

## **Fee Exempt**

1 ELIZABETH P. EWENS (SB #213046)  
[elizabeth.ewens@stoel.com](mailto:elizabeth.ewens@stoel.com)  
2 MICHAEL B. BROWN (SB #179222)  
[michael.brown@stoel.com](mailto:michael.brown@stoel.com)  
3 STOEL RIVES LLP  
500 Capitol Mall, Suite 1600  
4 Sacramento, CA 95814  
Telephone: 916.447.0700  
5 Facsimile: 916.447.4781

6 Attorneys for  
City of Ontario

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

## COUNTY OF SAN BERNARDINO

## CHINO BASIN MUNICIPAL WATER DISTRICT,

CASE NO. RCVRS 51010

[ASSIGNED FOR ALL PURPOSES TO THE  
HONORABLE GILBERT G. OCHOA]

Plaintiff,

V.

14 || CITY OF CHINO, et al.,

## Defendants.

# **REPLY TO INLAND EMPIRE UTILITIES AGENCY'S OPPOSITION TO CITY OF ONTARIO'S MOTION FOR ORDER DIRECTING WATERMASTER TO CORRECT AND AMEND THE FY 2021/2022 AND 2022/2023 ASSESSMENT PACKAGES**

### Hearing:

Date: February 20, 2026  
Time: 10:00 a.m.  
Dept: R-17

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

The City of Ontario (“Ontario”) hereby responds to the Inland Empire Utilities Agency’s Opposition to Ontario’s Motion for Order Directing Watermaster to Correct and Amend the FY 2021/2022 and FY 2022/2023 Assessment Packages (“IEUA Opposition”). The issues raised in IEUA’s Opposition principally surround the following issues: whether the corrections to the Assessment Packages require corresponding adjustments to the account balances for Metropolitan’s Dry Year Yield / Conjunctive Use Program (e.g., whether “zeroing out” Fontana and CVWD’s claimed DYY production requires a corresponding adjustment to Metropolitan’s DYY storage account balance), whether the correction and amendment of the Assessment Packages will impact the DYY program “storage cap,” and potential impacts to Metropolitan Water District (“MWD” or “Metropolitan”). Similar and overlapping arguments were raised by Fontana Water Company (“Fontana”) and Cucamonga Valley Water District (“CVWD”) in Fontana and CVWD’s Joint Opposition to City of Ontario’s Motion for Order Directing Watermaster to Correct and Amend the FY 2021/2022 and FY 2022/2023 Assessment Packages (“Joint Opposition”). In the interest of promoting judicial economy, Ontario consolidates its reply to IEUA, Fontana, and CVWD’s (“Opposing Parties”) arguments, including as they relate to accounting for DYY water, operation of the storage and recovery program, and alleged impacts on Metropolitan and DYY participating agencies.

## II. ARGUMENT

**A. Watermaster Is Required to Account for DYY Production.**

22 The Court of Appeal unambiguously ordered “Watermaster to correct and amend the  
23 FY 2021/2022 and 2022/2023 Assessment Packages consistent with the *original* DYY Program  
24 agreements, the Judgment, and prior court orders.” (Court of Appeal Opinion<sup>1</sup> (“Opinion” or  
25 “Op.”), issued Apr. 18, 2025, at p. 39, emphasis added.) The whole of the Assessment Packages  
26 must be amended in accordance with the Court of Appeal’s Opinion, and the Court of Appeal gave

<sup>1</sup> See Request for Judicial Notice in Support of Motions, filed Jan. 12, 2026, Ex. A.

1 no wiggle-room to the Parties to cherry pick what portions of the Assessment Packages they want  
2 to correct and what portions they do not. And yet, this is what Opposing Parties are suggesting.

