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**J. MARTIN CIHIGOYENETCHE (State Bar No. 293355)**  
**INLAND EMPIRE UTILITIES AGENCY**  
**P.O. Box 9020**  
**Chino Hills, CA 91709**  
**(909) 993-1600**  
**(909) 993-1985 Fax**

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Attorneys for INLAND EMPIRE UTILITIES AGENCY

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

CHINO BASIN MUNICIPAL WATER  
DISTRICT,

Plaintiffs,

v.

CITY OF CHINO, et al.,

Defendants.

**Case No.: RCVRS51010**

Assigned for All Purposes to:  
Hon. Gilbert G. Ochoa

**INLAND EMPIRE UTILITIES AGENCY'S  
SUPPLEMENTAL BRIEF TO MOTION FOR  
COURT APPROVAL OF CORRECTED AND  
AMENDED FY 2021/2022 AND 2022/2023  
ASSESSMENT PACKAGES**

1 Inland Empire Utilities Agency (“IEUA”) hereby submits its Supplemental Brief to the continued  
2 Motion for Court Approval of the Corrected and Amended FY 2021/2022 and 2022/2023 Assessment  
3 Packages.

4 **I. INTRODUCTION AND PROCEDURAL BACKGROUND**

5 On June 12, 2026, the Court continued the Motion for Approval of the Corrected and Amended  
6 Fiscal Year 2021/2022 and 2022/2023 Assessment Packages and requested further briefing on the  
7 following items:

- 8 1. When Fontana Water Company (“FWC”) and Cucamonga Valley Water District (“CVWD”)   
9 extracted Dry Year Yield Program (“DYYP”) water, where did that water physically come   
10 from?   
11 2. Does the physical nature of the water extracted and whether it is subject to the Desalter   
12 Replenishment Obligation (“DRO”) assessment overlap with the four issues identified by the   
13 Court of Appeal such that those issues must be addressed now?   
14

15 In response to Question 1, this brief and the supporting Declaration of Elizabeth Hurst, filed   
16 concurrently herewith, will provide background information on the physical origin and operational path of   
17 the imported water stored under the DYYP until the point of extraction by CVWD and FWC. As to   
18 Question 2, IEUA is not a groundwater producer and is neither subject to production assessments nor DRO   
19 assessments. Applicability and calculation of DRO is not a regular part of IEUA’s day-to-day operations   
20 and, as such, supplemental briefing to this point is better reserved to other parties.

21 **II. RESPONSE TO REQUEST FOR FURTHER BRIEFING**

22 **A. Question 1: When FWC and CVWD extracted DYYP Water, Where Did It Physically**  
23 **Come From?**

24 **i. Operational Background of DYYP**

25 The DYYP was established through adoption of a 2003 Groundwater Program Storage Funding   
26 Agreement between IEUA, Chino Basin Watermaster (“Watermaster”), Metropolitan Water District   
27 (“MWD”), and Three Valleys Municipal Water District (“TVMWD”). (Hurst Decl., ¶ 2). Under the DYYP,   
28 MWD agreed to provide Chino Basin parties over \$27,000,000 to fund construction of groundwater

1 treatment and well facilities in the region. In exchange for this funding, MWD received a right to store  
2 water for future use in the Chino Basin. (Hurst Decl., ¶ 3).

3 The DYYP enables MWD to remotely store imported water when MWD water supply exceeds  
4 demand for purchase, typically during and after years of heavy rainfall. (Hurst Decl., ¶ 4). Once the  
5 imported water is delivered to the Chino Basin, it remains specifically accounted for in MWD's DYYP  
6 storage account until MWD elects to compel its purchase and withdrawal by participating agencies through  
7 issuance of a Call for performance. (Hurst Decl., ¶¶ 4-5).

8 Storage and withdrawal activities under the DYYP are implemented by a five-member Operating  
9 Committee comprised of one member each of IEUA, TVMWD, and Watermaster and two members from  
10 MWD. (Hurst Decl., ¶ 6). Each fiscal year, the Operating Committee certifies an Annual Operating Plan  
11 which provides an estimated schedule and location for all DYYP storage and extraction activities over the  
12 next twelve months. (Hurst Decl., ¶ 6).

