

1 KIDMAN LAW LLP
2030 Main Street, Suite 1300
2 Irvine, CA 92614
Telephone: (714) 755-3100
3 Facsimile: (714) 755-3110
agagen@kidmanlaw.com
4

Fee Exempt Per Gov. Code § 6103

5 **ARTHUR G. KIDMAN, CAL. BAR NO. 61719**
6 **ANDREW B. GAGEN, CAL. BAR NO. 212257**

7 Attorneys for Defendant, MONTE VISTA WATER DISTRICT

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

10	_____)	Case No. RCV 51010
11	CHINO BASIN MUNICIPAL WATER)	Assigned For All Purposes to:
12	DISTRICT)	Hon. Stanford E. Reichert
13	vs.)	RESPONDING AP MEMBERS
14	CITY OF CHINO, et al.,)	RESPONSE TO BOTH
15	Defendants.)	WATERMASTER AND CITY OF
16	_____)	CHINO'S FURTHER BRIEFING RE
17	_____)	REVISED TENTATIVE ORDER RE
18	_____)	WATERMASTER'S MOTION RE
19	_____)	2015 SAFE YIELD RESET
20	_____)	AGREEMENT
21	_____)	<u>Hearing on Motion:</u>
22	_____)	Date: April 28, 2017
23	_____)	Time: 1:30 p.m.
24	_____)	Department: S35

21 This Response to both Watermaster and City of Chino's¹ further briefing is submitted
22 on behalf of the following members of the Appropriative Pool (collectively referred to as
23 "Responding AP Members"):

- 24 1. Monte Vista Water District;
- 25 2. Cucamonga Valley Water District;
- 26

27 _____
28 ¹ To the extent that the City of Chino's response brief supports resetting the Safe Yield at 135,000 AFY, the Responding AP Members oppose that response for the same reasons set forth herein.

1 **III. WATERMASTER SUGGESTS AN ACCOUNTING SOLUTION OF**
2 **“CONTRACT SEQUESTRATION” IN AN ATTEMPT TO RECONCILE THE**
3 **135,000 AFY SAFE YIELD RESET WITH THE COURT’S INTENDED**
4 **RULINGS, THE JUDGMENT, AND PEACE II.**

5 Watermaster asserts that Desalter-Induced New Yield is a physical addition of river
6 water to Safe Yield that is “contractually sequestered by Paragraph 7.1” of Peace II to offset
7 Desalter Production. [Watermaster Response at 2:22-3:2; 4:3-5.] This assertion is at odds
8 with Paragraph 7.1 that “neither Watermaster nor the Parties will request the Safe Yield be
9 recalculated in a manner that incorporates New Yield attributable to the Desalters into the
10 determination of Safe Yield....”
11

12 Watermaster’s addition of Desalter-Induced New Yield to Safe Yield is an important
13 misinterpretation of both Paragraph 7.1 of Peace II and the definition of Safe Yield at
14 Paragraph 4(x) of the Restated Judgment (“Safe Yield” excludes “replenishment water”). A
15 proper interpretation of Section 7.1 and Paragraph 4(x) is that, for the initial term of the Peace
16 Agreement, the Desalter-Induced New Yield is to be subtracted from the amount of
17 groundwater produced by the Desalters to establish the net amount of groundwater produced
18 by the Desalters. Desalter-Induced New Yield never becomes part of Safe Yield; it merely
19 reduces the replenishment obligation, if any, of the Desalters.
20
21

22 **IV. IN ORDER TO RECONCILE THE CONTRADICTION BETWEEN THE WEI**
23 **TECHNICAL MEMORANDUM AND THE COURT’S INTENDED RULINGS,**
24 **THE JUDGMENT, AND PEACE II, THE SAFE YIELD MUST BE RESET TO**
25 **115,000 AFY.**

26 For the reasons stated herein, the Responding AP Members respectfully request that the
27 Court modify its Revised Proposed Order to reset Safe Yield at 115,000 AFY. This reset will
28

1 reconcile the contradiction between the WEI Technical Memorandum and the Court's intended
2 rulings, the Judgment, and Peace II.

