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

11 CHINO BASIN MUNICIPAL WATER  
DISTRICT,

12 Plaintiff,

13 vs.

14 CITY OF CHINO, et al.,

15 Defendants.

Case No. RCVRS 51010

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

**DEFENDANT CUCAMONGA VALLEY  
WATER DISTRICT'S JOINDER TO  
WATERMASTER'S REPLY IN SUPPORT  
OF MOTION FOR COURT APPROVAL OF  
THE CORRECTED AND AMENDED  
FISCAL YEARS 2021/22 AND 2022/23  
ASSESSMENT PACKAGES AND  
OPPOSITION TO THE CITY OF  
ONTARIO'S CHALLENGE TO  
WATERMASTER'S APPROVAL OF THE  
CORRECTED AND AMENDED FISCAL  
YEARS 2021/22 AND 2022/23 ASSESSMENT  
PACKAGES**

Date: June 12, 2026  
Time: 11:00 am  
Dept: R17

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1 Cucamonga Valley Water District (“Cucamonga” or “CVWD”) hereby joins in the Chino  
2 Basin Watermaster (“Watermaster”) Reply in Support of Watermaster’s Motion for Court  
3 Approval of the Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages  
4 (“Motion”) and also herein Opposes the City of Ontario’s newly filed Challenge to Watermaster’s  
5 Approval of the Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages  
6 (“Opposition”).

7 The foundation of Ontario’s Opposition begins with the misguided argument that voluntary  
8 production is never permitted under the DYY Program. Despite the fact that this Court previously  
9 found “the Court of Appeal did not order, as Ontario claims, that there should not have been any  
10 water withdrawn from Metropolitan’s DYY account because it did not exercise its ‘call’ right to  
11 require CVWD to do so”, Ontario continues to contend that the Court of Appeal explicitly held  
12 that a call is required to withdraw any DYY water. (Herrema Decl., Ex. B, p. 11.) Instead, the  
13 Court of Appeal held that Watermaster’s interpretation of the 2019 Letter Agreement was  
14 inconsistent with the Judgment and the authorizing agreements—by failing to recognize the  
15 requirement for a corresponding roll off of imported water. (Herrema Decl., Ex. A, p. 28.) In  
16 response to this holding, Watermaster prepared the Corrected and Amended Assessment Packages  
17 for Fiscal Years 2021/22 and 2022/23 (“CAA Packages”) though which Watermaster accounted  
18 for all DYY water CVWD pumped in excess of its corresponding roll-off of imported water  
19 deliveries. This resulted in an additional assessment attributable to CVWD in the amount of  
20 \$475,880.28. By leaving additional assessments on the water pumped by CVWD in excess of its  
21 roll-off of imported water, Watermaster has directly addressed the economic harm identified by  
22 the Court of Appeal.

23 Ontario’s argument that CVWD’s DYY pumping is subject to Desalter Replenishment  
24 Obligation (“DRO”) assessments is similarly incorrect. Peace II explicitly provides that the taking  
25 of imported water cannot trigger a DRO assessment. (Declaration of Scott C. Cooper (“Cooper  
26 Decl.”), Ex. A [Order Approving amendment to Appropriative Pooling Plan, Ex A § 6(b)(iv)(3)]  
27 [“[p]roduction associated with approved storage and recovery programs (e.g., Dry Year Yield  
28 recovery program with MWD) is not counted in Adjusted Physical Production....”],)

1 Finally, Ontario’s efforts to reclassify the DYY water from imported water to produced  
2 groundwater offends well-established legal distinction between these two types of water and  
3 further ignores the real-world consequences of the remedy it seeks. For these reasons,  
4 Watermaster’s Motion should be granted and Ontario’s challenge must be denied.

5 **I. ARGUMENT**

6 **A. Ontario Challenges Watermaster’s Decision to Approve the CAA Packages**

7 As an initial matter, in addition to opposing Watermaster’s Motion, Ontario claims that it  
8 “hereby challenges Watermaster’s adoption of the CAA Packages pursuant to the Judgment and  
9 other orders entered in this case, including paragraph 31 of the Judgment.” (Opp., p. 4.) To the  
10 extent that this Court is inclined to deny Watermaster’s Motion, it would be inappropriate to grant  
11 Ontario’s challenge to Watermaster’s decision to Approve the CAA Packages without a full  
12 opportunity for all parties to brief these issues per the timelines in the Code of Civil Procedure.<sup>1</sup>

13 **B. Ontario Again Misstates the Court of Appeal Opinion and What It**  
14 **Requires Prior to Withdrawal of Stored Imported Water**

