. Watermaster does not believe that any party objects to this Status Report or the actions described herein and consequently, respectfully requests that the Court's receipt of the Report not require a hearing. However, if any party should file an objection, Watermaster will be pleased to present the Status Report and respond to any questions the Court may have.

I. Background of the Status Report Requirement

In its December 21, 2007 Order approving the Peace II Measures, the Court required Watermaster to satisfy a number of conditions subsequent. The last of these, condition subsequent number eight, required Watermaster to update its Recharge Master Plan (RMP). In

1 broad terms, the purpose of the RMP is to articulate the manner in which Watermaster will fulfill
2 its responsibilities under the Judgment to ensure that groundwater production from the Chino
3 Basin in excess of the Safe Yield is replenished in accordance with the Physical Solution. This
4 requires that the RMP make projections concerning anticipated production of groundwater from
5 the Basin, the availability of imported water supplies, and the facilities necessary to make use of
6 those imported supplies. In addition, Watermaster's discretion with regard to the manner in
7 which recharge activities are conducted is constrained by commitments made in the Peace I and
8 Peace II Agreements, and implementation of the RMP recommendations must satisfy these
9 commitments.

10 On June 30, 2010, Watermaster submitted its updated Recharge Master Plan in
11 compliance with condition subsequent number eight. However, due to intervening state
12 legislation enacted subsequent to the Court's December 2007 Order, a delay was required. The
13 legislation extended the time for completion of 2010 Urban Water Management Plans (UWMPs),
14 which would provide important information about the projected Basin production by members of
15 the Appropriative Pool. This information was critical to the RMP and, because this information
16 was not yet available in June 2010, the Inland Empire Utilities Agency (IEUA) was not in a
17 position to approve the updated RMP as required by the Peace II Agreement.

18 On this basis, in its October 8, 2010 Order approving the updated RMP, the Court made
19 the following orders:

20 (3) Watermaster is hereby ordered to convene the committee described in item 3 of
21 section 7.1 of the updated RMP to develop the monitoring, reporting, and accounting practices
22 that will be required to estimate local project stormwater recharge and new yield.

23 (4) Watermaster is hereby ordered to conduct further analyses as described in section
24 7.2 of the updated RMP of the Phase I through III projects to refine the projects, to develop a
25 financing plan, and to develop an implementation plan.

26 (5) By December 17, 2011, six months following completion of the parties' UWMPs,
27 Watermaster will report to the Court on any changes to the 2010 RMP necessitated by
28 information received through the UWMPs. In this report, Watermaster will also report on

1 progress made under items (3) and (4) above, and will report on the status of IEUA's approval of
2 the RMP. (October 8, 2010 Order, 4:9-18.)

3 **II. Extension of December 17, 2011 Deadline**

4 On December 12, 2011 Watermaster filed its *Ex Parte Motion to Request a 180-Day*
5 *Extension of Time re Filing of Recharge Master Plan Status Report*. The Court granted this
6 request on December 16, 2011.

7 Prior to the Court's consideration of the requested extension, the Watermaster Board met
8 and considered the update of the RMP. On December 15, 2011, the Board approved the
9 completion of the update to the RMP and an implementation and funding plan within the
10 following year.

11 **III. Update Status**

12 Using updated estimates of stakeholders' groundwater production and projections of
13 replenishment obligations, Watermaster and the parties have evaluated changed circumstances
14 (legislative, regulatory, etc.) that were not addressed in the 2010 RMP Update and how these
15 changes affect the RMP. For this purpose, a Recharge Master Plan Update Steering Committee
16 has been convened. This Committee is currently meeting every two weeks and includes
17 stakeholders, inclusive of IEUA as required by the Peace II Agreement. The evaluation by the
18 Committee has incorporated updated groundwater production estimates and replenishment
19 obligation projections, calculations of water in storage, and information regarding the projected
20 availability of replenishment water. Based on this evaluation, the Committee has selected agreed
21 upon bookend projected future scenarios for recharge planning.

