



City of Fontana
Public Works Department
16489 Orange Way
Fontana, CA 92335
(909)350-6760

May 16, 2013

Peter Kavounas, P.E.
General Manager
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

RE: REVISIONS TO DRAFT SECTION 5: RMPU

Dear Mr. Kavounas:

Following are revisions to two sub-sections of the draft Section 5 of the Chino Basin Recharge Management Plan Update. There are potentially other revisions necessary to Section 5, but these address two of the major issues.

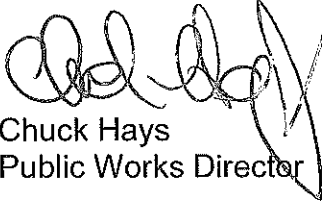
1. Remove the sub-section entitled "Watermaster Practice for Allocation New Recharge" on pages 5-2 and 5-3. It is legally inaccurate, and improperly attempts to conflate the Judgment provisions relating to changes in the Safe Yield with the New Yield and Storage provisions of the Judgment and Rules and Regulations that plainly encourage and allow any party to obtain an agreement with Watermaster to store New Yield water created by that party's recharge project – provided the recharge/storage project does not result in Material Physical Injury.
2. Replace the sub-section entitled "Net New Recharge and Allocation of New Yield" on pages 5-5 and 5-6 with the following:

MS4 operators seeking to obtain an allocation for New Yield associated with MS4 upgrades resulting in recapture and recharge should follow the application process set forth in the following sub-section (insert number corresponding with "Net New Recharge and Allocation of New Yield"). The baseline stormwater recharge at all current facilities should be established as the starting point from which net new stormwater recharge can be measured at new recharge facilities. Pursuant to the terms of the Judgment, all related agreements, and the Watermaster's Rules and Regulations, the Watermaster shall coordinate with and support the efforts of parties seeking to engage in recharge projects that will not result in Material Physical Injury to the Basin.

Chino Basin Municipal Water
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Explanation: As drafted the "Net New Recharge and Allocation of New Yield" on pages 5-5 and 5-6 is contrary to provisions of the Judgment and related agreements (relating to storage agreements, the Watermaster water rights license being held in trust, Local Storage Projects, etc.) and is plainly an attempt to improperly attempt to prevent Fontana and other parties from obtaining an allocation by implementing MS4 and other recharge/storage projects. The fact that the Operating Safe Yield (OSY) is diminished due to lack of recharge has no bearing on a new recharge project by Fontana or others. This is an issue for the fortunate parties with existing allocations. It may require a reduction in the OSY, to be apportioned pursuant to the terms of the Judgment. But there is no reason why the reduced OSY should impact the ability of Fontana or other MS4 operators who do not have an allocation and are engaged in MS4 upgrades or other recharge/storage projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Hays", with a long, sweeping underline that extends to the right.

Chuck Hays
Public Works Director