3 Correcting and amending the Assessment Packages requires Watermaster to zero out the  
4 DYY production improperly claimed by Fontana and CVWD, as shown in the Storage and  
5 Recovery Program Column.<sup>2</sup> (See Request for Judicial Notice in Support of Motion (“RJN”), filed  
6 Jan. 12, 2026, Exs. C-D at pp. 10.1, 20.1; see Declaration of Courtney Jones in Support of Motion,  
7 filed Jan. 12, 2026, ¶ 12.) This is because the Court of Appeal held that Fontana and CVWD should  
8 not have claimed DYY production in FY 2021/2022 and FY 2022/2023, that their claimed DYY  
9 production violated the original DYY Agreements and DYY Orders, and as a result the Court of  
10 Appeal went on to order the Assessment Packages to be corrected to reflect that there was no  
11 authorized DYY production by Fontana and CVWD during those years.

12 But this is only half of the story. You cannot zero out Fontana’s and CVWD’s claimed DYY  
13 production without making a corresponding adjustment to the balance of Metropolitan’s Dry Year  
14 Yield Storage Account balance. Indeed, Watermaster is required by the express terms of the 2003  
15 Funding Agreement to track and report how much water goes in and out of Metropolitan’s DYY  
16 storage account, and how much DYY water remains in Metropolitan’s Storage Account. (See RJN,  
17 Ex. E at ¶ VI.C.1. Watermaster Obligations.) Metropolitan’s Storage Account balance is tracked  
18 and reported in the Assessment Packages. (Declaration of Courtney Jones in Support of Motion,  
19 filed Jan. 12, 2026, Ex. A at p. 13.1, Ex. B at p. 13.1.) Accurate accounting of this water is  
20 mandated by the Court-approved 2003 Funding Agreement which states, in part:

21       C. Watermaster Obligations

22       Watermaster hereby agrees to:

25       2 Rather than repeating Ontario’s arguments here, Ontario refers the Court to, and incorporates  
26 herein, Ontario’s Status Conference Statement, filed Sept. 26, 2025; Ontario’s Supplemental Status  
27 Conference Statement, filed Oct. 29, 2025; Ontario’s Motion for Order Directing Watermaster to  
28 Correct and Amend the FY 2021/2022 and 2022/2023 Assessment Packages and supporting  
documents, filed Jan. 12, 2026; and Ontario’s Reply to Fontana and CVWD’s Joint Opposition,  
filed concurrently herewith.

1       1. Maintain records of the amounts of all water stored in and extracted from  
2       the Chino Basin pursuant to this Agreement and consistent with the  
3       Judgment and Rules and Regulations, and provide to Metropolitan an  
4       amount specified in an account to be designated as the **Metropolitan**  
5       **Storage Account** ... d. Watermaster shall debit the Metropolitan Storage  
6       Account one acre-foot for each acre-foot of water produced from the  
7       account. Watermaster accounting for water produced from the Metropolitan  
8       Storage Account shall specify quantities produced by each Operating Party.

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(See RJN, Ex. E at ¶ VI.C.1. Watermaster Obligations.) Pursuant to the Court of Appeal's decision, Fontana and CVWD were not entitled to produce DYY water in FY 2021/2022 and FY 2022/2023, and their claimed DYY production will be amended and corrected for these years to reflect **no** DYY production by these agencies consistent with the Court of Appeal's Opinion and its specific direction that the Assessment Packages be amended in a manner "consistent with the "*original* DYY Program agreements, the Judgment, and prior court orders." (Op., p. 39, emphasis added.) Correspondingly, the Metropolitan Storage Account will need to be credited back the same amount of DYY water – because CVWD and Fontana should not have claimed to have produced it out of Metropolitan's DYY storage account in the first instance. That is what is required by the Court of Appeal's decision, and this is what is required by the mandatory accounting procedures contained in the 2003 Funding Agreement, Judgment, and Watermaster Rules and Regulations.

It is worth noting that this is purely an accounting exercise. It does not, as Fontana and CVWD claim, require the "infiltration" of this water back into the Basin. (Fontana and CVWD's Joint Opposition at p. 15.) The water was produced. The only question is whether you account for it as DYY production, or whether you account for it as part of CVWD and Fontana's ordinary production. On this point the Court of Appeal could not have been more clear: this was not authorized DYY production and the Assessment Packages need to be corrected to reflect this.