22 Using these scenarios, Watermaster's hydrologists have undertaken modeling in order to
23 project recharge needs within the Basin, based on the modeled future groundwater levels,
24 estimated safe yield, and the balance of recharge and discharge within the Basin. This analysis is
25 predicated on the updated pumping and replenishment projections, estimates of the locations and
26 amounts of recharge required for sustainability, and potential production forbearance.

27 As the modeling to this point has been based on the existing locations and capabilities of
28 existing recharge facilities, the Committee has also had conducted an inventory of existing

1 recharge facilities, which includes the characterization of recharge basins, recharge capacities and
2 the factors controlling recharge performance. Other factors that have also been included in the
3 analysis include the evaluation of impacts due to changes in recycled water recharge regulations
4 on Watermaster's ability to recharge the same, the analysis of actual storm water recharge at
5 existing facilities, storm water available for recharge at each facility, and what could be done to
6 increase recharge at each, as well as the evaluation of availability of and ability to recharge
7 supplemental water, and the possibility of in-lieu recharge within the Basin. The analysis done to
8 this point is included in Chapters 1-4 of the present administrative draft of the RMP Update.
9 These chapters have been approved by the Appropriative, Overlying (Agricultural) and Overlying
10 (Non-Agricultural) Pools, the Advisory Committee and the Watermaster Board as the
11 administrative draft.

12 In order to finalize the RMP Update, the parties will next identify the possible recharge
13 mechanisms available to meet current and projected recharge and replenishment needs. This will
14 include the analysis of potential recharge associated with Municipal Separate Storm Sewer
15 Systems (MS4s), the identification of areas within the Basin with the potential for production
16 sustainability challenges and other water management challenges that can be addressed by
17 recharge or production management, the identification of options ensuring production
18 sustainability through the term of Peace Agreements, including increased recharge at existing
19 facilities, new recharge facilities, new recharge sources, adjustment in production patterns, etc.
20 The Committee will also develop the monitoring, reporting, and accounting practices that will be
21 required to estimate local project stormwater recharge and new yield.

22 After the identification of the potential recharge options, the parties will agree upon the
23 methods and criteria that will be used to evaluate each of them. Using these agreed upon methods
24 and criteria, Watermaster's consultants will conduct engineering and economic analyses of each.
25 Based on these analyses, the parties will review and recommend implementation of the selected
26 options, and develop recommended financing and implementation plans for these options.

27 Because IEUA is an active participant in the process of developing the RMP Update,
28 Watermaster reasonably anticipates that IEUA will be more readily disposed to approve the

1 updated plan once it is completed.

2 Consequently, Watermaster is of the opinion that, with the process described above, the
3 Committee is on schedule to complete the RMP Update within the timeframe presented in the
4 2010 Recharge Master Plan Update and believes progress will continue to be made consistent
5 with the Watermaster Board's December 15, 2011 action.

6
7 Dated: May 31, 2012

BROWNSTEIN HYATT FARBER SCHRECK, LLP

8
9 By: Bradley J. Herrema
10 SCOTT S. SLATER
11 BRADLEY J. HERREMA
12 ATTORNEYS FOR CHINO BASIN
13 WATERMASTER
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FEE EXEMPT

1 **SCOTT S. SLATER (State Bar No. 117317)**
2 **BRADLEY J. HERREMA (State Bar No. 228976)**
3 **BROWNSTEIN HYATT FARBER SCHRECK, LLP**
4 21 East Carrillo Street
5 Santa Barbara, CA 93101-2706
6 Telephone: 805.963.7000
7 Facsimile: 805.965.4333

8 **Attorneys for CHINO BASIN WATERMASTER**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**

11 **CHINO BASIN MUNICIPAL WATER**
12 **DISTRICT,**

13 **Plaintiff,**

14 **v.**

15 **CITY OF CHINO, et al.,**

16 **Defendant.**

Case No. RCV 51010

[Assigned for All Purposes to the
Honorable STANFORD E. REICHERT]

**MOTION FOR ORDER AFTER HEARING
ON MOTION FOR APPROVAL OF
WATERMASTER RESOLUTION 2010-04**

Hearing Date: NA
Hearing Time: NA
Dept: C-1

17
18 **I. INTRODUCTION**

19 Attached to this pleading as Exhibit "A" is a proposed Supplemental Order After Hearing
20 On Motion For Approval Of Watermaster Resolution 2010-04 ("Supplemental Order"). The
21 purpose of this Supplemental Order is to clarify that Resolution 2010-04 does not impair the
22 rights of private well owners to seek judicial review of alleged harm caused to those well owners
23 from desalter pumping in the Chino Creek Wellfield.

