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CHINO BASIN WATERMASTER

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

12 CHINO BASIN MUNICIPAL WATER
 13 DISTRICT,

14 Plaintiff,

15 v.

16 CITY OF CHINO, ET AL.,

17 Defendants.

Case No. RCVRS51010

[Assigned for All Purposes to the
 Honorable Gilbert G. Ochoa]

**REPLY IN SUPPORT OF MOTION FOR
 COURT APPROVAL OF CORRECTED
 AND AMENDED FISCAL YEARS 2021/22
 AND 2022/23 ASSESSMENT PACKAGES**

Date: June 12, 2026
 Time: 11:00 a.m.
 Dept.: R17

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1 **I. INTRODUCTION**

2 Chino Basin Watermaster (“Watermaster”) submits this Reply in Support of Motion for
3 Court Approval of the Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment
4 Packages in response to the City of Ontario’s (“Ontario”) Opposition to Watermaster’s Motion
5 for Court Approval of Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment
6 Packages (“Opposition”)¹. This reply addresses the substantive arguments made by Ontario as to
7 the alleged inadequacies of the Corrected and Amended Fiscal Years 2021/22 and 2022/23
8 Assessment Packages (“CAA Packages”) that comport with the Court of Appeal Opinion.

9 The underlying Judgment in this case was entered on July 27, 1978. The Watermaster is a
10 nine-member Board, established in 1998 to perform designated functions, administrative and
11 discretionary, with the advice and counsel of the three Pools and a composite Advisory
12 Committee. Consistent with the Judgment and pursuant to this Court’s order on February 20,
13 2026, Watermaster proceeded by regular order and in accordance with its historical custom and
14 practice and proposed CAA Packages to the three Pool Committees and the Advisory Committee.
15 The Appropriate Pool, which comprises all of the participants in the Dry Year Yield Program,
16 elected not to act as a Pool, instead deferring to the individual vote of its members at the Advisory
17 Committee. The Overlying (Agricultural) Pool voted to support Watermaster’s recommendation
18 while the Overlying (Non-Agricultural) Pool did not. By a weighted vote of more than two thirds,
19 the Advisory Committee recommended Board adoption of the proposed CAA Packages. Only
20 after considering the entire record before it, for the reasons set forth in its motion and further
21 explained below, Watermaster exercised its independent judgment to approve and recommend the
22 CAA Packages to the Court.

23 Watermaster carefully crafted the CAA Packages and unequivocally reserved the four-
24 issues identified by the Court of Appeal Opinion (“Opinion”) so as to not unnecessarily unwind
25 decisions, undermining third-party reliance, and restoring a financial equivalency for the failure
26 to meet withdrawals from storage with a required reduction in the purchase of Supplemental

27 _____
28 ¹ Watermaster notes that each of the Cucamonga Valley Water District (“CVWD”) and Fontana
Water Company (“FWC”) filed Notices of Non-Opposition as to Watermaster’s Motion.

1 Water as required by the 2015 Amendment and Exhibit “G” thereto. Ontario once criticized
2 Watermaster’s efforts to bring about unanimous support for the CAA Packages and to resolve
3 these four issues² through stakeholder meetings. Now, having gained Watermaster’s concurrence
4 in reserving – not deciding - the four issues, Ontario appears to have reversed its course, claiming
5 both that Watermaster has unilaterally decided them and failed to engage stakeholders.

6 **II. ARGUMENT**

7 **A. The CAA Packages Address the Errors Identified in the Opinion**

8 As described in the Court of Appeal’s April 18, 2025 Opinion³ (“Opinion”) and this Court’s
9 February 20, 2026 ruling (“Ruling on Ontario’s Motion”)⁴ Watermaster’s charge in correcting and
10 amending the previously approved assessment packages was to:

11 correct and amend the FY 2021/22 and FY 2022/23 Assessment
12 Packages consistent with the original DYY Program agreements,
13 the Judgment, and prior court orders. Watermaster’s correction and
14 revisions shall account for it having previously: (a) allowed FWC to
15 voluntarily extract water from the program storage account without
16 a Local Agency Agreement; (b) exempted withdrawals/production
17 by CVWD from the DYY Program storage account ‘in excess of
18 the Exhibit G performance criteria’; and (c) exempted voluntary
19 extractions from assessments without ensuring there had been
20 corresponding reductions in imported water because it ‘would
21 create an imbalance between the use of imported surface water and
22 stored water’ within the DYY Program.