24       **B. The DYY Program "Storage Cap" Is a Product of the Court's Prior Order, and  
25       This Court Has the Authority and Ability to Raise That Storage Cap.**

IEUA, Fontana, and CVWD each argue that correcting the DYY accounting will result in a violation of the 100,000 acre-foot "storage cap" for the DYY program. However, IEUA acknowledges that the storage cap can be increased by Watermaster. (IEUA Opposition at 3:22-24

1     [“The maximum storage amount which can be allocated to MWD’s DYYP account is 100,000 acre-  
2     feet. *Any amount in excess of that maximum must be approved in advance by Watermaster.*”  
3     (emphasis added).) This storage account balance originates in the 2003 Funding Agreement  
4     approved by the Court. Not only does Watermaster have the ability to approve an increase in the  
5     storage cap, so does this Court under its continuing jurisdiction through an amendment of its own  
6     prior order approving the 2003 Funding Agreement.<sup>3</sup> Moreover, there would be no injury to the  
7     Basin associated with raising the Storage Cap to accommodate this correction to the Assessment  
8     Packages. On January 10, 2025, this Court entered an order increasing the safe storage capacity of  
9     the Basin to 900,000 acre-feet. A review of the reported use of storage space in the Basin shows  
10    that the current utilized storage in the Basin is approximately between 670,000 and 720,000 acre  
11    feet – more than enough to accommodate any necessary increase in the storage cap for the DYY  
12    program. (Declaration of Courtney Jones in Support of Replies, filed concurrently herewith, ¶¶ 5-  
13    6, Ex. C [at Exhibit C].)

14                   C. **The Opposing Parties, Including Watermaster, Previously Raised Arguments**  
15                   **Relating to the Potential Financial Impact on Metropolitan, and Those**  
16                   **Arguments Were Rejected by the Court of Appeal.**

17                  Not for the first time, Opposing Parties raise arguments about the potential chilling effect  
18    on the DYY program and the alleged detrimental impacts on Metropolitan. First, it is important to  
19    note that Metropolitan is not a party in this action and did not seek to intervene in this case. It also  
20    is telling that the Court of Appeal rejected Watermaster’s Request for Judicial Notice to introduce  
21    evidence regarding potential financial impacts to Metropolitan. (Op. at p. 15.) And the Court of  
22    Appeal tacitly rejected arguments submitted on appeal by Watermaster and Opposing Parties  
23    relating to Metropolitan and the parties’ financial investments in the DYY program. IEUA and  
24    Opposing Parties are simply regurgitating the same arguments they made before the Court of  
25    Appeal. (Op. at pp. 11, 15; Declaration of Elizabeth P. Ewens in Support of Replies, filed  
26    concurrently herewith, Ex. H [Transcript of Court of Appeal argument, at 12:15-13:9].)

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28                  <sup>3</sup> Ontario does not concede that such an amendment would be necessary. This is a “call” year by  
MWD, which means that participating agencies in the DYY program will be required to produce  
DYY water this year. Under such circumstances, whether the storage cap will be exceeded this year  
is purely speculative.

1           At the end of the day, arguments raised by Opposing Parties that correcting the Assessment  
2 Packages could impact Metropolitan's decisions about the future of the DYY program, Opposing  
3 Parties' arguments that implementing the Court of Appeal's decision might affect parties' ability  
4 to fully perform on their DYY obligations by 2028, and Opposing Parties' arguments that call into  
5 question the value of agencies' financial investments in the DYY program are all based on pure  
6 speculation and conjecture. These arguments also do not alter the Court of Appeal's clear directive  
7 to this Court to enter an order directing Watermaster to correct and amend Assessment Packages  
8 consistent with the original DYY Program agreements, the Judgment, and prior court orders. (Op.  
9 at p. 39.)