13 The imported water delivered and stored under the DYYP originates far outside the Chino Basin  
14 boundaries. This water primarily comes from the Northern Sierra Nevada mountain range and is conveyed  
15 from Northern to Southern California through the State Water Project. (Hurst Decl., ¶ 8). This water comes  
16 as runoff from the Feather River/Lake Oroville system, is conveyed across the Sacramento–San Joaquin  
17 Delta, pumped into the California Aqueduct, carried south over the Tehachapi Mountains, and then routed  
18 onto the State Water Project's East Branch serving San Bernardino and Riverside Counties. (Hurst Decl.,  
19 ¶ 8). From there, the water travels through Lake Silverwood, out of Devil Canyon, and is then delivered  
20 through MWD's Rialto Pipeline to IEUA and the Chino Basin area. (Hurst Decl., ¶ 8).

21 Once it reaches the Chino Basin area, IEUA will operate various turnouts on the Rialto Pipeline  
22 and direct the water to recharge basin sites. (Hurst Decl., ¶¶ 8, 10). Once the imported water is delivered  
23 to the recharge basins, it infiltrates into the Chino Basin aquifer for storage and allocated to the MWD  
24 DYYP account in amounts confirmed by meter readings. (Hurst Decl., ¶¶ 8, 10-11).

25  
26 **ii. DYYP Voluntary Withdrawals**

27 In 2017, after several years of drought, hydrologic conditions changed and MWD issued a written  
28 request to store additional imported water in its DYYP storage account. (Hurst Decl., ¶ 12). In response to

1 this request, IEUA prepared and submitted a DYYP recharge plan detailing the schedule and flow paths  
2 for the planned imported water deliveries to the Chino Basin. (Hurst Decl., ¶ 13). The recharge plan  
3 specifically plots the path of imported water deliveries from MWD’s Rialto Pipeline through various  
4 turnouts and eventually into local recharge basins. (Hurst Decl., ¶ 14).

5 Deliveries responsive to MWD’s request began in mid-2017. Pursuant to the DYYP, each delivery  
6 was tracked, certified, and added into MWD’s DYYP storage account monthly, based on confirmed meter  
7 readings at each service connection. (Hurst Decl., ¶ 15). These DYYP deliveries were included in MWD’s  
8 standard monthly invoices to IEUA for imported water purchases. For each delivery associated with the  
9 DYYP, the amount owed was adjusted to zero on the invoice, as the final sale of the delivered water was  
10 deferred until extraction occurred, confirming MWD’s retention of ownership of imported water stored in  
11 the DYYP account. (Hurst Decl., ¶ 16). Once extracted, MWD would complete the sale, bill IEUA and the  
12 extracting agency based on the amount withdrawn from the DYYP storage account.

13 Approximately 35,065 acre-feet of imported water from MWD’s State Water Project allocation  
14 was recharged into the DYYP storage account during the year following MWD’s request, bringing the total  
15 held in the MWD account to 41,380 acre-feet. (Hurst Decl., ¶ 18). This large increase in stored water in  
16 the DYYP account resulted in the Operating Committee exploring the potential for allowing voluntary  
17 withdrawal from the DYYP account to make full and efficient use of the water stored in the DYYP account  
18 on a voluntary basis, without MWD issuing a compulsory Call for performance. (*Ibid.*).

19 After negotiations between the local agency participants and the parties to the DYYP agreement, a  
20 letter agreement allowing for voluntary withdrawals from the MWD account was executed by IEUA,  
21 MWD, TVMWD, and Watermaster in February of 2019 and shared with all DYYP participating agencies.  
22 (Hurst Decl., ¶ 16). The 2019 letter agreement was designed to allow participants to extract stored water  
23 on a voluntary basis instead of when compelled by MWD under the DYYP. (*Ibid.*). This allowed agencies  
24 who had no need for the stored imported water to avoid a forced purchase from MWD’s stored DYYP  
25 account. (*Ibid.*). Agencies who did desire to purchase the stored water would be free to do so on a voluntary  
26 basis, as approved by MWD and the Operating Committee. (*Ibid.*).