3 Dated: March 24, 2017

KIDMAN LAW LLP

4
5 By: *Arthur G. Kidman*

6 Arthur G. Kidman
7 Andrew B. Gagen
8 Attorneys for Defendant,
9 MONTE VISTA WATER DISTRICT
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 March 24, 2017 I served the following:

1. RESPONDING AP MEMBERS RESPONSE TO BOTH WATERMASTER AND CITY OF CHINO'S FURTHER BRIEFING RE REVISED TENTATIVE ORDER RE WATERMASTER'S MOTION RE 2015 SAFE YIELD RESET AGREEMENT

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

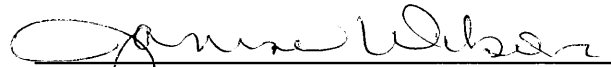
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

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.

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

Executed on March 24, 2017 in Rancho Cucamonga, California.



By: Jahine Wilson
Chino Basin Watermaster

BRIAN GEYE
AUTO CLUB SPEEDWAY
9300 CHERRY AVE
FONTANA, CA 92335

BOB KUHN
THREE VALLEYS MWD
669 HUNTERS TRAIL
GLENORA, CA 91740

ROBERT BOWCOCK
INTEGRATED RESOURCES MGMNT
405 N. INDIAN HILL BLVD
CLAREMONT, CA 91711-4724

STEVE ELIE
IEUA
17017 ESTORIL STREET
CHINO HILLS, CA 91709

GINO L. FILIPPI
CBWM BOARD MEMBER
305 N. 2ND AVE., PMB #101
UPLAND, CA 91786

PAUL HOFER
11248 S TURNER AVE
ONTARIO, CA 91761

DON GALLEANO
WMWD
4220 WINEVILLE ROAD
MIRA LOMA, CA 91752

BOB DiPRIMIO
CBWM BOARD MEMBER
11142 GARVEY AVENUE
EL MONTE, CA 91733

JAMES CURATALO
CUCAMONGA VALLEY WATER DIST
PO BOX 638
RANCHO CUCAMONGA, CA 91729

JEFF PIERSON
PO BOX 1440
LONG BEACH, CA 90801-1440

ALLEN HUBSCH
LOEB & LOEB LLP
10100 SANTA MONICA BLVD.
SUITE 2200
LOS ANGELES, CA 90067

BOB FEENSTRA
2720 SPRINGFIELD ST,
ORANGE, CA 92867

Members:

Allen W. Hubsch	ahubsch@loeb.com
Andrew Gagen	agagen@kidmanlaw.com
Arthur Kidman	akidman@kidmanlaw.com
Catharine Irvine	cirvine@DowneyBrand.com
Dan McKinney	dmckinney@douglascountylaw.com
David Aladjem	daladjem@downeybrand.com
Eddy Beltran	ebeltran@kidmanlaw.com
Fred Fudacz	ffudacz@nossaman.com
Jean Cihigoyenetché	Jean@thejclawfirm.com
Jill Willis	jnwillis@bbklaw.com
Jim Markman	jmarkman@rwglaw.com
jimmy@city-attorney.com	jimmy@city-attorney.com
Joel Kuperberg	jkuperberg@rutan.com
John Harper	jrharper@harperburns.com
John Schatz	jschatz13@cox.net
Mark D. Hensley	mhensley@hensleylawgroup.com
Martin Cihigoyenetché	marty@thejclawfirm.com
Michelle Staples	mstaples@jdtplaw.com
Nick Jacobs	njacobs@somachlaw.com
Paeter E. Garcia	paeter.garcia@bbklaw.com
Paige H. Gosney	pgosney@jdtplaw.com
Randy Visser	RVisser@sheppardmullin.com
Robert E. Donlan	red@eslawfirm.com
Rodney Baker	rodbaker03@yahoo.com
Steve Kennedy	skennedy@bmklawplc.com
Timothy Ryan	tjryan@sgwwater.com
Tom Bunn	TomBunn@Lagerlof.com
Tom McPeters	THMcP@aol.com
Tracy J. Egoscue	tracy@egoscuelaw.com
Trish Geren	tgeren@sheppardmullin.com
William J Brunick	bbrunick@bmblawoffice.com