24 Watermaster knows of no objection to the Court signing the proposed Supplemental
25 Order. The proposed Supplemental Order was approved unanimously by all three Pools, the
26 Advisory Committee and the Board at their regularly scheduled March meetings. Watermaster
27 therefore recommends that the Court sign the proposed Supplemental Order without requiring a
28 hearing.

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1 **II. BACKGROUND**

2 On October 28, 2011, a hearing was held regarding Court approval of Watermaster
3 Resolution 2010-04. Among other things, Resolution 2010-04 confirms a process whereby
4 private well owners may object to the Chino Basin Desalter Authority ("CDA"), if those owners
5 believe that CDA pumping in the Chino Creek Well Field ("CCWF") is causing harm to their
6 wells. This process is articulated in detail in the Monitoring and Mitigation Plan for the CCWF
7 and forms are provided for private well owners to file a complaint with CDA.

8 Pursuant to this process, CDA is the ultimate arbiter of whether the private well owner's
9 complaint has merit. During the October 28, 2011 hearing, the Court raised a due process
10 concern about whether the Court's approval of Resolution 2010-04 would eliminate any judicial
11 review rights that the private well owner might possess. (See October 28, 2011 Hearing
12 Transcript, 112:16-115:15.) The Court stated that its intent in approving Resolution 2010-04 was
13 not to eliminate any such rights to judicial review. The Court asked Watermaster to provide a
14 supplemental order in order to ensure that this intent is clear.

15 In order to clarify the Court's intent on this issue in approving Resolution 2010-04,
16 Watermaster has prepared the proposed Supplemental Order attached hereto. The operative
17 portion of the proposed Supplemental Order confirms that Watermaster Resolution 2010-04, and
18 the Court's October 28, 2011 Order approving the Resolution, shall not be construed to limit the
19 legal rights of any private well owner to claim that the operation of the CDA wells have caused
20 harm to that party.

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23 //

1 **III. REQUEST FOR THE COURT TO SIGN THE PROPOSED SUPPLEMENTAL**
2 **ORDER WITHOUT HOLDING A HEARING**

3 Watermaster counsel has circulated the proposed Supplemental Order to counsel for the
4 Agricultural Pool and counsel for CDA, and it appears that the proposed Supplemental Order is
5 consistent with the understanding of these parties. In March, the three Pools, the Advisory
6 Committee and the Board unanimously approved submitting the proposed Supplemental Order to
7 the Court, and approved Watermaster's recommendation that the Court sign the Order without
8 holding a hearing.

9
10 Dated: May 31, 2012

BROWNSTEIN HYATT FARBER SCHRECK, LLP

11
12 By: Scott S. Slater
13 SCOTT S. SLATER
14 BRADLEY J. HERREMA
15 ATTORNEYS FOR CHINO BASIN
16 WATERMASTER
17
18
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Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendant.

Case No. RCV 51010

**[PROPOSED] SUPPLEMENTAL ORDER
AFTER HEARING ON MOTION FOR
APPROVAL OF WATERMASTER
RESOLUTION 2010-04**

On October 28, 2011 the Court issued its *Order After Hearing on Motion for Approval of Watermaster Resolution 2010-04*. During the October 28, 2011 hearing, the Court raised a concern regarding the scope of its Order concerning the procedures to address claims by private well owners. Specifically, the Court was concerned that its approval of the procedures described in the mitigation measures and the emergency response plan (See Exhibits "F" and "H" to Resolution 2010-04) would not be construed to limit the legal rights of any such private well owners to pursue claims independent of these procedures.

