

FEE EXEMPT

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN BERNARDINO**

13 CHINO BASIN MUNICIPAL WATER  
14 DISTRICT,

15 Plaintiff,

16 v.

17 CITY OF CHINO, et al.,

18 Defendants.

CASE NUMBER: RCV 51010  
*[Assigned for All Purposes to Honorable  
Stanford E. Reichert, Dept. S35]*

**CITY OF CHINO'S RESPONSES TO  
OVERLYING (AGRICULTURAL)  
POOL'S QUESTIONS FOR  
CLARIFICATION REGARDING  
PROPOSED ORDERS FOR  
WATERMASTER'S MOTION  
REGARDING 2015 SAFE YIELD  
RESET AGREEMENT, AMENDMENT  
OF RESTATED JUDGMENT,  
PARAGRAPH 6**

(FEE- EXEMPT PURSUANT TO GOVERNMENT  
CODE § 6103)

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20  
21 The City of Chino responses to the questions submitted by the Overlying (Agricultural)  
22 Pool as follows:

23 **1. Safe Yield and Desalter-Induced Recharge**

24 Please clarify whether your tentative (Proposed Orders) considers the 135,000 AFY of  
25 Safe Yield reset as inclusive of the Desalter-Induced Recharge of 20,000 AFY. In other  
26 words, does the Safe Yield include the 20,000 AFY induced as a result of the pumping of the  
27 Desalters? The assumption being that the full Desalter production is 40,000 AFY with close  
28 to 50% being induced into the Chino Basin.

1 **Chino's Response to Question No. 1:**

2 This question is misleading in that the Tentative Ruling does not refer to any source or  
3 quantity of water in support of its order to reset the Safe Yield at 135,000 AFY. However, the  
4 Tentative Ruling does indicate Court acceptance of Watermaster's "net recharge" method for  
5 resetting the Safe Yield.

6 Therefore, no clarification is needed.

7 The question should be rejected.

8  
9 **2. Safe Storage Management Measures**

10 On Page 61 of 63, paragraph 6 under Section V., Safe Storage Management Measures,  
11 the Court notes that from 2000 to 2014, the short-term actual measured net recharge was less  
12 total rights allocated to the Judgment Parties by as much as 130,000 AFY, and this water was  
13 accounted for in the Excess Carry-Over storage accounts. (Proposed Orders, 61:9-11.) On  
14 Page 62 of 63 of the tentative (Proposed Orders) at line 16, the Court indicates that  
15 withdrawal of water from storage is already subject to limitations, and references Watermaster  
16 Rules and Regulations section 8.1. (Proposed Orders, 62:16-17.) By these references, is the  
17 Court indicating that (i) pursuant to the Judgment and Peace Agreements, no water currently  
18 in storage (including Excess Carry-Over water or water stored without a storage agreement)  
19 may be pumped without permission from Watermaster and a specific finding of no Material  
20 Physical Injury; and (ii) that when/if all water currently in storage is used along with the  
21 allocated Safe Yield production rights (predicted under the efficient market assumption by  
22 Wildermuth), producing this water in storage will not result in unauthorized overdraft?

23  
24 **Chino's Response to Question No. 2:**

25 First, the Court stated it would not change its ruling on the Safe Storage Management  
26 Measures set forth in the SYRA Article 6. On this basis alone, the Court should reject this  
27 question.

28 As to the question itself, it completely mischaracterizes the Tentative Ruling, because

1 the Court did not state or imply that water currently in storage may not be pumped without  
2 Watermaster permission and a specific finding of no Material Physical Injury. On pages 60  
3 through 63 of the Tentative Ruling, the Court set forth its reasons for rejecting the Safe  
4 Storage Management Measures (SSMM) contained in Article 6 of the SYRA. One of those  
5 reasons is at 62:16-17 where the Court merely explains that the withdrawal of water from  
6 storage is already subject to the limitation that withdrawals be done without Material Physical  
7 Injury. The Court did not state or imply that Watermaster permission or a finding of no  
8 Material Injury is required to pump water from storage.