Members:

Agnes Cheng	agnes.cheng@cc.sbcounty.gov
Al Lopez	alopez@wmwd.com
Alfonso Ruiz Jr.	Alfonso.Ruiz@gerdau.com
Amanda Coker	acoker@cityofchino.org
Andrea Olivas	aolivas@jcsd.us
Andrew Silva	Andrew.Silva@cao.sbcounty.gov
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@weiwater.com
Ankita Patel	apatel@niagarawater.com
Anna Truong	ATruong@cbwm.org
April Robitaille	arobitaille@bhfs.com
April Woodruff	awoodruff@ieua.org
Arnold "AJ" Gerber	agerber@parks.sbcounty.gov
Arnold Rodriguez	jarodriguez@sarwc.com
Art Bennett	citycouncil@chinohills.org
Ashok Dhingra	ash@akdconsulting.com
Ben Lewis	benjamin.lewis@gswater.com
Ben Peralta	bperalta@tvmwd.com
Bill Thompson	bthompson@ci.norco.ca.us
Bob Bowcock	bbowcock@irmwater.com
Bob DiPrimio	rjdiprimio@sgvwater.com
Bob Feenstra	bobfeenstra@gmail.com
Bob Kuhn	bgkuhn@aol.com
Bob Kuhn	bkuhn@tvmwd.com
Bob Page	bpage@cao.sbcounty.gov
Brad Herrema	bherrema@bhfs.com
Brandon Howard	brahoward@niagarawater.com
Brenda Fowler	balee@fontanawater.com
Brenda Trujillo	brendatrujillo@chinohills.org
Brent Yamasaki	byamasaki@mwdh2o.com
Brian Geye	bgeye@autoclubspeedway.com
Brian Hess	bhess@niagarawater.com
Brian Thomas	bkthomas@jcsd.us
Camille Gregory	cgregory@cbwm.org
Carol Bennett	cbennett@tkeengineering.com
Carol Boyd	Carol.Boyd@doj.ca.gov
Carolina Sanchez	csanchez@weiwater.com
Casey Costa	ccosta@chinodesalter.org
Chad Blais	cblais@ci.norco.ca.us
Charles Field	cdfield@att.net
Charles Linder	Charles.Linder@nrgenergy.com
Charles Moorrees	cmoorrees@sawaterco.com
Chino Hills City Council	citycouncil@chinohills.org
Chris Berch	CBerch@ieua.org
Christopher R. Guillen	cguillen@bhfs.com
Chuck Hays	chays@fontana.org
Cindy Cisneros	cindyc@cvwdwater.com
Cindy LaCamera	clacamera@mwdh2o.com
Cindy Li	Cindy.li@waterboards.ca.gov
Craig Miller	CMiller@wmwd.com
Craig Stewart	Craig.Stewart@amec.com
Cris Fealy	cifealy@fontanawater.com
Curtis Paxton	cpaxton@chinodesalter.org
Curtis Stubbings	Curtis_Stubbings@praxair.com
Dan Arrighi	darrighi@sgvwater.com
Dan Chadwick	dchadwick@fontana.org
Danielle Soto	danielle_soto@CI.POMONA.CA.US
Darron Poulsen	darron_poulsen@ci.pomona.ca.us
Daryl Grigsby	daryl_grigsby@ci.pomona.ca.us
Dave Argo	daveargo46@icloud.com
Dave Crosley	DCrosley@cityofchino.org
David D DeJesus	tvmwddiv2rep@gmail.com