15 Again, as it did in its unsuccessful motion earlier this year, Ontario raises the same  
16 argument that no DYY water could be withdrawn per the DYY Program because the years in  
17 question were not “call” years. (Opp., p. 13.) Despite the fact that this Court has explicitly  
18 rejected this argument, (Herrema Decl., Ex. B, p. 11.), Ontario continues to claim that the Court  
19 of Appeal explicitly held that no DYY water could be withdrawn from the Chino Basin absent a  
20 call. (Opp., p. 4 n.3.) Nowhere in its Opinion did the Court of Appeal hold, or even imply, that  
21 withdrawing Metropolitan’s stored imported water—with its express permission and at its  
22 behest—was a violation of any agreement or law in the absence of a formal Metropolitan call.<sup>2</sup> As  
23 this Court succinctly explained, “the Court of Appeal did not order, as Ontario claims, that there  
24 should not have been any water withdrawn from Metropolitan’s DYY account because it did not  
25 exercise its ‘call’ right to require CVWD to do so.” (Herrema Decl., Ex. B, p. 11.)

26 \_\_\_\_\_  
27 <sup>1</sup> To the extent the Court is willing to consider Ontario’s challenge in the same proceeding as  
Watermaster’s Motion without additional briefing, then CVWD’s asks that this Opposition serve  
as CVWD’s Opposition to Ontario’s challenge.

28 <sup>2</sup> It is worth noting that Metropolitan was a party to the 2019 Letter Agreement and expressly  
authorized the withdrawals on which Ontario so vociferously complains.

1           Indeed, if Ontario’s position is to be accepted, then the Court of Appeal would have been  
2 compelled to invalidate the 2019 Letter Agreement in its entirety considering the 2019 Letter  
3 Agreement was based on the idea of *voluntary withdrawals*—e.g. withdrawals from the Basin in  
4 the absence of a call. This is not what the Court of Appeal did. Instead, the Court of Appeal  
5 found that (1) Ontario’s challenge was timely; (2) Watermaster’s interpretation of the 2019 Letter  
6 Agreement was inconsistent with the Judgment and the authorizing agreements—by failing to  
7 recognize the requirement for a corresponding roll off of imported water; and (3) Watermaster  
8 failed to consider the “economic impact” on Ontario occasioned by the resulting incremental  
9 increase in the amount of its annual assessment. (Herrema Decl., Ex. A, p. 19.) In reaching this  
10 holding, the Court of Appeal declined to grant Ontario’s request that the Court of Appeal  
11 “invalidate the 2019 Letter Agreement and direct Watermaster to comply with the process  
12 provided in the Judgment and subsequent court orders when approving material changes to the  
13 DYY Program.” (Herrema Decl., Ex. A, p. 3.) If the Court of Appeal had intended to invalidate  
14 the 2019 Letter Agreement it would have done so as requested by Ontario. Instead the Court  
15 limited its holding to a finding that Watermaster had misinterpreted the obligations of the Parties  
16 under the 2019 Letter Agreement, to wit, “the superior court erred in finding Ontario’s challenges  
17 to be untimely and in affirming Watermaster’s interpretation of the 2019 Letter Agreement. We  
18 therefore reverse.” (*Ibid.*)

19           Ontario doubles down on this patently incorrect argument stating that “[a]s the Opinion  
20 noted, the production of DYY Program water is not authorized unless there is a ‘call’ by  
21 Metropolitan Water District for Stored Water Delivery.” (Opp., p. 13.) Tellingly, Ontario does  
22 not cite to the Opinion for this proposition—the logical citation if the Opinion actually stated what  
23 Ontario contends. Instead, Ontario cites to a provision of the 2003 DYY Funding Agreement  
24 (“Funding Agreement”) outlining the obligations of IEUA and Three Valleys Municipal Water  
25 District (“TVMWD”) under the DYY Program. Ironically, as explained herein, the Funding  
26 Agreement does not stand for the proposition that a call is a prerequisite to DYY withdrawals  
27 either. The Funding Agreement never states, nor do any of its amendments, that a call by  
28 Metropolitan is a prerequisite to withdrawals per the DYY program. The provision cited by