9 The question further mischaracterizes the Tentative Ruling, because the Court did not  
10 state or imply anything remotely close to an "unauthorized overdraft" under any circumstance.

11 This question injects an issue that is not before the Court in Watermaster's Motion or  
12 the Oppositions filed by the City of Chino or the Jurupa Community Services District.

13 The question is not properly before the Court.

14 It should be rejected.

15  
16 Dated: October 28, 2016

GUTIERREZ, FIERRO & ERICKSON, A.P.C.

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18 By:

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

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11 CHINO BASIN MUNICIPAL WATER  
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, et al.,

16 Defendants.

CASE NUMBER: RCV 51010  
*[Assigned for All Purposes to Honorable  
Stanford E. Reichert, Dept. S35]*

**CITY OF CHINO'S RESPONSES TO  
MONTE VISTA WATER DISTRICT'S  
COURT-AUTHORIZED QUESTIONS  
RE COURT'S TENTATIVE RULING  
RE WATERMASTER'S MOTION RE  
2015 SAFE YIELD RESET  
AGREEMENT**

(FEE- EXEMPT PURSUANT TO GOVERNMENT  
CODE § 6103)

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22 The City of Chino responds to the questions submitted by the Monte Vista Water  
23 District for itself and for the Cucamonga Valley Water District, the City of Pomona and the  
24 City of Upland as follows:

25 1. How will the Tentative Ruling that Desalter-Induced Recharge is not part of  
26 Safe Yield (TR at pp. 30-34 passim) be reconciled with the Tentative Ruling that Safe Yield  
27 is reset to 135,000 AFY (TR at p. 10 passim) since Desalter-Induced Recharge was included  
28 in the calculation of 135,000 AFY (see, e.g., Ex. 1 to Wildermuth Decl. at p. 7-14)?

1 **Chino's Response to Question No. 1.**

2 To begin with, this question is vague in that the references in Wildermuth Declaration are  
3 incorrect. Wildermuth's Declaration consists of 4 pages, the pages of Exhibit 1 are not numbered  
4 consecutively and Exhibit 1 does not contain pages numbered 7-14. At a minimum, the referenced  
5 pages should be cited correctly and copies thereof attached to the question to remove any doubt about  
6 what is being asked.

7 As to the question itself, it asks about an issue that is not before the Court and a response to  
8 the question is not necessary to clarify the Tentative Ruling. The question about the Safe Yield reset  
9 method is separate and distinct from the issue of the Desalter Production.

10 In addition, the question mischaracterizes the Tentative Ruling at pages 30-34 by implying  
11 that the Court has determined that a particular quantity of Desalter-induced recharge constitutes New  
12 Yield. The Court has not done so. The Court states only that Desalter-induced recharge can fit the  
13 definition of New Yield. This is clear because the Court adopts the entire definition of New Yield  
14 from Section 1(a)(a) of Peace I at Tentative Ruling Page 30:10-14.

15 In the context of the full definition of New Yield, any quantity of Desalter-induced recharge  
16 might become available to offset the Desalter Production in the event Watermaster is able to  
17 determine that a particular quantity of Desalter-induced recharge constitutes New Yield, as defined,  
18 pursuant to the procedures in Sections 6.2 and 7.1 of Peace II. In this context, it is important to  
19 remember that Watermaster has determined that New Yield does not exist over the years up to 2014.  
20 Appendix B of the 2013/14 Assessment Package attached as Exhibit "A" to the Declaration of Dave  
21 Crosley shows that Watermaster determined that New Yield does not exist in all years through 2014.

22 Query: Does the question seek to change the "recharge" method of setting the Safe Yield by  
23 deducting a portion of the recharge that supports resetting the Safe Yield at 135,000?