David De Jesus	ddejesus@tvmwd.com
David Huskey	David.Huskey@cdcr.ca.gov
David Lovell	dlovell@dpw.sbcounty.gov
David Penrice	dpenrice@acmwater.com
David Ringel	david.j.ringel@us.mwhglobal.com
David Starnes	david.starnes@mcmcn.net
Dennis Dooley	ddooley@angelica.com
Dennis Mejia	dmejia@ci.ontario.ca.us
Dennis Williams	dwilliams@geoscience-water.com
Diana Frederick	diana.frederick@cdcr.ca.gov
Don Galleano	donald@galleanowinery.com
Earl Elrod	earl.elrod@verizon.net
Edgar Tellez Foster	etellezfoster@cbwm.org
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Leuze	Eric.Leuze@nrgenergy.com
Eric Tarango	edtarango@fontanawater.com
Erika Clement	Erika.clement@sce.com
Eunice Ulloa	eulloa@cbwcd.org
Felix Hamilton	felixhamilton.chino@yahoo.com
Frank Brommenschenkel	frank.brommen@verizon.net
Frank Yoo	FrankY@cbwm.org
Gabby Garcia	ggarcia@mvwd.org
Gailyn Watson	gwatson@airports.sbcounty.gov
Geoffrey Kamansky	gkamansky@niagarawater.com
Geoffrey Vanden Heuvel	geoffreyvh60@gmail.com
Gerald Yahr	yahrj@koll.com
Giannina Espinoza	gia.espinoza@gerdau.com
Gina Nicholls	gnicholls@nossaman.com
Gino L. Filippi	Ginoffvine@aol.com
Gloria Rivera	gloriar@cvwdwater.com
Grace Cabrera	grace_cabrera@ci.pomona.ca.us
Greg Woodside	gwoodside@ocwd.com
Henry DeHaan	hpdehaan@verizon.net
James Curatalo	jamesc@cvwdwater.com
James Jenkins	cnomgr@airports.sbcounty.gov
James McKenzie	jmckenzie@dpw.sbcounty.gov
Jane Anderson	janderson@jcsd.us
Janine Wilson	JWilson@cbwm.org
Jasmin A. Hall	jhall@ieua.org
Jason Marseilles	jmarseilles@ieua.org
Jason Pivovarovff	jpivovarovff@ieua.org
Jean Perry	JPerry@wmwd.com
Jeanina M. Romero	jromero@ci.ontario.ca.us
Jeannette Vagnozzi	jevagnozzi@ci.upland.ca.us
Jeffrey L. Pierson	jpierson@intexcorp.com
Jesse White	jesse.white@gerdau.com
Jessie Ruedas	Jessie@thejclawfirm.com
Jesus Placentia	jplasencia@cityofchino.org
Jill Willis	jnwillis@bbklaw.com
Jim Bowman	jbowman@ci.ontario.ca.us
Jim Taylor	jim_taylor@ci.pomona.ca.us
Jo Lynne Russo-Pereyra	jolynner@cvwdwater.com
Joanne Chan	jchan@wvwd.org
Joe Graziano	jgraz4077@aol.com
Joe Grindstaff	jgrindstaff@ieua.org
Joe Joswiak	JJoswiak@cbwm.org
Joe P LeClaire	leclairj@cdmsmith.com
Joel Ignacio	jignacio@ieua.org
John Abusham	john.abusham@nrg.com
John Bosler	johnb@cvwdwater.com
John Huitsing	johnhuitsing@gmail.com
John Lopez and Nathan Cole	customerservice@sarwc.com
John V. Rossi	jrossi@wmwd.com