23 (Order on Remittitur, p. 2 [internal citations to Appellate Opinion omitted].) The CAA Packages
24 address these deficiencies. Ontario concedes that the accounting in the CAA Packages remedies
25 these issues (Opposition, at 12-14), but argues that the CAA Packages do not go far enough in their
26 corrections and amendments.

27 The crux of Ontario’s concerns with the CAA Packages appears to arise from the

28 ² Ontario Status Conference Statement, September 26, 2025 at p. 5 fn. 5 [T]he Court of Appeal did not take the position that Watermaster could wait to correct and amend...”; Ontario Supplemental Status Conference Statement, October 29, 2025 pp. 6-7 “[F]our issues is not a prerequisite...”; Ontario Motion for Order Directing WM to Correct and Amend at p. 9 fn. 8.) “[R]esolution of the four issues is not necessary.”

³ Opinion and Remittitur of the California Court of Appeal in *Chino Basin Municipal Water Dist. v. City of Ontario* (April 18, 2025 Nos. E080457, E082127.) The Opinion is included as Exhibit A to the April 1, 2026 Declaration of Bradley J. Herrema in Support of Chino Basin Watermaster Motion for Court Approval of the Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages (“Herrema Declaration”).

⁴ Ruling on Ontario’s Motion is included as Exhibit B to the Herrema Declaration.

1 importance it places on the Court of Appeal’s use of the phrase “original agreements” at pages 38-
2 39 of the Opinion (“Accordingly, we reverse the orders of the superior court and direct Watermaster
3 to correct and amend the FY 2021/2022 and 2022/2023 Assessment Packages consistent with the
4 original DYY Program agreements, the Judgment, and prior court orders.”). Ontario interprets this
5 language to mean that the CAA Packages should give no effect to the subsequent amendments to
6 the DYY Program agreements, *including the 2015 Amendment and the 2019 Letter Agreement*.
7 Ontario does not identify any language in the Opinion beyond this statement itself to support this
8 interpretation.⁵

9 The interpretation that underlies the CAA Packages proffered by Watermaster, however, is
10 that the Court of Appeal required that the later in time 2019 Letter Agreement be interpreted in a
11 manner consistent with the intent of the original agreements. This is consistent with the language
12 of the Opinion following Ontario’s cited language, in which the Court of Appeal explained,
13 “Watermaster interpreted and applied the 2019 Letter Agreement *inconsistently* with the original
14 DYY Program agreements” (Opinion., at 39 emphasis added.) The Opinion did not strike, void, or
15 invalidate either the 2015 Amendment or an interpretation of the 2019 Letter Agreement that
16 required a participating party to roll-off their acceptance of Supplemental Water⁶ in the same year.

17 Ontario repeatedly asserts that because FY 2021/22 and FY 2022/23 were not “call” years,
18 no party could lawfully claim any DYY-related benefit for any purpose during those years.
19 (Opposition, at 13-14.) As previously stated, this would effectively obviate the 2019 Letter
20 Agreement in its entirety, which the Court of Appeal did not do, and this Court has not endorsed.
21 Any economic injury resulting to Ontario by a DYY withdrawal in a non-call year is fully
22 mitigated by the payment of the assessments on the withdrawal of Supplemental Water as
23 “Production” as provided in the CAA Packages.

24 Furthermore, Ontario’s contention overstates both the issue presented and the relief

25 ⁵ In this regard, it is instructive to note that Ontario’s briefing before the Court of Appeal never
26 took this position, let alone referred to the “original DYY Program agreements.”