1 Ontario in the Funding Agreement, section VI.B.5, does not state that DDY water cannot be  
2 withdrawn without a call. It instead states that when Metropolitan makes a call, IEUA and  
3 TVMWD must withdraw the stored Metropolitan water in accordance with Exhibit G. (Jones  
4 Decl., ¶ 12, Ex. 7 [¶ VI.B.5].) Rather, Section VII(C) of the Funding Agreement, which governs  
5 the extraction of Metropolitan’s stored water, explicitly provides that “[d]uring an emergency or  
6 **unforeseen operational condition**, IEUA and TVMWD will use their best efforts in responding to  
7 Metropolitan’s request for a Stored Water Delivery. (Cooper Decl., Ex. B [2003 Funding  
8 Agreement § VII(C)].) Thus, the “original agreement” that Ontario repeatedly refers to not only  
9 doesn’t require a call as a precondition of extraction of DYY Water, it explicitly contemplates  
10 voluntary production of DYY water upon request by Metropolitan, exactly the scenario that  
11 occurred vis-à-vis the 2019 Letter Agreement.

12 Here, an unforeseen operational condition led to the 2019 Letter Agreement. There were a  
13 series of very wet years between 2017 and 2019 that left reservoirs full in northern California.  
14 The extremely wet 2017 water year nearly led to the catastrophic failure of Oroville Dam on the  
15 State Water Project—after which Watermaster, upon Metropolitan’s request, agreed to store an  
16 additional 39,000 AFY in the Chino Basin.<sup>3</sup>—that was followed by a 2019 winter that saw  
17 precipitation throughout northern California hit nearly double normal levels in February of 2019,  
18 Metropolitan needed to get stored water from Northern California into storage in Southern  
19 California so that it would not be lost to the ocean, or worse, result in catastrophic flooding, and it  
20 needed to make room for additional stored water.<sup>4</sup> To accommodate Metropolitan’s request due  
21 to these unforeseen operational conditions, the four parties to the 2019 Letter Agreement,  
22 Metropolitan, Watermaster, IEUA, and TVMWD, asked IEUA’s member agencies, including  
23 CVWD, to voluntarily pump stored DYY water to make room in the DYY storage account for the  
24 additional influx of water, the Chino Basin Operating Committee members approved the voluntary  
25 withdrawal of DYY Program water though the 2019 Letter Agreement. (Cooper Decl. Ex. C [2019

26 \_\_\_\_\_  
27 <sup>3</sup> See Cooper Decl. Ex. C [2019 Letter Agreement at p.1].

28 <sup>4</sup> See California Department of Water Resources Hydroclimate Report, Water Year 2019, at p.2,  
23, (hereinafter “2019 Hydroclimate Report”) available at [https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Flood-Management/Flood-Data/Climate-summaries/Hydroclimate\\_Report\\_2019-ADA-Final.pdf](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Flood-Management/Flood-Data/Climate-summaries/Hydroclimate_Report_2019-ADA-Final.pdf).

1 Letter Agreement].) This is precisely the kind of operational flexibility contemplated by the 2003  
2 Funding Agreement, and Ontario has provided no evidence to the contrary. While the Court of  
3 Appeal found that some voluntary takes failed to comply the DYY Program agreements to the  
4 extent the withdrawing party failed to roll-off of imported water, there is nothing in the Opinion or  
5 the DYY agreements that render voluntary takes unlawful, particularly where the water belonged  
6 to Metropolitan, the takes occurred at Metropolitan’s request given extreme operational  
7 conditions, and the voluntary withdrawals were authorized by the members Operating Committee.

8 **C. The CAA Packages are Consistent with the DYY Program and Court of**  
9 **Appeal’s Opinion**

10 Contrary to Ontario’s repeated assertions, the CAA Packages are consistent with the Court  
11 of Appeal’s direction in this case. As to Watermaster’s interpretation of the 2019 Letter  
12 Agreement, the Court of Appeal held that the DYY Program did not allow a party to take from the  
13 DYY account without a corresponding reduction in imported water, i.e., the “roll-off” problem.  
14 (Herrema Decl., Ex. A, p. 30.) Here, the CAA Packages address the Court of Appeal’s directive  
15 by assessing CVWD’s withdrawal of DYY water beyond what CVWD failed to roll-off imported  
16 water. As set forth in Mr. Corbin’s Declaration, Watermaster recalculated CVWD’s assessable  
17 pumping for FY 2021/2022 by applying the Exhibit G performance criteria to include CVWD’s  
18 voluntary withdrawals of DYY water that exceeded the performance criteria. (Corbin Decl. ¶ 23.)  
19 This now-assessable delta resulted in an additional 8,196 AF being included in CVWD’s  
20 assessable pumping totals for the year and resulted in an increase in CVWD’s total assessment by  
21 \$475,880.28, a significant additional cost to CVWD. (Corbin Decl., ¶ 24.) For FY 2022/2023,  
22 CVWD reduced its deliveries of imported water in accordance with Exhibit G’s baseline criteria;  
23 therefore, there could not be an economic injury to Ontario as contemplated by the Court of  
24 Appeal for that year, so Watermaster did not assess CVWD any additional costs.

