

1 Thomas S. Bunn III (CSB #89502)
2 LAGERLOF, SENEAL, GOSNEY & KRUSE, LLP
3 301 N. Lake Ave., 10th Floor
Pasadena, CA 91101-5123
4 (626) 793-9400

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5 Attorneys for City of Pomona

FEE EXEMPT

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

10 CHINO BASIN MUNICIPAL WATER
11 DISTRICT,

12 Plaintiff,

13 v.

14 CITY OF CHINO, et al.,

15 Defendants.

Case No.: RCV 51010

Assigned to the Honorable Stanford E. Reichert

**RESPONSE OF CITY OF POMONA,
JURUPA COMMUNITY SERVICES
DISTRICT, AND CUCAMONGA VALLEY
WATER DISTRICT TO EX PARTE
APPLICATION**

Date: February 20, 2019

Time: 1:30 p.m.

Place: Dept S35

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18 Monte Vista Water District's ex parte application raises the issues of: (1) the status of the April
19 28, 2017 Order, and (2) the scope of this Court's jurisdiction in light of the pending appeal and the
20 court of appeal's limited remand. The Court has not yet addressed these issues – which are also raised
21 in the Appellants' Motion to Confirm Stay, which the Settling Parties have taken off calendar¹ – and
22 the Court may not need to address these issues now, while still providing all the parties the relief they
23 seek.

24 As the Watermaster points out in its opposition to the ex parte application, the only material
25 differences between the Watermaster's motion and the Settling Parties' motion are the amendments to
26

27 ¹ To clarify the record, the Respondents to the appeal, Jurupa Community Services District, City of
28 Chino, and City of Ontario have not filed a response to the Motion to Confirm Stay or any document
with this Court or the court of appeal expressing any position regarding the scope of any stay of the
2017 Order or this Court's jurisdiction in relation to the same.

1 the Overlying (Non-Agricultural) Pool Pooling Plan and the Watermaster's request for "reaffirmation"
2 of the portions of the Court's 2017 Order pertaining to the recalculation of the Safe Yield.
3 (Watermaster Opp. at p. 7, ll. 2-7).

4 The Court could avoid the jurisdictional issue by finding that it is not necessary to reaffirm
5 particular language from its 2017 Order. Neither the Settling Parties' motion nor the Watermaster's
6 motion requests any changes to the Court's 2017 Order, and the Settling Parties' settlement agreement
7 requires Appellants to immediately dismiss their appeal and withdraw their Motion to Confirm Stay
8 upon this Court granting the Settling Parties' motion. (January 15, 2019 Declaration of Sarah Foley at
9 Ex. B, ¶3.) Dismissal of the appeal would automatically lift any stay of this Court's 2017 order and
10 any limitation to the scope of this Court's jurisdiction with respect to the 2017 Order.

11 The Court's reaffirmation of its prior order, or any portion thereof, will have no legal effect if
12 the Settling Parties' motion is granted and the appeal dismissed, because any uncertainty about the
13 binding effect of the 2017 order on the parties will be extinguished. An order issued by this Court
14 carries the same weight, whether stated once or twice. The only relief Watermaster's motion seeks that
15 differs from the Settling Parties' Motion is achieved by the Court granting the Settling Parties' Motion,
16 which will trigger dismissal of the appeal, lifting any stay of the 2017 Order. Accordingly, the Court
17 can effectively provide the relief sought by both motions without reaching the jurisdictional issue.

18 To preserve maximum flexibility for the Court in resolving the Settling Parties' and
19 Watermaster's motions, and to allow opportunity for all parties to be heard on the issues without
20 further delay, the City of Pomona, Jurupa Community Services District, and Cucamonga Valley Water
21 District, which are Settling Parties, request that the ex parte application be heard at the same time as
22 the pending motions filed by the Settling Parties, Watermaster, and the Non-Agricultural Pool, which
23 are currently set for March 15, 2019.

24 Dated: February 7, 2019

LAGERLOF, SENEAL, GOSNEY & KRUSE, LLP

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27 By:

THOMAS S. BUNN III
Attorneys for City of Pomona

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24
25
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28

Dated: February 7, 2019

BEST BEST & KRIEGER LLP

/s/ by permission

By: STEVE ANDERSON
Attorneys for Defendant and Appellant
Cucamonga Valley Water District

Dated: February 7, 2019

ELLISON SCHNEIDER HARRIS & DONLAN LLP

/s/ by permission

By: ROBERT E. DONLAN
Attorneys for Defendant and Appellee
Jurupa Community Services District

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

On February 7, 2019 served the following:

1. RESPONSE OF CITY OF POMONA, JURUPA COMMUNITY SERVICES DISTRICT, AND CUCAMONGA VALLEY WATER DISTRICT TO EX PARTE APPLICATION

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 February 7, 2019 in Rancho Cucamonga, California.