27 ⁶ “Supplemental Water” is defined by the Judgment as both water imported into the Chino Basin
28 from outside the Chino Basin Watershed and recycled water.” Judgment paragraph 4(bb).
Doctrinally interchangeable with “foreign” (See e.g., *Stevenson Water District v. Roduner* (1950)
36 Cal.2d 264, 266 and “imported” *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d
199, 262.

1 sought. Watermaster’s Motion does not ask the Court to categorically validate all non-call-year
2 DYY withdrawals, and the CAA Packages do not attempt to resolve broader questions. Instead,
3 Watermaster corrected the specific errors identified by the Court of Appeal, namely assessing: (i)
4 all of FWC’s extractions of stored Supplemental Water without a Local Agency Agreement and
5 (ii) that portion of CVWD’s extractions beyond Exhibit “G” performance criteria or without the
6 required reduction in imported water. It left other issues for later proceedings.

7 Ontario also challenges Watermaster’s statement that the CAA Packages should not be
8 treated as precedent beyond the issues decided in the Opinion. (Opposition, at 8-9.) That
9 limitation is deliberate and appropriate.⁷ It reflects Watermaster’s effort to comply with the
10 remand without prejudging the broader issues the Court of Appeal expressly reserved for future
11 resolution, including the ongoing role and application of the 2019 Letter Agreement. (Motion at
12 3.) The Opinion turned on Watermaster’s interpretation and application of 2019 Letter
13 Agreement, not on its categorical invalidation. Ontario’s approach, by contrast, would force the
14 Court to decide those reserved issues now under the guise of “compliance” with the remittitur.

15 **B. Supplemental Water Extracted from the DYY Account did not Constitute**
16 **Physical Production for Purposes of the Desalter Replenishment Obligation.**

17 No party, including Ontario, contended that the delivery of Supplemental Water into the
18 Basin through the DYY Program in 2021/22 or 2022/2023 or its withdrawal would cause Material
19 Physical Injury. And Watermaster found none. The Court of Appeal’s concern was the economic
20 injury resulting from certain extractions of Supplemental Water that were not accompanied by a
21 roll-off in violation of governing DYY parameters. (Op. at 38-39.) The CAA Packages remedy that
22 error by assessing the offending withdrawals of Supplemental Water that resulted in the identified
23 cost shifts.

24 As to CVWD, Watermaster recalculated FY 2021/22 assessable pumping to include 8,196

25 _____
26 ⁷ While Ontario alleges that “Watermaster created entirely new categories of water” in the CAA
27 Packages (Opposition, p. 16), it does not acknowledge that the situation addressed in them – the
28 implementation of the Court of Appeal’s Opinion – is entirely unprecedented, that Watermaster
has never assessed the withdrawal of Supplemental Water from the DYY Program, and that
Watermaster was attempting to narrowly address the economic injury in those two years and not
create precedent for any future assessment packages, including as to the Four Reserved Issues.

1 AF that exceeded allowable Exhibit G thresholds, resulting in an additional \$475,880.28 in
2 Production assessments. (Declaration of Todd Corbin filed in support of Watermaster’s Motion for
3 Court Approval of the Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment
4 Packages, hereafter “Corbin Decl.”, ¶ 24.) As to FWC, Watermaster added 2,500 AF of previously
5 unassessed pumping for FY 2021/22 and 5,000 AF for FY 2022/23, increasing its assessments by
6 \$80,820.60 and \$364,360.92, respectively. (Corbin Decl., ¶ 27.) These adjustments were tailored
7 to align the Assessment Packages with the Court of Appeal’s interpretation of the governing DYY
8 requirements and to eliminate the cost-shifting injury identified on appeal. (Op. at 30; Order on
9 Remittitur at 2.)