24 Query: Does the question seek a reconciliation that allocates Safe Yield to offset the Desalter  
25 Production?

26 ///

27 ///

28 ///

1           2.       How will the portion of the Tentative Ruling that denied the motions to amend  
2 the schedule for access to Re-Operation Water for Desalter replenishment (TR at p. 10) be  
3 reconciled with the other portions of the Tentative Ruling that pertain to Desalter  
4 replenishment?

5 **Chino's Response to Question No. 2:**

6           This question is vague in that it fails to identify the specific portions of the Tentative Ruling  
7 pertaining to Desalter replenishment to which it refers.

8           As to the question itself, the portion of the Tentative Ruling that denies the motion to amend  
9 the schedule for access to Re-Operation Water merely denies the request to amend the schedule. In  
10 the Tentative Ruling at 17:24-27, the Court concludes that the issue before the Court is the  
11 *"relationship between unproduced . . . Overlying Agricultural Pool water . . . and the water available*  
12 *to the Appropriative Pool."* On this dispute, the Tentative Ruling at 22:11-16 *"concludes that the*  
13 *conversion claims have priority over the Early Transfers because conversion claims pre-existed the*  
14 *Early Transfer allocations."* In addition, the Tentative Ruling at 32:5-6, the Court states *"The Peace*  
15 *I and Peace II agreements did not specify any additional sources of Desalter replenishment, such as*  
16 *Ag Pool Water or Safe Yield."* Furthermore, the Tentative Ruling at 48:23-28 states *"The Court*  
17 *denies Watermaster's motion with respect to the implementation of ¶5.2 and ¶5.3 for the following*  
18 *reason: (a) The Court concludes that SYRA paragraphs 5.2 and 5.3 fundamentally change the*  
19 *allocations of Appropriative Pool and Ag Pool water. Those fundamental changes are inconsistent*  
20 *with the Judgment and the Court-Approved Management Agreements."*

21           In essence, the Tentative Ruling holds that Safe Yield or unproduced Agricultural Pool Water  
22 cannot be used to offset Desalter Production and thereby rejected the implementation of SYRA  
23 Paragraphs 5.2 and 5.3. Contrary to the question's implication, the Tentative Ruling at 10:19-20 does  
24 not address the Desalter replenishment obligation. Therefore, the replenishment issue is not before  
25 the Court. There is nothing to reconcile.

26           Finally, the Tentative Ruling at 10:19-20 denied the motion to amend the schedule for access  
27 to Re-Operation Water, which is attached as Attachment "2" to the Motion. The Tentative Ruling  
28 does not amend the existing schedule [The original schedule appears to have been contained

1 in Watermaster Resolution 07-05 as Exhibit "E" thereto and approved by the Court's December 21,  
2 2007 order.] Thus, Watermaster may continue to access Re-Operation Water as it has done or would  
3 do under the existing schedule.

4 There is no need to address this question. It should be rejected.

5 3. Should the Tentative Ruling that restores the priority- access of Conversion  
6 Claims (over Early Transfers) to unused Ag Pool water (TR p.22 passim) also restore  
7 Conversion Claims to 1.3 AFY per acre of land use conversion in order to be consistent with  
8 the 1995 Amendment to the Judgment?

9 **Chino's Response to Question No. 3:**

10 This question is improper because the issue it presents is not an issue before the Court  
11 and the Tentative Ruling did not address it. Specifically, the SYRA does not contain a  
12 provision that purports to change the amount of water allocated to conversion claims.

13 In effect, the question requests an amendment to Section 10(b)(3)(i) of Exhibit "H" to  
14 the Judgment. This issue is not before the Court.

15 The question should be rejected.

16  
17 Dated: October 28, 2016

GUTIERREZ, FIERRO & ERICKSON, A.P.C.