By: Camille H. Gregory
Chino Basin Watermaster

BRIAN GEYE
CA SPEEDWAY CORPORATION
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

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
CBWM BOARD MEMBER
11248 S TURNER AVE
ONTARIO, CA 91761

DON GALLEANO
WMWD
4220 WINEVILLE ROAD
MIRA LOMA, CA 91752

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

BOB FEENSTRA
2720 SPRINGFIELD ST,
ORANGE, CA 92867

JEFF PIERSON
UNITEX MANAGEMENT CORP.
PO BOX 1440
LONG BEACH, CA 90801-1440

Members:

Agnes Cheng	agnes.cheng@cc.sbcounty.gov
Al Lopez	alopez@wmwd.com
Alfonso Ruiz Jr.	Alfonso.Ruiz@gerdau.com
Alonso Jurado	ajurado@cbwm.org
Amanda Coker	acoker@cityofchino.org
Amer Jakher	AJakher@cityofchino.org
Amy Bonczewski	ABonczewski@ontarioca.gov
Andrea Olivas	aolivas@jcsd.us
Andrew Silva	Andrew.Silva@cao.sbcounty.gov
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@weewater.com
Anna Truong Nelson	atruongnelson@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
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
Braden Yu	bradeny@cvwdwater.com
Brandon Howard	brahoward@niagarawater.com
Brenda Fowler	balee@fontanawater.com
Brent Yamasaki	byamasaki@mwdh2o.com
Brian Geye	bgeye@autoclubspeedway.com
Brian Lee (blee@sawaterco.com)	blee@sawaterco.com
Brian Thomas	bkthomas@jcsd.us
Cameron Andreasen	memphisbelle38@outlook.com
Camille Gregory	cgregory@cbwm.org
Carmen Sierra	carmens@cvwdwater.com
Carol Bennett	cbennett@tkeengineering.com
Carol Boyd	Carol.Boyd@doj.ca.gov
Carolina Sanchez	csanchez@weewater.com
Casey Costa	ccosta@chinodesalter.org
Cassandra Hooks	chooks@niagarawater.com
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
Chris Diggs	Chris_Diggs@ci.pomona.ca.us
Christofer Coppinger	ccoppinger@geoscience-water.com
Christopher R. Guillen	cguillen@bhfs.com

Chuck Hays	chays@fontana.org
Cindy Cisneros	cindyc@cvwdwater.com
Cindy Li	Cindy.li@waterboards.ca.gov
Clarence Mansell	cmansell@wwwd.org
Courtney Jones	cjjones@ontarioca.gov
Craig Miller	CMiller@wmwd.com
Craig Stewart	craig.stewart@woodplc.com
Cris Fealy	cifealy@fontanawater.com
Curtis Stubbings	Curtis_Stubbings@praxair.com
Dan Arrighi	darrighi@sgvwater.com
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 De Jesus	ddejesus@tvmwd.com
David Huynh	dhuynh@cbwm.org
David Lovell	dlovell@dpw.sbcounty.gov
David Penrice	dpenrice@acmwater.com
Dennis Dooley	ddooley@angelica.com
Dennis Mejia	dmejia@ontarioca.gov
Dennis Williams	dwilliams@geoscience-water.com
Diana Frederick	diana.frederick@cdcr.ca.gov
Diana Keros	dkeros@chinohills.org
Don Galleano	dongalleano@icloud.com
Earl Elrod	earl.elrod@verizon.net
Ed Means	edmeans@roadrunner.com
Edgar Tellez Foster	etellezfoster@cbwm.org
Eduardo Espinoza	EduardoE@cvwdwater.com
Eldon Horst (ehorst@jcsd.us)	ehorst@jcsd.us
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Grubb	ericg@cvwdwater.com
Eric Tarango	edtarango@fontanawater.com
Erika Clement	Erika.clement@sce.com
Eunice Ulloa	eulloa@cityofchino.org
Evette Ounanian	EvetteO@cvwdwater.com
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
Garrett Rapp	grapp@weewater.com
Geoffrey Kamansky	gkamansky@niagarawater.com
Geoffrey Vanden Heuvel	geoffreyvh60@gmail.com
Gerald Yahr	yahrj@koll.com
Giannina Espinoza	giannina.espinoza@cmc.com
Gina Nicholls	gnicholls@nossaman.com
Gino L. Filippi	Ginoffvine@aol.com
Grace Cabrera	grace_cabrera@ci.pomona.ca.us
Greg Woodside	gwoodside@ocwd.com
Halla Razak	hrazak@ieua.org
Henry DeHaan	Hdehaan1950@gmail.com