10 Ontario does not dispute that these corrections occurred. Instead, it focuses on yet another
11 calculation relevant to an entirely different Basin initiative, the Chino Basin Desalters and the cost-
12 sharing associated with them: the Desalter Replenishment Obligation. Beyond the distribution of
13 native groundwater pumped by the Desalters by contract, the Desalters carry their own independent
14 financial structure. This framework addresses considerations unique to the distribution of benefits
15 and burdens associated with the extraction of that water in a specific location in the Basin to
16 maintain availability of native groundwater, which is distributed among appropriators as Operating
17 Safe Yield.

18 Desalter pumping groundwater has never been assessed by Watermaster as Production,
19 unlike any other native groundwater. There are no water rights assigned to the Desalters. However,
20 in recognition of the Desalters’ purpose in preserving Safe Yield generally, the appropriators that
21 physically produce native groundwater share in cost-allocation and, to the extent required,
22 replenishment, designed to offset that physical act of removing native groundwater from the Basin.
23 As there are no water rights held by the Desalters, the allocation of this responsibility is addressed
24 by agreement designed to distribute financial responsibility for funding the purchase of
25 replenishment water in amount required to offset the total quantity of native groundwater desalted
26 produced in the Basin.

27 Those parties that independently Produce native groundwater and thereby benefit from the
28 function the Desalters serve in preserving Safe Yield pay their relative share of its costs. The more

1 a party Produces native groundwater, the more they pay to offset the cost of acquiring
2 replenishment water needed for the Desalters. Parties that rely upon Supplemental Water – by any
3 means – derive less benefit – and pay less.

4 Toward that end, the Appropriative Pooling Plan amendment and associated Court
5 Approved Management Agreement amendments, approved by the Appropriative Pool in 2019
6 contemporaneous with the 2019 Letter Agreement, provides in relevant part as follows:

7 Production associated with approved storage and recovery
8 programs (e.g. Dry Yield recovery program with MWD) is not
9 counted in Adjusted Physical Production, except for in-lieu
participation in such programs...

10 (See Peace II Agreement, section 6.2(b)(iv)(3), as amended by Findings and Order Regarding
11 Amendments to Restated Judgment, Peace Agreement, Peace II Agreement, and Re-Operation
12 Schedule, filed March 15, 2019.)

13 The CAA Package was presented to the Pool Committees for advice and counsel, with a
14 recommendation contrary to the treatment proposed by Ontario. It was based upon the facts that:
15 (i) the Desalter project is separate from the DYY Program with separate financing considerations;
16 (ii) Supplemental Water has never been considered native water and a component of Safe Yield;
17 and (iii) Supplemental Water (imported/foreign) was in fact withdrawn from an approved storage
18 and recovery program and accounted for as such. In no sense did the extraction of this Supplemental
19 Water place an additional physical burden on the Safe Yield of the Basin or any party as it related
20 to the Desalters.

21 For these reasons, and with the advice and counsel of the Advisory Committee⁸,
22 Watermaster declined to adopt Ontario's proposed characterization of economic injury.
23 (Opposition, at 9-10.) Moreover, neither the Court of Appeal nor this Court directed Watermaster
24 to reopen every component of the historical Assessment Packages or to treat physical withdrawals
25 as though they never occurred. In fact, this Court's Ruling on Ontario's Motion expressly rejected
26 Ontario's request for a judicially imposed accounting methodology. (Ruling on Ontario's Motion,

27 ⁸ Members of the Appropriative Pool, including the City of Pomona, that could have substantially
28 benefitted from Ontario's interpretation, chose instead to support Watermaster's recommended
CAA Packages.

1 at 14.)

2 As Watermaster’s Motion explains, the Opinion identified a discrete cost-shifting injury,
3 arising from the absence of a Local Agency Agreement and the failure to achieve the required
4 roll-off, and did not require resolution of broader accounting questions. Watermaster therefore
5 limited its corrections to those specific errors while preserving the issues the Court of Appeal
6 expressly reserved for future proceedings. This approach faithfully implements the remand by
7 remedying the adjudicated harm without purporting to decide questions the appellate court declined
8 to address.