10          **III. CONCLUSION**

11          Ontario respectfully requests that the Court grant its Motion for Order Directing  
12 Watermaster to Correct and Amend the FY 2021/2022 and FY 2022/2023 Assessment Packages as  
13 set forth in the Proposed Order submitted by Ontario.

14          Dated: February 11, 2026

STOEL RIVES LLP

15  
16          By:   
17            ELIZABETH P. EWENS  
18            MICHAEL B. BROWN  
19            Attorneys for  
20            City of Ontario

**CHINO BASIN WATERMASTER**  
Case No. RCVRS 51010  
Chino Basin Municipal Water District v. City of Chino, et al.

**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 action within. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On February 11, 2026, I served the following:

1. REPLY TO INLAND EMPIRE UTILITIES AGENCY'S OPPOSITION TO CITY OF ONTARIO'S MOTION FOR ORDER DIRECTING WATERMASTER TO CORRECT AND AMEND THE FY 2021/2022 AND 2022/2023 ASSESSMENT PACKAGES

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the 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.

/X/ 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.

**See attached service list:** Master Email Distribution List

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

Executed on February 11, 2026, in Rancho Cucamonga, California.

  
\_\_\_\_\_  
By: Ruby Favela Quintero  
Chino Basin Watermaster

PAUL HOFER  
11248 S TURNER AVE  
ONTARIO, CA 91761

JEFF PIERSON  
2 HEXHAM  
IRVINE, CA 92603

## **Ruby Favela Quintero**

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**Contact Group Nam01** - Master Email List

**Members:**

Aimee Zhao	azhao@ieua.org
Alan Frost	Alan.Frost@dpw.sbccounty.gov
Alberto Mendoza	Alberto.Mendoza@cmc.com
Alejandro R. Reyes	arreyes@sgvwater.com
Alex Padilla	Alex.Padilla@wsp.com
Alexis Mascarinas	AMascarinas@ontarioca.gov
Alfonso Ruiz	alfonso.ruiz@cmc.com
Alonso Jurado	ajurado@cbwm.org
Alyssa Coronado	acoronado@sarwc.com
Amanda Coker	amandac@cvwdwater.com
Andrew Gagen	agagen@kidmanlaw.com
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@westyost.com
Angelica Todd	angelica.todd@ge.com
Anna Mauser	anna.mauser@nucor.com
Anna Nelson	atruongnelson@cbwm.org
Anthony Alberti	aalberti@sgvwater.com
April Robitaille	arobitaille@bhfs.com
Art Bennett	citycouncil@chinohills.org
Arthur Kidman	akidman@kidmanlaw.com
Ashley Zapp	ashley.zapp@cmc.com
Ashok Dhingra	ash@akdconsulting.com
Ben Lewis	benjamin.lewis@gswater.com
Ben Orosco	Borosco@cityofchino.org
Ben Roden	BenR@cvwdwater.com
Benjamin M. Weink	ben.weink@tetrach.com
Benjamin Markham	bmarkham@bhfs.com
Beth.McHenry	Beth.McHenry@hoferranch.com
Bill Schwartz	bschwartz@mvwd.org
Bill Velt	bvelto@uplandca.gov
Board Support Team IEUA	BoardSupportTeam@ieua.org
Bob Bowcock	bbowcock@irmwater.com
Bob DiPrimio	rjdiprimio@sgvwater.com
Bob Feenstra	bobfeenstra@gmail.com
Bob Kuhn	bkuhn@tvmwd.com
Bob Kuhn	bgkuhn@aol.com
Bob Page	Bob.Page@rov.sbccounty.gov
Brad Herrema	bherrema@bhfs.com
Bradley Jensen	bradley.jensen@cao.sbccounty.gov
Brandi Belmontes	BBelmontes@ontarioca.gov
Brandi Goodman-Decoud	bgdecoud@mvwd.org
Brandon Howard	brahoward@niagarawater.com
Brenda Fowler	balee@fontanawater.com
Brent Yamasaki	byamasaki@mwdh2o.com
Brian Dickinson	bdickinson65@gmail.com
Brian Geye	bgeye@autoclubspeedway.com
Brian Hamilton	bhamilton@downeybrand.com
Brian Lee	blee@sawaterco.com
Bryan Smith	bsmith@jcsd.us
Carmen Sierra	carmens@cvwdwater.com
Carol Boyd	Carol.Boyd@doj.ca.gov