Hope Smythe
James Curatalo
James Jenkins
James McKenzie
Jane Anderson
Janelle Granger
Janine Wilson
Jasmin A. Hall
Jason Marseilles
Jean Perry
Jeanina M. Romero
Jeff Edwards
Jeffrey L. Pierson
Jennifer Hy-Luk
Jesse White - Gerdau
Jessie Ruedas
Jim Taylor
Jim W. Bowman
Jimmy Medrano (Jaime.medrano2@cdcr.ca.gov)

hsmythe@waterboards.ca.gov
jamesc@cvwdwater.com
cnomgr@airports.sbcounty.gov
jmckenzie@dpw.sbcounty.gov
janderson@jcsd.us
jgranger@niagarawater.com
JWilson@cbwm.org
jhall@ieua.org
jmarseilles@ieua.org
JPerry@wmwd.com
jromero@ontarioca.gov
Jeffrey.Edwards@genon.com
jpierson@intexcorp.com
jhyluk@ieua.org
Jesse.White@cmc.com
Jessie@thejclawfirm.com
jim_taylor@ci.pomona.ca.us
jbowman@ontarioca.gov

Jaime.medrano2@cdcr.ca.gov
jchan@wwwd.org
jgraz4077@aol.com
JJoswiak@cbwm.org
jignacio@ieua.org
john.abusham@nrg.com
johnb@cvwdwater.com
johnhuitsing@gmail.com
customerservice@sarwc.com
jmendoza@tvmwd.com
jpartridge@angelica.com

jrobles@ci.upland.ca.us
JThorntonPE@H2OExpert.net
Jvela@dpw.sbcounty.gov
jose_a_galindo@praxair.com
jleclair@dbstephens.com
jmswift@fontanawater.com
jaguilar@ieua.org
jsaba@jcsd.us
jbrokaw@marygoldmutualwater.com
JNakano@cbwm.org
kejwater@aol.com
kgoodman@bhfs.com
kathleen.brundage@californiasteel.com
Kathyt@cvwdwater.com
kparker@ieua.org
katiandcraig@verizon.net
kgienger@ontarioca.gov
keith.person@waterboards.ca.gov
KBerry@sawpa.org
kwaring@jcsd.us
kblakeslee@dpw.sbcounty.gov
Ksage@IRMwater.com

Joanne Chan
Joe Graziano
Joe Joswiak
Joel Ignacio
John Abusham
John Bosler
John Huitsing
John Lopez and Nathan Cole
John Mendoza
John Partridge
John Robles (jrobles@ci.upland.ca.us)

John Thornton
Jorge Vela
Jose Galindo
Joseph P. LeClaire
Josh Swift
Joshua Aguilar
Julie Saba
Justin Brokaw
Justin Nakano
Karen Johnson
Kassie M. Goodman
Kathleen Brundage
Kathy Tiegs
Kati Parker
Kati Parker
Katie Gienger
Keith Person
Kelly Berry
Ken Waring
Kevin Blakeslee
Kevin Sage

Kirby Brill - Inland Empire Utilities Agency (kbrill@ieua.org)

kbrill@ieua.org

KRISTEN WEGER

kweger@cbwcd.org

Kyle Snay

kylesnay@gswater.com

Laura Mantilla

lmantilla@ieua.org

Linda Jadeski

ljadeski@wwwd.org

Linda Minky

LMinky@BHFS.com

Lisa Lemoine

LLemoine@wmwd.com

Marco Tule

marco.tule@nrg.com

Mark Wiley

mwiley@chinohills.org

Marsha Westropp

MWestropp@ocwd.com

Mathew C. Ballantyne

mballantyne@cityofchino.org

Matthew H. Litchfield

mlitchfield@tvmwd.com

Mike Blazevic

mblazevic@weewater.com

Mike Maestas

mikem@cvwdwater.com

Members:

Maria Mendoza-Tellez	MMendoza@weiwater.com
Maribel Sosa (msosa@ci.pomona.ca.us)	msosa@ci.pomona.ca.us
Marilyn Levin	marilyn.levin@doj.ca.gov
Mario Garcia	mgarcia@tvmwd.com
Mark Kinsey	mkinsey@mvwd.org
Mark Wildermuth	mwildermuth@weiwater.com
Marla Doyle	marla_doyle@ci.pomona.ca.us
Martin Rauch	martin@rauchcc.com
May Atencio	matencio@fontana.org
Melanie Otero	melanie_otero@ci.pomona.ca.us
Melissa L. Walker	mwalker@dpw.sbcounty.gov
Michael Adler	michael.adler@mcmcnet.net
Michael Camacho	MCamacho@pacificaservices.com
Michael P. Thornton	mthornton@tkeengineering.com
Moore, Toby	TobyMoore@gswater.com
MWDProgram@sdcwa.org	MWDProgram@sdcwa.org
Nadeem Majaj	nmajaj@chinohills.org
Nadia Loukeh	nloukeh@wvwd.org
Nadia Picon-Aguirre	naguirre@wvwd.org
Natalie Costaglio	natalie.costaglio@mcmcnet.net
Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieua.org
Nicole Escalante	NEscalante@ontarioca.gov
Noah Golden-Krasner	Noah.goldenkrasner@doj.ca.gov
Patty Jett	pjett@spacecenterinc.com
Paul Deutsch	paul.deutsch@woodplc.com
Paul Hofer	farmwatchtoo@aol.com
Paul Hofer	farmerhofer@aol.com
Paul S. Leon	pleon@ontarioca.gov
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
Praseetha Krishnan (praseethak@cvwdwater.com)	praseethak@cvwdwater.com
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
Rick Darnell	Richard.Darnell@nrgenergy.com
Rick Rees	richard.rees@woodplc.com
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 Wagner	rwagner@wbecorp.com
Rogelio Matta	rmatta@fontana.org
Ron Craig - Michael Baker International (Rcraig21@icloud.com)	Rcraig21@icloud.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
Sam Nelson (snelson@ci.norco.ca.us)	snelson@ci.norco.ca.us
Sandra S. Rose	directorrose@mvwd.org
Sarah Schneider	sarah.schneider@amec.com
Scott Burton	sburton@ontarioca.gov
Scott Runyan	srunyan@cc.sbcounty.gov
Scott Slater	sslater@bhfs.com
Seth J. Zielke	sjzielke@fontanawater.com
Shaun Stone	sstone@ieua.org
Skylar Stephens (SStephens@sdcwa.org)	SStephens@sdcwa.org
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
Steven Popelar	spopelar@jcsd.us
Susan Palmer	spalmer@kidmanlaw.com
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
Toby Moore	TobyMoore@gswater.com
Todd Minten	tminten@chinodesalter.org
Tom Cruikshank	tcruikshank@spacecenterinc.com
Tom DiCiolli	thomas.diciolli@genon.com
Tom Harder	tharder@thomashardercompany.com
Tom Haughey	Thaughey@cityofchino.org
Tom O'Neill (toneill@chinodesalter.org)	toneill@chinodesalter.org
Toni Medell	mmedel@mbakerintl.com
Tony Long	tlong@angelica.com
Van Jew	vjew@mvwd.org
Veva Weamer	vweamer@weewater.com
Vicki Hahn	vhahn@tvmwd.com
Victor Preciado - City of Pomona (Victor_Preciado@ci.pomona.ca.us)	Victor_Preciado@ci.pomona.ca.us
Vivian Castro (vcastro@cityofchino.org)	vcastro@cityofchino.org
W. C. "Bill" Kruger	citycouncil@chinohills.org

WestWater Research, LLC
William Urena

research@waterexchange.com
wurena@angelica.com

Members:

Allen W. Hubsch	ahubsch@loeb.com
Andrew Gagen	agagen@kidmanlaw.com
Arthur Kidman	akidman@kidmanlaw.com
Catharine Irvine	cirvine@DowneyBrand.com
Christopher M. Sanders	cms@eslawfirm.com
Dan McKinney	dmckinney@douglascountylaw.com
David Aladjem	daladjem@downeybrand.com
Elizabeth P. Ewens	epe@eslawfirm.com
Fred Fudacz	ffudacz@nossaman.com
Fred Galante	fgalante@awattorneys.com
Gene Tanaka	Gene.Tanaka@bbklaw.com
Irene Islas	irene.islas@bbklaw.com
Jean Cihigoyenetche	Jean@thejclawfirm.com
Jim Markman	jmarkman@rwglaw.com
Jimmy Gutierrez - Law Offices of Jimmy Gutierrez	(jimmylaredo@gmail.com) jimmylaredo@gmail.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 Cihigoyenetche	marty@thejclawfirm.com
Michelle Staples	mstaples@jdtplaw.com
Nick Jacobs	njacobs@somachlaw.com
Randy Visser	RVisser@sheppardmullin.com
Robert E. Donlan	red@eslawfirm.com
Rodney Baker	rodbaker03@yahoo.com
Sarah Foley	Sarah.Foley@bbklaw.com
Shawnda M. Grady	sgrady@eslawfirm.com
Steve Anderson	Steve.Anderson@bbklaw.com
Steve Kennedy	skennedy@bmklawplc.com
Steve M. Anderson	steve.anderson@bbklaw.com
Timothy Ryan	tjryan@sgvwater.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