25 As a result, this increase in pumping assessments based on CVWD’s failure to roll-off  
26 imported water supplies directly addresses the alleged economic harm Ontario has suffered as  
27 contemplated by the Court of Appeal. Namely, that Ontario, and other parties that did not  
28 participate or were not eligible to participate, in the voluntary withdrawals authorized in the 2019

1 Letter Agreement, had to pay a higher total assessment between 2021 and 2023 because excess  
2 imported water deliveries taken by CVWD (instead of Ontario’s “expected” assessable produced  
3 groundwater—the “roll off” problem) were not assessed, which is no different than CVWD taking  
4 essentially the same imported water at its surface water treatment plant. Ontario makes no effort  
5 to explain its position and largely relegates its argument to a footnote. Simply, stating that a  
6 proposition is “contrary to law” does not make it so.

7           Unsatisfied with Watermaster’s reassessment of the DYY pumping, and clearly seeking a  
8 windfall untethered to its actual economic injury, Ontario goes on to argue that the maximum  
9 amount of DYY water a party may pump in a given year is capped at the Exhibit G and Exhibit H  
10 baselines. (Opp., p. 14.) Ontario’s argument, which is untethered from the actual text of  
11 Amendment 8, is based on a fundamental misrepresentation of how the DYY Program functions.  
12 The performance criteria in revised Exhibits G and H are not a party-by-party requirement.  
13 Instead, performance obligations in Exhibit G are cumulative across all DYY Participants, and  
14 they are shared by all participating member agencies as a whole. (See Cooper Decl., Ex. D  
15 [Exhibit G].) To meet the required 33,000 AF reduction in imported water deliveries, each  
16 participating party is assigned a capacity *baseline* representing the amount of stored water that a  
17 party is expected to pump to satisfy the larger 33,000 AF reduction requirement. (Cooper Decl.,  
18 Ex. D [Exhibit H].) Nowhere in Exhibit G does it say that the baseline numbers in Exhibit H  
19 represent a cap on DYY pumping as Ontario contends. Instead, Exhibit G prescribes a minimum  
20 pumping amount each party must be capable of performing to avoid penalties. By its very terms a  
21 baseline is a minimum, or a “starting point<sup>5</sup>,” and cannot be credibly interpreted as a hard cap on  
22 pumping.

23           Said differently, the Exhibit G baselines are minimum pumping obligations by parties in  
24 exchange for capital investment dollars into infrastructure that would perform those baselines.  
25 They serve to keep parties accountable to meet overall performance. Should the whole not perform  
26 and suffer penalties, the baselines would be used to distribute penalties to individual parties.

27  
28 <sup>5</sup> See Merriam Webster Dictionary, at <https://www.merriam-webster.com/dictionary/> (defining  
“baseline” as “a starting point”).

1 Ontario’s proffered interpretation would also have far-reaching consequences across the  
2 Basin and is inconsistent with Ontario’s prior actions with regard to the current Metropolitan call  
3 wherein Ontario requested that the Baseline call amounts be modified. In response to  
4 Metropolitan’s call for 2026, six of the eight member agencies submitted a request to IEUA for  
5 assistance in meeting their minimum production baselines. (Cooper Decl., Ex. E.) These agencies  
6 specifically requested “assistance from agencies [such as CVWD] with additional performance  
7 capacity for the balance of the DYY Program term.” (*Id.*) In other words, these six agencies want  
8 CVWD, which has the ability to perform beyond its baseline DYY amount identified in Exhibit H,  
9 to be allowed to over-perform above its baseline so that those other six agencies can under-  
10 perform without incurring penalties when the cumulative call amount of 33,000 AFY is not met.  
11 Similarly, in February 2026 Ontario requested that its performance baseline be reduced due to its  
12 inability to meet the Exhibit G performance criteria. (Cooper Decl., Ex F.) If Ontario’s argument  
13 in its Opposition is to be accepted, an agency with excess performance capacity could not assist  
14 the requesting agencies who are unable to perform to the Exhibit H baselines. Fortunately, the  
15 DYY agreements do not compel such a result. As explained above, the DYY performance criteria  
16 is a shared obligation among the member agencies and the specific performance *baselines*  
17 assigned to each party are designed to ensure each party carries their fair share. It would be  
18 nonsensical to transform a baseline into a cap and would undermine the ability of numerous  
19 parties to meet their performance criteria.