Carolina Sanchez	csanchez@westyost.com
Casey Costa	ccosta@chinodesalter.org
Cassandra Hooks	chooks@niagarawater.com
Chad Nishida	CNishida@ontarioca.gov
Chander Letulle	cleuttle@jcsd.us
Charles Field	cdfield@att.net
Charles Moorrees	cmoorrees@sawaterco.com
Chris Berch	cberch@jcsd.us
Chris Diggs	chris.diggs@pomonaca.gov
Christen Miller	Christen.Miller@cao.sbccounty.gov
Christensen, Rebecca A	rebecca_christensen@fws.gov
Christopher M. Sanders	cms@eslawfirm.com
Christopher R. Guillen	cguillen@bhfs.com
Cindy Cisneros	cindyc@cvwdwater.com
Cindy Li	Cindy.li@waterboards.ca.gov
City of Chino, Administration Department	administration@cityofchino.org
Courtney Jones	cjones@ontarioca.gov
Craig Miller	CMiller@wmwd.com
Craig Stewart	craig.stewart@wsp.com
Cris Fealy	cifealy@fontanawater.com
Curtis Burton	CBurton@cityofchino.org
Dan McKinney	dmckinney@douglascountylaw.com
Dana Reeder	dreeder@downeybrand.com
Daniel Bobadilla	dbobadilla@chinohills.org
Daniela Uriarte	dUriarte@cbwm.org
Danny Kim	dkim@linklogistics.com
Dave Argo	daveargo46@icloud.com
Dave Schroeder	DSchroeder@cbwcd.org
David Barnes	DBarnes@geoscience-water.com
David De Jesus	ddejesus@tvmwd.com
Dawn Varacchi	dawn.varacchi@geaerospace.com
Deanna Fillon	dfillon@DowneyBrand.com
Denise Garzaro	dgarzaro@ieua.org
Denise Pohl	dpohl@cityofchino.org
Dennis Mejia	dmejia@ontarioca.gov
Dennis Williams	dwilliams@geoscience-water.com
Derek Hoffman	dhoffman@fennemorelaw.com
Derek LaCombe	dlacombe@ci.norco.ca.us
Ed Diggs	ediggs@uplandca.gov
Ed Means	edmeans@icloud.com
Eddie Lin	elin@ieua.org
Eddie Oros	eoros@bhfs.com
Edgar Tellez Foster	etellezfoster@cbwm.org
Eduardo Espinoza	EduardoE@cvwdwater.com
Elena Rodrigues	erodrigues@wmwd.com
Elizabeth M. Calciano	ecalciano@hensleylawgroup.com
Elizabeth P. Ewens	elizabeth.ewens@stoel.com
Elizabeth Willis	ewillis@cbwcd.org
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Grubb	ericg@cvwdwater.com
Eric Lindberg PG,CHG	eric.lindberg@waterboards.ca.gov