9 **C. Watermaster Followed the Historical Process as this Court Required**

10 After Ontario sought immediate judicial imposition of its own correction methodology, this
11 Court rejected that request and instead directed Watermaster to correct and amend the packages
12 through Watermaster’s customary stakeholder participation process. (Order on Remittitur, p. 2.)
13 The Court’s Order on Remittitur then specified the corrections Watermaster was to make, including
14 accounting for FWC’s extraction without a Local Agency Agreement, CVWD’s withdrawals in
15 excess of Exhibit G performance criteria, and voluntary extractions that had been exempted without
16 ensuring corresponding reductions in imported water. (*Id.*) The same order directed Watermaster
17 to prepare draft revised packages in accordance with historical practice, enable stakeholder review,
18 present the packages to the Pool Committees, Advisory Committee, and Watermaster Board, and
19 then file them with the Court. (*Id.*)

20 Watermaster followed those directives. It circulated draft corrected packages, conducted a
21 March 10 workshop, presented the revisions to the Pool Committees on March 12, received and
22 responded to Ontario’s written comments on March 20, obtained an Advisory Committee
23 recommendation⁹ after further meetings, and secured Watermaster Board approval on March 26
24 before filing the CAA Packages with the Court. (See Corbin Decl., ¶¶ 9-20.)

25

26

27 ⁹ The Advisory Committee’s weighted vote was 67% in favor of the CAA Packages. Materially,
28 two litigants in this matter, FWC and Ontario both voted “no,” while the Appropriator with most
to benefit from Ontario’s interpretation, the City of Pomona, voted in favor, along with other
appropriators. (Motion, at 8-9.)

1 **D. Ontario’s Demand to “Zero Out” or “Put Back” Water is the Same Judicially**
2 **Imposed Methodology this Court Previously Rejected**

3 Ontario argues that the assessment packages should be corrected and amended “as if”
4 CVWD and FWC’s challenged pumping documents in the assessment packages was never a
5 withdrawal of Supplemental Water imported into the Basin from distant watershed from the DYY
6 storage account. Put differently, Ontario’s approach would treat the extraction of stored
7 Supplemental Water as though it should be “zeroed out” and restored to storage in the DYY storage
8 account for accounting purposes.¹⁰ (Opposition, at 12-13.)

9 Ontario’s proposed methodology still turns on treating previously withdrawn Supplemental
10 Water as though it had never left the DYY account, even though the Court of Appeal did not order
11 the return of water to the DYY account. (Ruling on Ontario’s Motion at 14.) And the direction as
12 to the correction and amendment of the assessment packages pointed to Watermaster’s
13 interpretation and application of the 2019 Letter Agreement in the challenged assessment packages
14 without invalidating that agreement.

15 Ontario’s Opposition again insists that its suggested treatment of DYY account water has
16 “nothing to do with prior approvals through the Operating Committee process” and that
17 Watermaster, not the Operating Committee, controls the assessment packages. (Opposition, at 17.)
18 However, the assessment package does not modify the physical world. But for the paid importation
19 of Supplemental Water from a foreign watershed, the physical molecules of water would not exist
20 within the Basin. Ontario’s suggested framing only highlights the defect in its position.

21 Despite its protestations to the contrary, Ontario proposes that the CAA Packages adopt a
22 fiction that the Supplemental Water was not extracted, because the withdrawals from the DYY
23 exceeded the DYY Program requirements. But Watermaster cannot alter history. Instead,
24 Watermaster has addressed the economic injury suffered by Ontario and other appropriators when

25 ¹⁰ Ontario emphasizes that the Court’s February 20, 2026 ruling was only about timing and did
26 not expressly reject the substance of Ontario’s January 2026 accounting proposal. (Opposition, at
27 17.) Assuming this is correct, the Court did not adopt Ontario’s methodology, make it the
28 standard for compliance, or require Watermaster to use it once the stakeholder process ended.
Instead, the Court declined to impose Ontario’s requested judicial recalculation at that stage and
required Watermaster to complete the historical correction process and return final packages for
review. (Ruling on Ontario’s Motion at 14.)