27 Under the 2019 letter agreement, IEUA contacted each participating agency prior to the  
28

1 commencement of the fiscal year to offer the opportunity to voluntarily extract water from the MWD  
2 storage account. (Hurst Decl., ¶ 20). Responses to the offer were received and agencies electing to  
3 voluntarily extract prepared respective extraction plans which were incorporated into the updated Annual  
4 Operating Plan for that coming year. (*Ibid.*). In production year 2020/21, two entities, CVWD and FWC,  
5 elected to voluntarily extract from the DYYP account, resulting in a total sale of 23,000 acre-feet of stored  
6 imported water. (Hurst Decl., ¶ 20). All other local agencies declined to participate. (*Ibid.*). The voluntary  
7 purchases under the 2019 letter agreement were treated as imported water sales and billed by MWD in its  
8 standard practice with DYYP operations and maintenance credit applied. (Hurst Decl., ¶ 22-23). The  
9 imported water purchased voluntarily in 2020/2021 is specifically identified in MWD's invoice as having  
10 been recharged during the 2017/2018 storage cycle.

11 **iii. Water Stored Under the DYYP is Imported Water**

12 Throughout the process, from its origins in Northern California until its eventual purchase, the  
13 water stored in the Chino Basin under the DYYP is treated as imported water. It originates far outside the  
14 Basin area and could never have reached the Chino Basin without the intervention of MWD and diversion  
15 to the DYYP storage account. The water at issue did not percolate naturally into the Chino Basin; it was  
16 intentionally placed there at MWD's direction and control. MWD did not relinquish dominion over the  
17 water stored in its DYYP account until a documented imported water sale was completed and the DYYP  
18 water was extracted by the purchaser. This water was extensively monitored by the Operating Committee  
19 through monthly invoices and certifications. There exists no credible basis upon which the stored imported  
20 DYYP water transmutes into native Basin water.

21 California courts have long held that despite physically commingling with native groundwater,  
22 imported water stored in a groundwater basin for later use retains its status as imported water and as the  
23 property of the importer. (*City of Los Angeles v. City of San Fernando et al.* (1975) 14 Cal.3d 199, 263-  
24 64; *City of Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 77;). It is an established legal principle  
25 and elementary to adjudicated groundwater basins. Any finding otherwise would effectively render  
26 conjunctive use programs like the DYYP, unworkable.  
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**III. CONCLUSION**

The stored imported water extracted from the DYYP storage account pursuant to the 2019 letter agreement was not and never could have been considered native groundwater. Tracing the path taken to arrive at Chino Basin makes it abundantly clear that the extracted water originated somewhere else. It would never have existed in the Chino Basin without being imported thereto. Any attempt to characterize stored imported water as native groundwater, for reasons financial or otherwise, should be denied.

Dated: July 10, 2026

INLAND EMPIRE UTILITIES AGENCY

By:   
\_\_\_\_\_  
J. MARTIN CHIGOYENETCHE  
Attorneys for  
INLAND EMPIRE UTILITIES AGENCY

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 July 10, 2026, I served the following:

1. INLAND EMPIRE UTILITIES AGENCY'S SUPPLEMENTAL BRIEF TO MOTION FOR COURT APPROVAL OF CORRECTED AND AMENDED 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 July 10, 2026, in Rancho Cucamonga, California.