Jon Lambeck	jlambeck@mwdh2o.com
Jose Alire	jalire@cityofchino.org
Jose Galindo	jose_a_galindo@praxair.com
Josh Swift	jmswift@fontanawater.com
Julie Cavender	julie.cavender@cdcr.ca.gov
Julie Saba	jsaba@jcsd.us
Justin Brokaw	jbrokaw@marygoldmutualwater.com
Justin Nakano	JNakano@cbwm.org
Justin Scott Coe	jscottcoe@mvwd.org
Karen Johnson	kejwater@aol.com
Kathleen Brundage	kathleen.brundage@californiasteel.com
Kathy Kunysz	kkunysz@mwdh2o.com
Kathy Tiegs	Kathyt@cvwdwater.com
Kati Parker	kparker@ieua.org
Katie Gienger	kgienger@ontarioca.gov
Keith Person	keith.person@waterboards.ca.gov
Kelly Berry	KBerry@sawpa.org
Ken Jeske	kjeske1@gmail.com
Ken Waring	kwaring@jcsd.us
Kevin Blakeslee	kblakeslee@dpw.sbcounty.gov
Kevin Sage	Ksage@IRMwater.com
Krystn Bradbury	kbradbury@ontarioca.gov
Kurt Berchtold	kberchtold@waterboards.ca.gov
Kyle Snay	kylesnay@gswater.com
Landon Kern	lkern@cityofchino.org
Laura Mantilla	lmantilla@ieua.org
Lawrence Dimock	lawrence.dimock@cdcr.ca.gov
Lee Moore	Lee.Moore@nrgenergy.com
Linda Jadeski	ljadeski@wvwd.org
Linda Minky	LMinky@BHFS.com
Lisa Hamilton	lisa.hamilton@amecfw.com
Lisa Lemoine	LLemoine@wmwd.com
Lisa Snider	lsnider@ieua.org
Marco Tule	marco.tule@nrg.com
Maribel Sosa	Maribel_Sosa@ci.pomona.ca.us
Mark Wiley	mwiley@chinohills.org
Marsha Westropp	MWestropp@ocwd.com
Martin Zvirbulis	martinz@cvwdwater.com
Mathew C. Ballantyne	mballantyne@cityofchino.org
Matthew H. Litchfield	mlitchfield@wvwd.org
Michael Sigsbee	msigsbee@ci.ontario.ca.us
Mike Blazevic	mblazevic@weewater.com
Mike Maestas	mikem@cvwdwater.com

Members:

Maria Flores	mflores@ieua.org
Maria Mendoza-Tellez	MMendoza@weewater.com
Marilyn Levin	marilyn.levin@doj.ca.gov
Mario Garcia	mgarcia@tvmwd.com
Mark Kinsey	mkkinsey@mvwd.org
Mark Wildermuth	mwildermuth@weewater.com
Marla Doyle	marla_doyle@ci.pomona.ca.us
Martha Davis	mdavis@ieua.org
Martin Rauch	martin@rauchcc.com
Meg McWade	meg_mcwade@ci.pomona.ca.us
Melanie Otero	melanie_otero@ci.pomona.ca.us
Melissa L. Walker	mwalker@dpw.sbcounty.gov
Michael Adler	michael.adler@mcmcn.net
Michael Camacho	MCamacho@pacificaservices.com
Michael Cruikshank	MCruikshank@DBStephens.com
Michael P. Thornton	mthornton@tkeengineering.com
Michael T Fife	MFife@bhfs.com
Michael Thompson	michael.thompson@cdcr.ca.gov
Mike Sigsbee	msigsbee@ci.ontario.ca.us
Monica Heredia	mheredia@chinohills.org
Moore, Toby	TobyMoore@gswater.com
Nadeem Majaj	nmajaj@chinohills.org
Nadia Picon-Aguirre	naguirre@wvwd.org
Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieua.org
Nicole Escalante	NEscalante@ci.ontario.ca.us
Noah Golden-Krasner	Noah.goldenkrasner@doj.ca.gov
Pam Sharp	PSharp@chinohills.org
Pam Wilson	pwilson@bhfs.com
Patty Jett	pjett@spacecenterinc.com
Paul Deutsch	paul.deutsch@amec.com
Paul Hofer	farmwatchtoo@aol.com
Paul Hofer	farmerhofer@aol.com
Paul Leon	pleon@ci.ontario.ca.us
Paula Lantz	paula_lantz@ci.pomona.ca.us
Penny Alexander-Kelley	Palexander-kelley@cc.sbcounty.gov
Pete Hall	pete.hall@cdcr.ca.gov
Pete Hall	rpetehall@gmail.com
Pete Vicario	PVicario@cityofchino.org
Peter Hettinga	peterhettinga@yahoo.com
Peter Kavounas	PKavounas@cbwm.org
Peter Rogers	progers@chinohills.org
Peter Thyberg	Peter.Thyberg@cdcr.ca.gov
Rachel Avila	R.Avila@MPGLAW.com
Rachel Ortiz	rortiz@nossaman.com
Ramsey Haddad	ramsey.haddad@californiasteel.com
Randall McAlister	randall.mcalister@ge.com
Raul Garibay	raul_garibay@ci.pomona.ca.us
Ray Wilkings	rwilkings@autoclubspeedway.com
Rene Salas	Rene_Salas@ci.pomona.ca.us
Richard Zuniga	richard.zuniga@nov.com
Rick Darnell	Richard.Darnell@nrenergy.com
Rick Hansen	rhansen@tvmwd.com
Rick Rees	Richard.Rees@amec.com
Rick Zapien	rzapien@cbwm.org
Rita Pro	rpro@cityofchino.org
Robert C. Hawkins	RHawkins@earthlink.net
Robert DeLoach	robertadeloach1@gmail.com
Robert Neufeld	robneu1@yahoo.com
Robert Stockton	bstockton@wmwd.com
Robert Tock	rtock@jcsd.us
Robert Wagner	rwagner@wbecorp.com