Watermaster has submitted this *Supplemental Order* as a means to provide confirmation of the Court's understanding of the effect of its October 28, 2011 Order. It does not appear that any party objects to the Court adopting this Order.

1 Accordingly, IT IS HEREBY ORDERED THAT:

2 Watermaster Resolution 2010-04, and the Court's October 28, 2011 Order approving the
3 Resolution, shall not be construed to limit the legal rights of any private well owner to claim that
4 the operation of the Chino Basin Desalter Authority wells has caused harm to that party.

5
6 Dated: _____, 2012

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8
9 HON. STANFORD E. REICHERT
JUDGE OF THE SUPERIOR COURT

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CHINO BASIN WATERMASTER
Case No. RCV 51010
Chino Basin Municipal Water District v. The City of Chino

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On May 31, 2012 I served the following:

- 1. RECHARGE MASTER PLAN STATUS REPORT**
- 2. MOTION FOR ORDER AFTER HEARING ON MOTION FOR APPROVAL OF WATERMASTER RESOLUTION 2010-4**

☒ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list: Mailing List 1

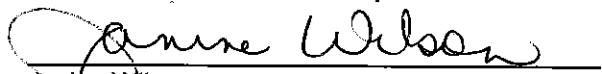
☐ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

☐ BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

☒ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 31, 2012 in Rancho Cucamonga, California.



Janine Wilson
Chino Basin Watermaster

BRIAN GEYE
AUTO SPEEDWAY
9300 CHERRY AVE
FONTANA, CA 92335

JAMES CURATALO
P.O. BOX 638
RANCHO CUCAMONGA, CA 91729-
0638

ROBERT BOWCOCK
INTEGRATED RESOURCES MGMNT
405 N. INDIAN HILL BLVD
CLAREMONT, CA 91711-4724

STEVE ELIE
IEUA
16405 DOMANI TERRACE
CHINO HILLS, CA 91709

GEOFFREY VANDEN HEUVEL
CBWM BOARD MEMBER
8315 MERRILL AVENUE
CHINO, CA 91710

PAUL HOFER
11248 S TURNER AVE
ONTARIO, CA 91761

BOB KUHN
669 HUNTERS TRAIL
GLEN DORA, CA 91740

CHARLES FIELD
4415 FIFTH STREET
RIVERSIDE, CA 92501

BILL KRUGER
14000 CITY CENTER DRIVE
CHINO HILLS, CA 91709

JEFF PIERSON
PO BOX 1440
LONG BEACH, CA 90801-1440

GLEN DURRINGTON
5512 FRANCIS ST
CHINO, CA 91710

BOB FEENSTRA
2720 SPRINGFIELD ST,
ORANGE, CA 92867

Members:

Alfred E. Smith
Allen W. Hubsch
Andrew Lazenby
Art Kidman
Barbara Swanson
Beth Barry
Carol
Carol Davis
Chris Swanberg
Dan McKinney
Fred Fudacz
Jean Cihigoyenetché
jeeinc@aol.com
Jill Willis
Jim Markman
Jim@city-attorney.com
jimmy@city-attorney.com
John Cotti
John Schatz
Joseph S. Aklufi
Karin Vogel
Kuperberg, Joel
Marguerite P Battersby
Mark Hensley
Michelle Staples
Randy Visser
Rodney Baker
smt@tragerlaw.com
Steve Kennedy
Steven K. Beckett
Steven R. Orr
Tom Bunn
Tom McPeters
Tracy J. Egoscue
William J Brunick
William P. Curley