Eric N. Robinson	erobinson@kmtg.com
Eric Papathakis	Eric.Papathakis@cdcr.ca.gov
Eric Tarango	edtarango@fontanawater.com
Erick Jimenez	Erick.Jimenez@nucor.com
Erik Vides	evides@cbwm.org
Erika Clement	Erika.clement@sce.com
Eunice Ulloa	eulloa@cityofchino.org
Evette Ounanian	EvetteO@cvwdwater.com
Frank Yoo	FrankY@cbwm.org
Fred Fudacz	ffudacz@nossaman.com
Fred Galante	fgalante@awattorneys.com
G. Michael Milhiser	Milhiser@hotmail.com
G. Michael Milhiser	directormilhiser@mwwd.org
Garrett Rapp	grapp@westyost.com
Geoffrey Kamansky	gkamansky@niagarawater.com
Geoffrey Vanden Heuvel	geoffreyvh60@gmail.com
Gerald Yahr	yahrj@koll.com
Gina Gomez	ggomez@ontarioca.gov
Gina Nicholls	gnicholls@nossaman.com
Gino L. Filippi	Ginoffvine@aol.com
Gloria Flores	gflores@ieu.org
Gracie Torres	gtorres@wmwd.com
Grant Mann	GMann@dpw.sbccounty.gov
Greg Zarco	Greg.Zarco@airports.sbccounty.gov
Ha T. Nguyen	ha.nguyen@stoel.com
Heather Placencia	heather.placencia@parks.sbccounty.gov
Henry DeHaan	Hdehaan1950@gmail.com
Hvianca Hakim	HHakim@linklogistics.com
Hye Jin Lee	HJLee@cityofchino.org
Imelda Cadigal	Imelda.Cadigal@cdcr.ca.gov
Irene Islas	irene.islas@bbklaw.com
Ivy Capili	ICapili@bhfs.com
James Curatalo	jamesc@cvwdwater.com
Jasmin A. Hall	jhall@ieu.org
Jason Marseilles	jmareilles@ieu.org
Jean Cihigoyenetche	Jean@thejclawfirm.com
Jeff Evers	jevers@niagarawater.com
Jeffrey L. Pierson	jpierson@intexcorp.com
Jennifer Hy-Luk	jhyluk@ieu.org
Jeremy N. Jungries	jjungreis@rutan.com
Jess Singletary	jSingletary@cityofchino.org
Jesse Pompa	jpompa@jcsd.us
Jessie Ruedas	Jessie@thejclawfirm.com
Jill Keehnen	jill.keechnen@stoel.com
Jim Markman	jmarkman@rwglaw.com
Jim Van de Water	jimvdw@thomashardercompany.com
Jim W. Bowman	jbowman@ontarioca.gov
Jimmie Moffatt	jimmiem@cvwdwater.com
Jimmy Medrano	Jaime.medrano2@cdcr.ca.gov
Jiwon Seung	JiwonS@cvwdwater.com
Joanne Chan	jchan@wwd.org
Joao Feitoza	joao.feitoza@cmc.com
Jody Roberto	jroberto@tvmwd.com

Joe Graziano	jgraz4077@aol.com
Joel Ignacio	jignacio@ieua.org
John Bosler	johnb@cvwdwater.com
John Harper	jrharper@harperburns.com
John Hughes	jhughes@mvwd.org
John Huitsing	johnhuitsing@gmail.com
John Lopez	jlopez@sarwc.com
John Lopez and Nathan Cole	customerservice@sarwc.com
John Mendoza	jmendoza@tvmwd.com
John Partridge	jpartridge@angelica.com
John Russ	jruss@ieua.org
John Schatz	jschatz13@cox.net
Jonathan Chang	jonathanchang@ontarioca.gov
Jordan Garcia	jgarcia@cbwm.org
Jose A Galindo	Jose.A.Galindo@linde.com
Jose Ventura	jose.ventura@linde.com
Josh Swift	jmswift@fontanawater.com
Joshua Aguilera	jaguilar1@wmwd.com
Justin Brokaw	jbrokaw@marygoldmutualwater.com
Justin Castruita	jacastruita@fontanawater.com
Justin Nakano	JNakano@cbwm.org
Justin Scott-Coe Ph. D.	jscottcoe@mvwd.org
Kaitlyn Dodson-Hamilton	kaitlyn@tdaenv.com
Karen Williams	kwilliams@sawpa.org
Kati Parker	kparker@katithewaterlady.com
Keith Lemieux	klemieux@awattorneys.com
Kelly Alhadeff-Black	kelly.black@lewisbrisbois.com
Kelly Ridenour	KRIDENOUR@fennemorelaw.com
Ken Waring	kwaring@jcsd.us
Kevin Alexander	kalexander@ieua.org
Kevin O'Toole	kotoole@ocwd.com
Kevin Sage	Ksage@IRMwater.com
Kirk Richard Dolar	kdolar@cbwm.org
Kurt Berchtold	kberchtold@gmail.com
Kyle Brochard	KBrochard@rwglaw.com
Kyle Snay	kylesnay@gswater.com
Laura Roughton	lroughton@wmwd.com
Lee McElhaney	lmcclanahan@bmklawplc.com
Lewis Callahan	Lewis.Callahan@cdcr.ca.gov
Linda Jadeski	ljadeski@wwd.org
Liz Hurst	ehurst@ieua.org
Mallory Gandara	MGandara@wmwd.com
Manny Martinez	DirectorMartinez@mvwd.org
Marcella Correa	MCorrea@rwglaw.com
Marco Tule	mtule@ieua.org
Maria Ayala	mayala@jcsd.us
Maria Insixiengmay	Maria.Insixiengmay@cc.sbccounty.gov
Maria Mendoza	mmendoza@westyost.com
Maribel Sosa	Maribel.Sosa@pomonaca.gov
Marilyn Levin	Marilynlevin@gmail.com
Marissa Turner	mturner@tvmwd.com
Mark D. Hensley	mhensley@hensleylawgroup.com
Mark Wiley	mwiley@chinohills.org