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11 CHINO BASIN MUNICIPAL WATER  
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CASE NUMBER: RCV 51010  
*[Assigned for All Purposes to Honorable  
Stanford E. Reichert, Dept. S35]*

**CITY OF CHINO'S RESPONSES TO  
WATERMASTER'S QUESTIONS FOR  
CLARIFICATION IN FINAL ORDERS  
FOR WATERMASTER'S MOTION  
REGARDING 2015 SAFE YIELD  
RESET AGREEMENT, AMENDMENT  
OF RESTATED JUDGMENT,  
PARAGRAPH 6**

(FEE- EXEMPT PURSUANT TO GOVERNMENT  
CODE § 6103)

21  
22 The City of Chino responds to the questions submitted by Watermaster as follows:

23 **1. Desalter Production v. New Yield**

24 (a) The Judgment and the Court Approved Management Agreements define Safe  
25 Yield, Operating Safe Yield, and New Yield as groundwater that can be pumped or  
26 extracted. All Parties to the Judgment are expressly enjoined from Producing ground water  
27 from the Chino Basin other than as authorized. For example, Basin Reoperation, as  
28 controlled overdraft - Production without Replenishment - was authorized by the Court



1 through a Judgment Amendment in 2007, to effectuate Hydraulic Control. However, the  
2 Court's Proposed Orders state that New Yield means "water pumped or produced/pumped  
3 by the Desalters." (Proposed Orders, 30:15-18.) Watermaster observes that the literal  
4 meaning of this phrase could be to equate the entirety of the groundwater the Desalters  
5 "Produce" with "New Yield." Pursuant to this literal interpretation, the Desalters could  
6 produce groundwater without offset by any other source of Basin yield or incurring any  
7 replenishment obligation. On the other hand, given conflicting language elsewhere in the  
8 Court's Proposed Orders, does the Court instead mean that the groundwater Produced by the  
9 Desalters is composed of New Yield caused by Desalter Production ("Desalter-induced  
10 recharge"), Basin Re-Operation, and, to the extent these sources along with the others  
11 identified in Peace II Agreement paragraph 6.2(a) are insufficient to fully offset Desalter  
12 Production, then a replenishment assessment is required?

13 (b) Would the Court appreciate a clarification by way of an accounting of the  
14 physical consequences under both of the above interpretations?

15 **Chino's Response to Question No. 1(a):**

16 The question should be rejected.

17 This question misinterprets the Tentative Ruling and reasserts its request to equate "Desalter-  
18 induced recharge" with "New Yield" to allow Watermaster to reduce the replenishment obligation  
19 and to account for "Desalter-induced recharge" by reducing the annual "Safe Yield."

20 First, the prelude to Watermaster's question mischaracterizes the Court's Tentative Ruling at  
21 30:15-18, which reads: "*The court concludes that New Yield in the above paragraph means water*  
22 *produced/pumped by the Desalters, because that is how yield is always used, e.g. Safe Yield,*  
23 *Operating Safe Yield, etc. and the source of supply is the Desalters as identified in the definition.*"  
24 The Tentative Ruling at 30:15-18 does not state that any particular quantity of water produced by the  
25 Desalters is New Yield. The Tentative Ruling at 30:15-18 means only that New Yield can consist of  
26 a quantity of water produced by the Desalters provided the quantity of water so produced is a proven  
27 increase in yield quantities greater than historical amounts from all sources of supply. Watermaster's  
28 prelude to the question acknowledges this meaning. [See Footnote 3 on page 2].

1 Second, Watermaster's observation that the Tentative Ruling at 30:15-18 could mean that the  
2 entire Desalter Production equates to New Yield is wishful thinking; and it is unsupported by the  
3 Tentative Ruling. The Tentative Ruling at 30:15-18 does not state that any quantity of Desalter  
4 Production, let alone all of it, constitutes New Yield.