asmith@nossaman.com
allen.hubsch@hoganlovells.com
lazenbyag@bv.com
akidman@mkblawyers.com
Barbara_Swanson@yahoo.com
bethb@cvwdwater.com
marie@tragerlaw.com
cdavis@lagerlof.com
chris.swanberg@corr.ca.gov
dmckinney@douglascountylaw.com
ffudacz@nossaman.com
Jean_CGC@hotmail.com
jeeinc@aol.com
jnwillis@bbklaw.com
jmarkman@rwglaw.com
Jim@city-attorney.com
jimmy@city-attorney.com
jcotti@localgovlaw.com
jschatz13@cox.net
AandWLaw@aol.com
KVogel@sheppardmullin.com
jkuperberg@rutan.com
pbattersby@sheppardmullin.com
mhensley@localgovlaw.com
mstaples@jdplaw.com
RVisser@sheppardmullin.com
rodbaker03@yahoo.com
smt@tragerlaw.com
skennedy@bmblawoffice.com
skbeckett@bmblawoffice.com
sorr@rwglaw.com
TomBunn@Lagerlof.com
THMcP@aol.com
tracy@egoscuelaw.com
bbrunick@bmblawoffice.com
wcurley@rwglaw.com

Members:

Al Lopez	lopezsixto@netzero.net
Alice Shiozawa	afshioza@gswater.com
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@wildermuthenvironmental.com
Anthony La	ala@ci.upland.ca.us
April Robitaille	arobitaille@bhfs.com
April Woodruff	awoodruff@ieua.org
Arnold Rodriguez	jarodriguez@sarwc.com
Ashok Dhingra	ash@akdconsulting.com
Ben Lewis	benjamin.lewis@gswater.com
Bill Kruger	citycouncil@chinohills.org
Bill Thompson	bthompson@ci.norco.ca.us
Bob Bowcock	bbowcock@irmwater.com
Bob Feenstra	bobfeenstra@gmail.com
Bob Kuhn	bgkuhn@aol.com
Bob Lawhn	rlawhn@rrienergy.com
Bonnie Tazza	bonniet@cvwdwater.com
Brad Herrema	bherrema@bhfs.com
Brenda Fowler	balee@fontanawater.com
Brian Dickinson	bdickinson@chinodesalter.org
Brian Geye	bgeye@autoclubspeedway.com
Brian Hess	bhess@niagarawater.com
Carl Hauge	chauge@water.ca.gov
Carol Boyd	Carol.Boyd@doj.ca.gov
Charles Field	cdfield@att.net
Charles Moorrees	cmoorrees@sawaterco.com
Cheyenne Reseck-Francis	cheyanne.reseck.francis@ieua.org
Chris Berch	CBerch@ieua.org
Chuck Hays	chays@fontana.org
Cindy Cisneros	cindyc@cvwdwater.com
Cindy LaCamera	clacamera@mw dh2o.com
Craig Miller	cmiller@ieua.org
Craig Stewart	Craig.Stewart@amec.com
Curtis Aaron	brutus76@att.net
Curtis Paxton	cpaxton@chinodesalter.org
Curtis Stubbings	Curtis_Stubbings@praxair.com
Dan Arrighi	darrighi@sgvwater.com
Dan Hostetler	dghostetler@csupomona.edu
Danielle Soto	danielle_soto@CI.POMONA.CA.US
Daryl Grigsby	daryl_grigsby@ci.pomona.ca.us
Dave Argo	argodg@bv.com
Dave Crosley	DCrosley@cityofchino.org
David D DeJesus	tvwmddiv2rep@gmail.com
David D DeJesus	davidcicgm@aol.com
David Penrice	dpenrice@acmwater.com
David Ringel	david.j.ringel@us.mwhglobal.com
David Starnes	david.starnes@mcmcnnet.net
Debbie Espe	despe@sdewa.org
Dennis Mejia	dmejia@ci.ontario.ca.us
Dennis Poulsen	dpoulsen@californiasteel.com
Dennis Williams	dwilliams@geoscience-water.com
Diana Sturgeon	dsturgeon@chinohills.org
Don Cutler	dcutler@jcsd.us
Don Galleano	donald@galleanowinery.com
Earl Elrod	earl.elrod@verizon.net
Ed Diggs	edd@cvwdwater.com
Edward Gonsman	Edward.Gonsman@cdcr.ca.gov
Eldon Horst	ehorst@jcsd.us
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eunice Ulloa	eulloa@cbwcd.org
Frank Brommenschenkel	frank.brommen@verizon.net