Marlene B. Wiman	mwiman@nossaman.com
Martin Cihigoyenetche	marty@thejclawfirm.com
Martin Cihigoyenetche - JC Law	lmcihigoyenetche@ieu.org
Martin Rauch	martin@rauchcc.com
Martin Zvirbulis	mezvirbulis@sgvwater.com
Matthew H. Litchfield	mlitchfield@tvmwd.com
Maureen Snelgrove	Maureen.snelgrove@airports.sbcounty.gov
Maureen Tucker	mtucker@awattorneys.com
Megan Sims	mnsims@sgvwater.com
Meredith Nikkel	mnikkel@downeybrand.com
Michael Adler	michael.adler@mcmcnet.net
Michael B. Brown, Esq.	michael.brown@stoel.com
Michael Blay	mblay@uplandca.gov
Michael Cruikshank	mcruijkshank@wsc-inc.com
Michael Fam	mfam@dpw.sbcounty.gov
Michael Hurley	mhurley@ieu.org
Michael Maeda	michael.maeda@cdcr.ca.gov
Michael Mayer	Michael.Mayer@dpw.sbcounty.gov
Michael P. Thornton	mthornton@tkeengineering.com
Michele Hinton	mhinton@fennemorelaw.com
Michelle Licea	mlicea@mvwd.org
Mikayla Coleman	mikayla@cvstrat.com
Mike Gardner	mgardner@wmwd.com
Mike Maestas	mikem@cvwdwater.com
Miriam Garcia	mgarcia@ieu.org
Monica Nelson	mnelson@ieu.org
Moore, Toby	TobyMoore@gswater.com
MWDProgram	MWDProgram@sdcwa.org
Nabil B. Saba	Nabil.Saba@gswater.com
Nadia Aguirre	naguirre@tvmwd.com
Natalie Costaglio	natalie.costaglio@mcmcnet.net
Natalie Gonzaga	ngonzaga@cityofchino.org
Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieu.org
Nicholas Miller	Nicholas.Miller@parks.sbcounty.gov
Nichole Horton	Nichole.Horton@pomonaca.gov
Nick Jacobs	njacobs@somachlaw.com
Nicole deMoet	ndemoet@uplandca.gov
Nicole Escalante	NEscalante@ontarioca.gov
Noah Golden-Krasner	Noah.goldenkrasner@doj.ca.gov
Norberto Ferreira	nferreira@uplandca.gov
Paul Hofer	farmerhofer@aol.com
Paul Hofer	farmwatchtoo@aol.com
Paul S. Leon	pleon@ontarioca.gov
Pete Vicario	PVicario@cityofchino.org
Peter Dopulos	peterdopulos@gmail.com
Peter Dopulos	peter@egoscuelaw.com
Peter Hettinga	peterhettinga@yahoo.com
Peter Rogers	progers@chinohills.org
Rebekah Walker	rwalker@jcsd.us
Richard Anderson	horsfly1@yahoo.com
Richard Gonzales	rgonzales@uplandca.gov
Richard Rees	richard.rees@wsp.com