20 **D. Ontario Misrepresents the DRO requirements and Still Demands that the**  
21 **Water be Put Back**

22 Finally, Ontario makes clear that it has not abandoned its efforts to reclassify the DYY  
23 water from imported water to groundwater. (Opp., p. 8 [requesting the Court “zero out the entirety  
24 of the DYY water withdrawn].) Not only is this argument legally deficient, it would also have  
25 profound implications for the Basin that Ontario ignores. First, in arguing that DYY water must  
26 be subject to DRO assessments, Ontario reduces the well-established doctrine distinguishing  
27 groundwater and imported water as “[w]hatever new term Watermaster creates...” (Opp., p. 14.)  
28 This distinction is not a novel idea created by Watermaster, but rather, is based on decades of

1 California water law. (*See Los Angeles v. San Fernando* (1975) 14 Cal.3d 199, 255-256; *City of*  
2 *Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 76–77.)

3         Second, based on the plain language of the Peace II Agreement, the taking of imported  
4 water cannot trigger a DRO assessment. Under the 2019 amendment to the Peace II Agreement,  
5 “[p]roduction associated with approved storage and recovery programs (e.g., Dry Year Yield  
6 recovery program with MWD) is not counted in Adjusted Physical Production....” (Cooper Decl.,  
7 Ex. A [Order Approving amendment to Appropriative Pooling Plan, Ex A § 6(b)(iv)(3)].) The  
8 rationale behind this exemption is simple. The DRO assessment is designed to offset the  
9 production of native safe yield used by the desalters. As recognized in Peace II, that benefit is  
10 shared by all parties producing native safe yield in the Basin; therefore, DRO assessments are tied  
11 to the amount of groundwater produced. (*See* Cooper Decl., Ex. A.) However, as is the case here,  
12 the use of imported water does not impact the ability of native safe yield in the basin. Therefore,  
13 no DRO obligation can be triggered.

14         Third, Ontario’s proffered approach would significantly impact the distribution of IEUA’s  
15 Readiness to Serve (“RTS”) charges across all the parties to the Judgment that take imported  
16 water. The RTS Charge is a passthrough charge for imported water purchases that is based on a  
17 rolling 10-year average that currently includes CVWD’s DYY Program pumping. For a given  
18 year, the total RTS Charge, which is imposed on a pro rata basis, does not change. Instead, the  
19 total charge is passed along to the individual parties who purchase imported water. Notably,  
20 Ontario’s Opposition omits any analysis of how crediting Metropolitan’s storage account would  
21 impact the respective RTS Charges if this water was reclassified as produced groundwater.  
22 However, as a necessary result of Ontario’s proposal, reclassifying CVWD’s withdrawal of DYY  
23 Program water from imported water to produced groundwater would reduce CVWD’s respective  
24 RTS share and increase the RTS Charge for all parties who purchased imported water during FY  
25 2021/2022 and FY 2022/2023—parties who will have no ability to protect their interests if the  
26 Court adopts Ontario’s unsupported interpretation that all DYY water be converted to  
27 groundwater. This result is clearly not what the Court of Appeal intended, or even contemplated,  
28 and is properly rejected by this Court.

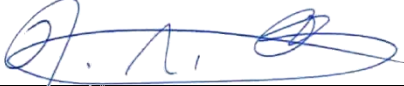
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**II. CONCLUSION**

For the forgoing reasons, the Court should grant Watermaster’s Motion and deny Ontario’s challenge to Watermaster’s approval of the CAA Packages.

Dated: June 5, 2026

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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 June 5, 2026, I served the following:

1. DEFENDANT CUCAMONGA VALLEY WATER DISTRICT'S JOINDER TO WATERMASTER'S REPLY IN SUPPORT OF MOTION FOR COURT APPROVAL OF THE CORRECTED AND AMENDED FISCAL YEARS 2021/22 AND 2022/23 ASSESSMENT PACKAGES AND OPPOSITION TO THE CITY OF ONTARIO'S CHALLENGE TO WATERMASTER'S APPROVAL OF THE CORRECTED AND AMENDED FISCAL YEARS 2021/22 AND 2022/23 ASSESSMENT PACKAGES

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

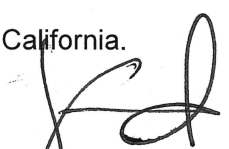
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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.

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 June 5, 2026, in Rancho Cucamonga, California.

  
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