5 Third, Watermaster's suggestion that the Desalters could produce groundwater without offset  
6 by any other source of Basin yield or incurring any replenishment obligation is not supported by the  
7 Tentative Ruling. Furthermore, the suggestion is wholly contrary to the Judgment<sup>1</sup> and the Peace  
8 Agreements<sup>2</sup>, because they require replenishment for all production in excess of the annual Safe Yield  
9 and the Desalter Production constitutes production in excess of the annual Safe Yield. Up to the  
10 present, Desalter Production has been offset or "accounted for" by the 400,000 AF of the controlled  
11 overdraft of basin water under Section 2(a)(3) of Exhibit I to the Judgment and Section 6.2(a)(vi) of  
12 Peace II. Once the Re-Operation water is exhausted, future Desalter Production must be replenished  
13 by the Parties through Watermaster assessments pursuant to Section 6.2(b) of Peace II. Therefore,  
14 Watermaster's hypothesis for this "Question No. 1(a)" is without merit.

15 Then, Watermaster asks whether the Tentative Ruling might mean that the Desalter  
16 Production is partially offset by an unspecified quantity of Desalter-induced recharge and controlled  
17 overdraft but still requires replenishment water for a complete offset of the Desalter Production. As  
18 support, the question refers to the Tentative Ruling at 31:7-10 and 49:17-19, but these passages are  
19 definitional in stating only that the term "Desalter-induced recharge" fits the definition of New Yield.  
20 In addition, Watermaster's question incorrectly implies the Tentative Ruling makes any statement  
21 about a replenishment assessment. It does not. In fact, the issue of a replenishment assessment is not  
22 before the Court.

23 By its question, Watermaster is asking the court to equate "Desalter-induced recharge" with  
24 "New Yield" to allow Watermaster to use this "New Yield" to offset the replenishment obligation. It  
25 should be clear that Watermaster's questions continues its assertion that "Desalter-induced recharge"

26  
27  
28 <sup>1</sup> Paragraphs 13 and 42 to Judgment; and Section 5 of Exhibit H to Judgment.

<sup>2</sup> Peace Agreement II, Section 6.2.

1 is New Yield in order to allow it to accomplish the purpose of SYRA 5.2(b) – namely to offset the  
2 Desalter Production by reducing the Safe Yield.

3 The City of Chino further objects to the question on the ground it continues the fiction  
4 contained in SYRA Paragraph 5.2(b) that Desalter-induced recharge constitutes New Yield without  
5 the factual determinations required by Peace I, Section 7.5(b) and Peace II, Sections 6.1, 6.2 and 7.1  
6 using the definition of New Yield in Peace I, Section 1(a)(a). SYRA Paragraph 5.2(b) proposes to  
7 account for Desalter-induced recharge by deducting it from Safe Yield and ultimately the unproduced  
8 Ag Pool Water.

9 **Chino's Response to Question No. 1(b):**

10 Under both of Watermaster's interpretations, the Desalter Production would be  
11 offset, completely or partially, by controlled overdraft and Desalter-induced recharge.

12 These interpretations avoid the real issue. The issue is whether Watermaster will  
13 account for Desalter-induced recharge by reducing the Safe Yield as proposed by SYRA  
14 Paragraph 5.2(b). The Tentative Ruling states clearly that Safe Yield cannot be used to  
15 offset the Desalter Production.

16 This question should be rejected.

17 **2. SYRA Condition Precedent**

18 (a) Paragraph 2.1 of the 2015 Safe Yield Reset Agreement (SYRA) includes an  
19 express condition precedent to the parties' agreement to Watermaster's actions under the  
20 Agreement, which is the Court's approval of the Agreement's entire suite of Safe Yield reset  
21 and accounting provisions as a settlement and compromise of all competing claims. Do the  
22 Court's Proposed Orders mean that, despite the limitations in paragraph 2.1, the Court will  
23 order some portions of the parties' compromise agreement (e.g., Stormwater recharge) but  
24 not others (e.g. Re-Operation)?

25 (b) Have the required procedures been followed by Watermaster under the  
26 Restated Judgment and Court Approved Management Agreements that would enable the  
27 Court to order the performance of individual portions of the Agreement regardless of  
28 Paragraph 2.1?