1 Supplemental Water was extracted outside DYY Program requirements. It does not change the
2 reality that imported Supplemental Water was extracted.

3 The assessment packages do not create the prior operational determinations regarding
4 withdrawals from the DYY account; instead, they arithmetically account for them. If Ontario's
5 requested revisions were imposed, the packages would be rewritten as though actual withdrawals
6 of Supplemental Water never occurred. That would not merely adjust assessments, it would obviate
7 the practical effect of the Operating Committee's role in approving storage and extraction, using
8 accounting revisions instead to accomplish what Ontario desires. Ontario cannot disclaim its clear
9 effort to control the Operating Committee, while simultaneously demanding package revisions that
10 would make the Committee's prior approvals meaningless. (Corbin Decl., ¶ 29.)

11 Watermaster's CAA Packages respect the reality that Supplemental Water was imported,
12 paid for, physically removed, and beneficially used, while at the same time correcting the cost-
13 shifting assessment consequences that the Court of Appeal found improper. That is not an "end-
14 run" around the Opinion, as Ontario claims. (Opposition, at 11.) It is the practical implementation
15 of a remand that corrected the identified cost-shifting injury, did not treat Ontario's January 2026
16 methodology as presumptively controlling, and did not purport to decide the broader questions the
17 Court of Appeal expressly reserved for later proceedings. The CAA Packages also avoid punishing
18 all parties to the DYY Program that would suffer a significant contractual burden to extract more
19 Supplemental Water from the DYY Program over fewer years by voiding the withdrawals in the
20 subject years.¹¹

21 In summary, Watermaster concluded there is no legal basis to declare: (i) the 2015
22 Amendment and its Exhibit "G" criteria inconsistent with the "original agreements" or its CAA
23 Package which have construed the 2019 Letter Agreement consistent the Opinion; or to find (ii)
24 that physical extraction of Supplemental Water should be treated as native groundwater for

25 _____
26 ¹¹ See Corbin Decl., Exhibit A (Attachment 8 (Comments and Responses) to staff report from
27 March 26, 2026 Board meeting), Watermaster Board Package p. 327 ["The DYY Program is set
28 to expire in 2028, has no holdover provision and there is more than 65,000 AF within the account.
Parties to the DYY Program, other than the litigants, have raised their concerns regarding their
inability to perform in the current circumstances. Their current inability to perform would be
exacerbated by increasing the total quantity of water that must be extracted from DYY..."]

1 purposes of calculating the DRO. Ontario’s repeated insistence that Watermaster reclassify native
2 groundwater as Supplemental Water is as misguided as counter-factual. If adopted it would require
3 FWC and CVWD to designate other basin groundwater supplies to meet their obligations – both
4 for production and DRO – or pay to Watermaster to replenish the basin for their “overproduction”
5 – a condition that never really occurred in those years.


6 **III. CONCLUSION**

7 The record shows that Watermaster followed the Opinion, this Court’s February 20, 2026
8 Ruling on Ontario’s Motion, and this Court’s February 25, 2026 Order on Remittitur. Watermaster
9 corrected the adjudicated cost-shifting errors arising from its erroneous interpretation and
10 application of the 2019 Letter Agreement, increased assessments on the parties in accordance with
11 the 2015 Amendment Exhibit “G” criteria. It cabined the mitigation (assessment of pumping water
12 from the DYY storage account) to the economic impacts attributable to certain extractions of
13 Supplemental Water.

14 The Court should overrule Ontario’s opposition and approve the Corrected and Amended
15 Assessment Packages.

16 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. REPLY IN SUPPORT OF MOTION FOR COURT APPROVAL OF CORRECTED AND AMENDED FISCAL YEARS 2021/22 AND 2022/23 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

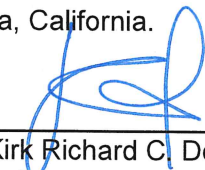
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See attached service list: Master Email Distribution List

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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