Robert DeLoach	robertadeloach1@gmail.com
Robert E. Donlan	rdonlan@wjhattorneys.com
Robert Neufeld	robneu1@yahoo.com
Robert S.	RobertS@cbwcd.org
Robert Wagner	rwagner@wbecorp.com
Ron Craig	Rcraig21@icloud.com
Ron LaBrucherie, Jr.	ronLaBrucherie@gmail.com
Ronald C. Pietersma	rcpietersma@aol.com
Ruben Llamas	rllamas71@yahoo.com
Ruby Favela	rfavela@cbwm.org
Ryan Shaw	RShaw@wmwd.com
Sam Nelson	snelson@ci.norco.ca.us
Sam Rubenstein	srubenstein@wpcarey.com
Sandra S. Rose	directorrose@mvwd.org
Scott Burton	sburton@ontarioca.gov
Scott Cooper	scooper@rutan.com
Scott Slater	sslater@bhfs.com
Seth J. Zielke	sjzielke@fontanawater.com
Shawnda M. Grady	sgrady@wjhattorneys.com
Sherry Ramirez	SRamirez@kmtg.com
Sonya Barber	sbarber@ci.upland.ca.us
Sonya Zite	szite@wmwd.com
Stephanie Reimer	SReimer@mvwd.org
Stephen Deitsch	stephen.deitsch@bbklaw.com
Stephen Parker	sparker@uplandca.gov
Steve Kennedy	skennedy@bmklawplc.com
Steve M. Anderson	steve.anderson@bbklaw.com
Steve Riboli	steve.riboli@riboliwines.com
Steve Smith	ssmith@ieua.org
Steven Andrews	sandrews@sandrewsengineering.com
Steven J. Elie	s.elie@mpglaw.com
Steven J. Elie	selie@ieua.org
Steven Popelar	spopelar@jcsd.us
Steven Raughley	Steven.Raughley@isd.sbccounty.gov
Susan Palmer	spalmer@kidmanlaw.com
Sylvie Lee	slee@tvmwd.com
Tammi Ford	tford@wmwd.com
Tariq Awan	Tariq.Awan@cdcr.ca.gov
Taya Victorino	tayav@cvwdwater.com
Teri Layton	tlayton@sawaterco.com
Terri Whitman	TWhitman@kmtg.com
Terry Watkins	Twatkins@geoscience-water.com
Thomas S. Bunn	tombunn@lagerlof.com
Tim Barr	tbarr@wmwd.com
Timothy Ryan	tjryan@sgvwater.com
Todd Corbin	tcorbin@cbwm.org
Tom Barnes	tbarnes@esassoc.com
Tom Cruikshank	tcruijkshank@linklogistics.com
Tom Dodson	tda@tdaenv.com
Tom Harder	tharder@thomashardercompany.com
Tom O'Neill	toneill@chinodesalter.org
Tommy Hudspeth	tommyh@sawaterco.com
Tony Long	tlong@angelica.com

Toyasha Sebbag	tsebbag@cbwcd.org
Tracy J. Egoscue	tracy@egoscuelaw.com
Travis Almgren	talmgren@fontanaca.gov
Trevor Leja	Trevor.Leja@cao.sbccounty.gov
Veva Weamer	vweamer@westyost.com
Victor Preciado	victor.preciado@pomonaca.gov
Vivian Castro	vcastro@cityofchino.org
Wade Fultz	Wade.Fultz@cmc.com
WestWater Research, LLC	research@waterexchange.com
William Brunick	bbrunick@bmklawplc.com
William McDonnell	wmcdonnell@ieua.org
William Urena	wurena@emeraldus.com