Frank LoGuidice
Gene Koopman
Geoffrey Kamansky
Geoffrey Vanden Heuvel
Gerald Yahr
Geye, Brian
Gloria Rivera
Grace Cabrera
Greg Woodside
Helen Arens
Ida Martinez
Ines Contreras
Isabel Martinez
Jack Safely
James Curatalo
James Jenkins
James McKenzie
Jean Perry
Jeff Pierson
Jeffrey L. Pierson
Jill Willis
Jim Taylor
Jo Lynne Russo-Pereyra
Joe Graziano
Joe P LeClaire
John Bosler
John Dickson
John Huitsing
John Kennedy
John Rossi
John Salmon
Jon Lambeck
Jorge Rosa Jr.
Julie Cavender
Julie Saba
Justin Brokaw
Justin Scott Coe
Karen Johnson
Kathy Kunysz
Kathy Tiegs
Ken Eke
Ken Jeske
Ken Kules
Ken Waring
Kevin Austin
Kevin Blakeslee
Kevin Sage
Kim Morris
Kurt Berchtold
Kyle Snay
Linda Minky
Lindsay Gomez
Lisa Hamilton
Marguerite P Battersby
Maribel Sosa
Marsha Westropp
Martin Zvirbulis
Michelle Lauffer
Mike Thies
Neil Miller
W. C. "Bill" Kruger

faloguidice@sgvwater.com
GTKoopman@aol.com
gkamansky@niagarawater.com
GeoffreyVH@juno.com
yahrj@koll.com
BGeye@autoclubspeedway.com
gloriar@cvwdwater.com
grace_cabrera@ci.pomona.ca.us
gwoodside@ocwd.com
Helen.Arens@doj.ca.gov
idam@cvwdwater.com
lContreras@wmwd.com
imartinez_wfa@verizon.net
jsafely@wmwd.com
jamesc@cvwdwater.com
cnomgr@airports.sbcounty.gov
jmckenzie@dpw.sbcounty.gov
JPerry@wmwd.com
jpierson@unitexcorp.com
jpierson@intexcorp.com
jnwillis@bbklaw.com
jim_taylor@ci.pomona.ca.us
jolynner@cvwdwater.com
jgraz4077@aol.com
jleclaire@wildermuthenvironmental.com
JohnBo@cvwdwater.com
john.dickson@cdcr.ca.gov
johnhuitsing@gmail.com
jkennedy@ocwd.com
jrossi@wmwd.com
jsalmon@mkblawyers.com
jlambeck@mwdh2o.com
Jorge.Rosa@sce.com
julie.cavender@cdcr.ca.gov
jsaba@jcsd.us
jbrokaw@hughes.net
jscottcoe@mvwd.org
kejwater@aol.com
kkunysz@mwdh2o.com
Kathyt@cvwdwater.com
keke@dpw.co.san-bernardino.ca.us
kjcwater@hotmail.com
kkules@mwdh2o.com
kwaring@jcsd.us
kaustin@californiasteel.com
kblakeslee@dpw.sbcounty.gov
Ksage@IRMWwater.com
kmorris@fontana.org
kberchtold@waterboards.ca.gov
kylesnay@gswater.com
LMinky@BHFS.com
lgomez@wildermuthenvironmental.com
Lisa.Hamilton@corporate.ge.com
pbattersby@sheppardmullin.com
Maribel_Sosa@ci.pomona.ca.us
MWestropp@ocwd.com
martinz@cvwdwater.com
mlauffer@jcsd.us
mthies@spacecenterinc.com
neil_miller@ci.pomona.ca.us
wkruger@earthlink.net

Members:

Manuel Carrillo
Maria Mendoza
Mario Garcia
Mark Kinsey
Mark Ward
Mark Wildermuth
Marla Doyle
Martha Davis
Martin Rauch
Maynard Lenhart
Melanie Otero
Michael Camacho
Michael T Fife
Mike Maestas
Mike Sigsbee
Mike Williams
Mindy Sanchez
Moore, Toby
Nadeem Majaj
Nathan deBoom
Pam Sharp
Pam Wilson
Pat Glover
Paul Deutsch
Paul Hofer
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Peggy Asche
Pete Hall
Peter Hettinga
Peter Rogers
Phil Krause
Phil Rosentrater
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Raul Garibay
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Rick Rees
Rita Pro
Rob Vanden Heuvel
Robert C. Hawkins
Robert Cayce
Robert DeLoach
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Robert Nobles
Robert Tock
Robert Wagner
Robert Young
Roger Han
Ron Craig
Rosemary Hoerning
Ryan Shaw
Sam Fuller
Sandra S. Rose
Sandy Lopez
Sarah Kerr
Sarah Schneider
Scott Burton
Scott Slater
Seth Zielke
Shaun Stone
Sheri Rojo
Sherrie Schnelle
Sondra Elrod

Manuel.Carrillo@SEN.CA.GOV
mmendoza@wildermuthenvironmental.com
mgarcia@tvmwd.com
mkinsey@mvwd.org
mark_ward@ameron-intl.com
mwildermuth@wildermuthenvironmental.com
marla_doyle@ci.pomona.ca.us
mdavis@ieua.org
martin@rauchcc.com
directorlenhart@mvwd.org
melanie_otero@ci.pomona.ca.us
Mcamacho@pacificaservices.com
MFife@bhfs.com
mmaestas@chinohills.org
msigsbee@ci.ontario.ca.us
mwilliams@airports.sbcounty.gov
msanchez@ieua.org
TobyMoore@gswater.com
nmajaj@chinohills.org
n8deboom@gmail.com
PSharp@chinohills.org
pwilson@bhfs.com
pglover@cityofchino.org
paul.deutsch@amec.com
farmwatchtoo@aol.com
paula_lantz@ci.pomona.ca.us
peggy@wvwd.org
rpetehall@gmail.com
peterhettinga@yahoo.com
citycouncil@chinohills.org
pkrause@parks.sbcounty.gov
prosentrater@wmwd.com
rlee@ieua.org
raul_garibay@ci.pomona.ca.us
rhansen@tvmwd.com
Richard.Rees@amec.com
rpro@cityofchino.org
Robert.t.van@gmail.com
RHawkins@earthlink.net
rcayce@airports.sbcounty.gov
robertadeloach1@gmail.com
robneu1@yahoo.com
Robert.Nobles@cdcr.ca.gov
rtock@jcsd.us
rwagner@wbecorp.com
rkyoung@fontanawater.com
roger_han@praxair.com
RonC@rbf.com
rhoerning@ci.upland.ca.us
rshaw@ieua.org
samf@sbvmwd.com
directorrose@mvwd.org
slopez@ci.ontario.ca.us
skerr@ci.ontario.ca.us
sarah.schneider@amec.com
sburton@ci.ontario.ca.us
sslater@bhfs.com
sjzielke@fontanawater.com
sstone@ci.upland.ca.us
smrojo@aol.com
Sschnelle@chinohills.org
selrod@ieua.org

Sonya Barber
Sonya Bloodworth
Steve Nix
Steve Riboli
Steven J. Elie
Steven J. Elie
Terry Catlin
Tim Hampton
Tim Mim Mack
Todd Corbin
Tom Cruikshank
Tom Harder
Tom Haughey
Tom Love
Tom O'Neill
Toni Medel
Tracy Tracy
Van Jew
Vicki Hahn
Watermaster Admin Staff
William P. Curley

sbarber@ci.upland.ca.us
sbloodworth@wmwd.com
snix@chinohills.org
steve.riboli@sanantoniowinery.com
selie@ieua.org
s.elie@mpglaw.com
tllcatlin@wfajpa.org
tim_hampton@ci.pomona.ca.us
tmimmack@ci.ontario.ca.us
tcorbin@jcsd.us
tcruikshank@spacecenterinc.com
tharder@thomashardercompany.com
tom@haugheyinsurance.com
TLove@ieua.org
toneill@ci.ontario.ca.us
mmedel@rbf.com
ttracy@mvwd.org
vjew@mvwd.org
vhahn@tvmwd.com

wcurley@rwglaw.com