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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.sbcounty.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 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@tetrattech.com
Benjamin Markham	bmarkham@bhfs.com
Beth.McHenry	Beth.McHenry@hoferranch.com
Bill Schwartz	bschwartz@mwwd.org
Bill Velto	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.sbcounty.gov
Brad Herrema	bherrema@bhfs.com
Bradley Jensen	bradley.jensen@cao.sbcounty.gov
Brandi Belmontes	BBelmontes@ontarioca.gov
Brandi Goodman-Decoud	bgdecoud@mwwd.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	cletulle@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.sbcounty.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	cjjones@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 Crosley	DCrosley@cityofchino.org
Dave Schroeder	DSchroeder@cbwcd.org
David Barnes	DBarnes@geoscience-water.com
David De Jesus	ddejesus@tvmwd.com
Dawn Varacchi-Ives	dawn.varacchi@geaerospace.com
Deanna Fillon	dfillon@DowneyBrand.com
Denise Garzaro	dgarzaro@ieua.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	directormilhiser@mwwd.org
G. Michael Milhiser	Milhiser@hotmail.com
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
Gracie Torres	gtorres@wmwd.com
Grant Mann	GMann@dpw.sbcounty.gov
Greg Zarco	Greg.Zarco@airports.sbcounty.gov
Ha T. Nguyen	ha.nguyen@stoel.com
Heather Placencia	heather.placencia@parks.sbcounty.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@ieua.org
Jason Marseilles	jmarseilles@ieua.org
Jean Cihigoyenetche	Jean@thejclawfirm.com
Jeff Evers	jevers@niagarawater.com
Jeffrey L. Pierson	jpierson@intexcorp.com
Jennifer Hy-Luk	jhyluk@ieua.org
Jeremy N. Jungries	jjungreis@rutan.com
Jesse Pompa	jpompa@jcsd.us
Jessie Ruedas	Jessie@thejclawfirm.com
Jill Keehnen	jill.keehnen@stoel.com
Jim Markman	jmarkman@rwglaw.com
Jim Van de Water	jimvdw@thomashardercompany.com
Jim W. Bowman	jbowman@ontarioca.gov
Jimmie Moffatt	jimmie@cvwdwater.com
Jimmy Gutierrez - Law Offices of Jimmy Gutierrez	jimmylaredo@gmail.com
Jimmy L. Gutierrez	Jimmy@City-Attorney.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	kgarcia@cbwm.org
Jose A Galindo	Jose.A.Galindo@linde.com
Jose Ventura	jose.ventura@linde.com
Josh Swift	jmswift@fontanawater.com
Joshua Aguilar	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
Kassandra Lopez	klopez@cbwcd.org
Kati Parker	kparker@katithewaterlady.com
Keith Lemieux	klemieux@awattorneys.com
Kelly Alhadef-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
Laura Yraceburu	lyraceburu@bhfs.com
Lee McElhaney	lmcElhaney@bmklawplc.com
Lewis Callahan	Lewis.Callahan@cdcr.ca.gov
Linda Jadeski	ljadeski@wvwd.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.Insxiengmay@cc.sbcounty.gov
Maria Mendoza	mmendoza@westyost.com
Maribel Sosa	Maribel.Sosa@pomonaca.gov
Marilyn Levin	Marilynhlevin@gmail.com
Marissa Turner	mtturner@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 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
Mauser, Anna (NCSI)	anna.mauser@nucor.com
Megan Sims	mnsims@sgvwater.com
Meredith Nikkel	mnikkel@downeybrand.com
Michael Adler	michael.adler@mcmcnnet.net
Michael B. Brown, Esq.	michael.brown@stoel.com
Michael Blay	mblay@uplandca.gov
Michael Cruikshank	mcrruikshank@wsc-inc.com
Michael Fam	mfam@dpw.sbcounty.gov
Michael Hurley	mhurley@ieua.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@ieua.org
Monica Nelson	mnelson@ieua.org
Moore, Toby	TobyMoore@gswater.com
MWDProgram	MWDProgram@sdca.org
Nabil B. Saba	Nabil.Saba@gswater.com
Nadia Aguirre	naguirre@tvmwd.com
Natalie Costaglio	natalie.costaglio@mcmcnnet.net
Natalie Gonzaga	ngonzaga@cityofchino.org
Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieua.org
Nicholas Miller	Nicholas.Miller@parks.sbcounty.gov
Nichole Horton	Nichole.Horton@pomona.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 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.sbcounty.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	tcruikshank@linklogistics.com
Tom Dodson	tda@tdaenv.com
Tom Harder	tharder@thomashardercompany.com
Tom O'Neill	toneill@chinodesalter.org
Tony Long	tlong@angelica.com

Toyasha Sebbag	tsebbag@cbwcd.org
Tracy J. Egoscue	tracy@egoscuelaw.com
Trevor Leja	Trevor.Leja@cao.sbcounty.gov
Veva Weamer	vweamer@westyost.com
Victor Preciado	victor.preciado@pomona.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