Rogelio Matta	rmatta@fontana.org
Roger Florio	roger.florio@ge.com
Roger Han	roger_han@praxair.com
Ron Craig	ronc@mbakerintl.com
Ron LaBrucherie, Jr.	ronLaBrucherie@gmail.com
Ronald C. Pietersma	rcpietersma@aol.com
Rosemary Hoerning	rhoerning@ci.upland.ca.us
Ryan Shaw	RShaw@wmwd.com
Sandra S. Rose	directorrose@mvwd.org
Sarah Schneider	sarah.schneider@amec.com
Scott Burton	sburton@ci.ontario.ca.us
Scott Runyan	srunyan@cc.sbcounty.gov
Scott Slater	sslater@bhfs.com
Seth J. Zielke	sjzielke@fontanawater.com
Shaun Stone	sstone@ieua.org
Sheri Rojo	smrojo@aol.com
Sonya Barber	sbarber@ci.upland.ca.us
Sonya Bloodworth	sbloodworth@wmwd.com
Sophie Akins	Sophie.Akins@cc.sbcounty.gov
Steve Riboli	steve.riboli@sanantoniowinery.com
Steve Smith	ssmith@ieua.org
Steven J. Elie	selie@ieua.org
Steven J. Elie	s.elie@mpglaw.com
Suki Chhokar	schhokar@sdca.org
Susan Collet	scollett@jcsd.us
Sylvie Lee	slee@ieua.org
Taya Victorino	tayav@cvwdwater.com
Teri Layton	tlayton@sawaterco.com
Terry Catlin	tlcatlin@wfajpa.org
Tim Barr	tbarr@wmwd.com
Todd Corbin	tcorbin@jcsd.us
Todd Minten	tminten@chinodesalter.org
Tom Cruikshank	tcruikshank@spacecenterinc.com
Tom Harder	tharder@thomashardercompany.com
Tom Haughey	tom@haugheyinsurance.com
Tom O'Neill	toneill@ci.ontario.ca.us
Toni Medel	mmedel@rbf.com
Van Jew	vjew@mvwd.org
Veva Weamer	vweamer@weewater.com
Vicki Hahn	vhahn@tvmwd.com
Vicky Rodriguez	vrodriagu@ci.ontario.ca.us
Vivian Castro	VCastro@cbwcd.org
W. C. "Bill" Kruger	citycouncil@chinohills.org
William Urena	wurena@angelica.com