1 (c) If not, what are the further procedures that should be followed by Watermaster  
2 and the Parties, if less than the entire suite of Safe Yield reset and accounting provisions  
3 (e.g. Stormwater and Re-Operation) are approved?

4 (d) Would the Court appreciate a clarification by way of a Watermaster  
5 accounting of the financial and physical consequences attributable to the incremental  
6 impact of the Court's accepting some but not all of the SYRA provisions? If so,  
7 Watermaster would require further direction from the Court as to which elements of the  
8 SYRA should be analyzed.

9 **Chino's Response to Question No. 2(a):**

10 To begin with, the question is vague, because it does not identify any particular  
11 accounting provision. SYRA Paragraph 2.1 does not contain the term "accounting" to  
12 describe any provision. It also refers to Exhibit F of Watermaster Resolution 2015-06 but  
13 Exhibit F does not contain any accounting provision. SYRA Paragraph 2.1 also refers to the  
14 schedule for access to Re-Operation water shown in Exhibit C to Watermaster Resolution  
15 2015-06 but it is not an accounting provision. To the extent that the exhibits in SYRA  
16 Paragraph 2.1 constitute "accounting" provisions, they are contrary to the Judgment to the  
17 extent they would take Safe Yield and ultimately the unproduced Agricultural Pool Water to  
18 reduce the Desalter Production.

19 The question also is objectionable because it asks the Court to treat the SYRA as the  
20 "parties' compromise agreement." The fallacy of this argument has been explained in  
21 Chino's Opposition to Watermaster's Motion.<sup>3</sup> It is not an agreement of the Parties and the  
22 provisions of Paragraph 2.1 of the SYRA were not approved by the Tentative Ruling.

23 Watermaster's request to approve Paragraph 2.1 of the SYRA also includes approval  
24 Watermaster Resolution 2015-06, attached as Exhibit "F." Exhibit "F" attaches the SYRA,  
25 the amended schedule for access to Re-Operation Water and an order directing Watermaster  
26 to proceed in accordance with the SYRA.

27  
28 <sup>3</sup> City of Chino's Opposition to Watermaster Motion Re 2015 SYRA, pages 40-43.

1 The question is unnecessary in that the Court is not approving the SYRA as an  
2 agreement of the Parties to the Judgment. Therefore, this question about the conditions  
3 precedent of SYRA Paragraph 2.1 should be rejected.

4 **Chino's Response to Question No. 2(b):**

5 This question is vague in that it does not identify any required procedure and what  
6 Watermaster has or has not done with respect to SYRA Paragraph 2.1.

7 As stated above, the question is unnecessary in that the Court is not approving the  
8 SYRA as an agreement of the Parties to the Judgment.

9 Therefore, this question about the conditions precedent of SYRA Paragraph 2.1 should  
10 be rejected.

11 **Chino's Response to Question No. 2(c):**

12 This question is vague in that it does not identify any required procedure and what  
13 Watermaster has or has not done with respect to SYRA Paragraph 2.1.

14 The question is unnecessary in that the Court is not approving the SYRA as an  
15 agreement of the Parties to the Judgment.

16 Therefore, this question about the conditions precedent of SYRA Paragraph 2.1 should  
17 be rejected.

18 **Chino's Response to Question No. 2(d):**

19 This question is vague in that it does not identify the financial and physical  
20 consequences or the incremental impacts of the particular provisions of the SYRA that  
21 Watermaster proposes to submit to the Court.

22 The question is unnecessary in that the Court is not approving the SYRA as an  
23 agreement of the Parties to the Judgment.

24 Therefore, this question about the conditions precedent of SYRA Paragraph 2.1 should  
25 be rejected.

26 **3. Priority of Land Use Conversion.**

27 (a) § 3.1 of the Peace II Agreement provides that the Parties' obligations are  
28 subject to express conditions precedent, including the amendments to Watermaster

1 Rules and Regulations § 6.3(c) and a further Order of the Court directing Watermaster to  
2 proceed in accordance with the Peace II Measures. The Court expressly approved the Peace  
3 II Measures, inclusive of Watermaster Resolution 07-05 and the stated change to  
4 Watermaster Rules and Regulation 6.3, on December 20, 2007 referenced therein. The  
5 Peace II Measures have been implemented by the Parties and administered by Watermaster  
6 and reported upon annually to the Court in accordance with the December 20, 2007 Order.  
7 What effect would the Court's presently proposed determination, that Watermaster had  
8 incorrectly interpreted and applied Watermaster Rules and Regulation § 6.3 in its'  
9 apportionment of Agricultural Pool surplus water, have on the further implementation of  
10 this Court's December 20, 2007 Order, its approval of the Peace II Measures and the parties'  
11 respective obligations thereunder?

12 (b) If sections 6.3(a) and 6.3(c) of the Watermaster Rules and Regulations are to  
13 be construed along with Paragraph 10 of Exhibit "H" to the Restated Judgment (see  
14 Tentative Orders, 59:5-17), in the manner desired by the Court, what should Watermaster do  
15 if, as has been the case in all years since 2000, the total quantity of the water used by the  
16 Overlying (Agricultural) Pool, that which is necessary to supplement the reduction in the  
17 Safe Yield, Land Use Conversion Claims, and the Early Transfer quantities collectively  
18 exceeds 82,800 acre-feet in a particular Production year?

19 **Chino's Response to Question No. 3(a):**

20 Because the question is so general on the effect of the Tentative Ruling on the further  
21 implementation of the December 20, 2007 Court Order, the Peace II Measures and the Parties  
22 respective obligations, the question should be rejected.

23 It is noted that the December 20, 2007 Court Order contains four (4) specific orders  
24 but Watermaster does not identify which of these orders is the focus of its question. Order  
25 No. 1 approved Exhibits "I" and "G" to the Judgment. Order No. 2 orders Watermaster to  
26 proceed in accordance with the Second Amendment to the Peace Agreement. Order No. 3  
27 orders Watermaster to proceed in accordance with its Resolution 07-05, which proposed the  
28 current amendment to Watermaster Rule 6.3(c). Order No. 4 orders the adoption of the

1 recommendations in the Special Referee's Final Report. Because of its lack of specificity,  
2 this question should be rejected.

3 Fundamentally, Watermaster's Question is really about the continuing application of  
4 Watermaster Rule 6.3(c). Therefore, it must be noted that the Tentative Ruling clearly  
5 explains that the Rule cannot be applied with respect to prospective allocations of unproduced  
6 Agricultural Pool Water and that those allocations must be made in accordance with Section  
7 10, Exhibit H. [Tentative Ruling, Pages 52 through 63].

8 For this further reason, the question should be rejected.

9 **Chino's Response to Question No. 3(b):**

10 This question misstates the Court's Tentative Ruling, because the Tentative Ruling  
11 does not state that Sections 6.3(a) and 6.3(c) of the Watermaster Rules and Regulations "are  
12 to be construed along with Paragraph 10 of Exhibit H." The Tentative Ruling states the  
13 Watermaster Rules are to follow the priorities in Paragraph 10 of Exhibit "H" of the  
14 Restated Judgment.

15 The Tentative Ruling states:

16 *At this time, the court additionally orders as follows:*

17 *A. The order of priorities set forth in the Judgment, Exhibit "H," Paragraph*  
18 *10 must be followed; and*

19 *B. Watermaster Rules and Regulations ¶ 6.3, and particularly ¶¶ 6.3(a) and*  
20 *(c) are to be interpreted to follow the priorities set forth in the Judgment,*  
21 *Exhibit "H," Paragraph 10. In particular, conversion claims are to*  
22 *receive a higher priority than Early Transfer claims . . . "*

23 [Page 59, Line 2-8]

24 Therefore, this question has been answered in the Court's Tentative Ruling.  
25 Specifically, it states that Watermaster must allocate the unproduced Agricultural Pool  
26 Water according to the priorities contained in Section 10 of Exhibit "H" to the Judgment in  
27 a manner that satisfies all land use conversion claims before any quantity of water is  
28 allocated to all of the appropriators.

1 In the event all claims to Agricultural Pool Water exceed 82,800 AF, Watermaster  
2 must allocate the water first to the Agricultural Pool and the balance to the appropriators  
3 according to the priorities in Section 10 of Exhibit "H" to the Judgment. This means that all  
4 land use claims are satisfied first and, if any water remains, it is allocated to all of the  
5 appropriators.

6 This question is unnecessary as it continues the dialogue on the issue of priority,  
7 which the Court stated it will not consider.

8 Therefore, the question should be rejected.

9 **4. Retroactive Application.**

10 The Court's Proposed Orders would adopt Paragraph 4.8 of the 2015 Safe Yield  
11 Reset Agreement (Proposed Orders, 13:20-25), which provides that there will be no  
12 retroactive accounting changes by Watermaster for Production years prior to July 1, 2014.  
13 What is the impact of the Proposed Orders, should they become final, if any, on the Court  
14 approval of Resolution 2010-04 and other orders, which may have relied upon or  
15 incorporated the methodology for allocation of surplus Agricultural Pool water as set forth  
16 in the Watermaster Rules and Regulations § 6.3?

17 **Chino's Response to Question No. 4:**

18 The question is vague in that it fails to identify the impact of SYRA Paragraph 4.8 on  
19 the Court approval of Resolution 2010-04 and other orders.

20 More importantly, this question is unnecessary as it continues the dialogue on the  
21 issue of priority, which the Court stated it will not consider.

22 Therefore, the question should be rejected.

23  
24 Dated: October 28, 2016

GUTIERREZ, FIERRO & ERICKSON, A.P.C.

25  
26 By: 

27 Jimmy L. Gutierrez  
28 Attorneys for City of Chino



**CHINO BASIN WATERMASTER**  
**Case No. RCV 51010**  
**Chino Basin Municipal Water District v. The City of Chino**

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

On October 28, 2016 I served the following:

1. CITY OF CHINO'S RESPONSES TO OVERLYING (AGRICULTURAL) POOL'S QUESTIONS FOR CLARIFICATION REGARDING PROPOSED ORDERS FOR WATERMASTER'S MOTION REGARDING 2015 SAFE YIELD RESET AGREEMENT, AMENDMENT OF RESTATED JUDGMENT, PARAGRAPH 6
2. CITY OF CHINO'S RESPONSES TO MONTE VIST WATER DISTRICTS' COURT-AUTHORIZED QUESTIONS RE COURT'S TENTATIVE RULING RE WATERMASTER'S MOTION RE 2015 SAFE YIELD RESET AGREEMENT
3. CITY OF CHINO'S RESPONSES TO WATERMASTER'S QUESTIONS FOR CLARIFICATION IN FINAL ORDERS FOR WATERMASTER'S MOTION REGARDING 2015 SAFE YIELD RESET AGREEMENT, AMENDMENT OF RESTATED JUDGMENT, PARAGRAPH 6

/ X / BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

**See attached service list:** Mailing List 1

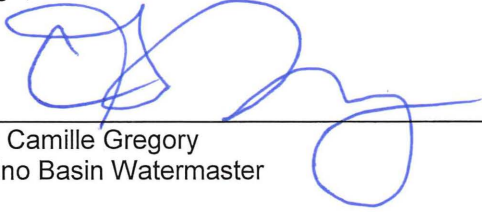
/ \_\_\_ / BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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

Executed on October 28, 2016 in Rancho Cucamonga, California.

  
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