

# FEE EXEMPT

1 SCOTT S. SLATER (State Bar No. 117317)

[sslater@bhfs.com](mailto:sslater@bhfs.com)

2 BRADLEY J. HERREMA (State Bar No. 228976)

[bherrema@bhfs.com](mailto:bherrema@bhfs.com)

3 CHRISTOPHER R. GUILLEN (State Bar No. 299132)

[cguillen@bhfs.com](mailto:cguillen@bhfs.com)

4 **BROWNSTEIN HYATT FARBER SCHRECK, LLP**

1021 Anacapa Street, 2nd Floor

5 Santa Barbara, CA 93101-2102

Telephone: 805.963.7000

6 Facsimile: 805.965.4333

7 Attorneys for

**CHINO BASIN WATERMASTER**

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 CHINO BASIN MUNICIPAL WATER  
DISTRICT,

12 Plaintiff,

13 v.

14 CITY OF CHINO, ET AL.,

15 Defendants.

**Case No. RCV RS 51010**

[Assigned for All Purposes to the  
Honorable Stanford E. Reichert]

**CHINO BASIN WATERMASTER'S  
REPLY TO OPPOSITIONS TO MOTION  
REGARDING 2020 SAFE YIELD RESET,  
AMENDMENT OF RESTATED  
JUDGMENT, PARAGRAPH 6**

Date: June 26, 2020

Time: 1:30 p.m.

Dept: S35

1 The Chino Basin Watermaster (“Watermaster”) has closely adhered to this Court’s orders  
2 directing the process and methodology for the reset of the Basin’s Safe Yield for the period  
3 commencing on July 1, 2020 and ending on June 30, 2030 (“Reset Period”). Just over one year  
4 ago, this Court ordered Watermaster to proceed to undertake the Safe Yield reset process with  
5 explicit directions on the process and methodology. (March 15, 2019 Findings and Order  
6 Regarding Amendments to Restated Judgment, Peace Agreement, Peace II Agreement, and Re-  
7 Operation Schedule (“2019 Order”).) Now, only 15 months later, the City of Chino (“Chino”) and  
8 the Overlying (Agricultural) Pool (“Ag Pool”) seek to change the way the Model is used and the  
9 way net recharge is estimated in contradiction to the Court ordered methodology.

10 Specifically, the Ag Pool requests the Court modify its previously ordered Safe Yield  
11 reset process by adding a new requirement that the Safe Yield allocation for the next 10 years  
12 address the difference between the prior 10 years’ actual net recharge and the Safe Yield  
13 allocation. Similarly, Chino is seeking to have this Court add new requirements directing  
14 Watermaster Engineer to model various planning scenarios to determine which scenario results in  
15 the Basin’s alleged optimal Safe Yield. Suggestions regarding efforts to optimize the Basin’s Safe  
16 Yield are always welcome and can be addressed in Optimum Basin Management Program  
17 (“OBMP”) groundwater pumping optimization planning; however, this recommendation is not  
18 within the scope of the Safe Yield reset, a calculation dependent upon historical and projected  
19 hydrologic and cultural conditions; not unenforceable and speculative projections.

20 These requested changes or additions to the reset process are contrary to the Court’s April  
21 28, 2017 Orders for Watermaster’s Motion Regarding 2015 Safe Yield Reset Agreement,  
22 Amendment of Restated Judgment, Paragraph 6 (“2017 Order”) and 2019 Order and, as they  
23 affect stipulated agreements among the Parties to the Peace Agreement, must be proposed to and  
24 agreed upon by the other Parties prior to their presentation to this Court for potential Watermaster  
25 implementation. Accordingly, Watermaster opposes the recommendations suggested by the  
26 oppositions on both substantive and procedural grounds.

1 This Court ordered Watermaster to comply with the Safe Yield reset methodology after an  
2 extensive contested process in April 2017. The requirement that Watermaster comply with the  
3 2017 Order's Safe Yield reset methodology was specifically put at issue again by Watermaster  
4 and the Ag Pool before the Court in March 2019 when it considered the proposed stipulated  
5 resolution of the appeal of the 2017 Order. With painstaking detail and extra effort, the Court  
6 undertook to interlineate proposed orders to leave no doubt as to how Watermaster was to  
7 proceed. Watermaster has followed the Court's instructions and recommends that the Court reset  
8 the Safe Yield of the Basin to 131,000 AFY. Chino's concerns can be addressed in OBMP  
9 planning efforts and the Ag Pool's concerns in storage management planning. Initiating a process  
10 to address them now would inject unnecessary delay and uncertainty into a process that took  
11 nearly three years of this Court's time to finally resolve on March 15, 2019.

12 **I. WATERMASTER HAS FOLLOWED THE COURT-ORDERED RESET**  
13 **PROCESS**

14 **A. The Safe Yield Reset Process Involved Significant Stakeholder Input**

15 As described in the Motion Regarding 2020 Safe Yield Reset, Amendment of Restated  
16 Judgment, Paragraph 6 ("Reset Motion"), the Restated Judgment, the 2017 Order and the 2019  
17 Order control the 2020 Safe Yield reset process. Pages 15-18 of the 2017 Order, along with the  
18 Reset Technical Memorandum, describe the process and methodology for the 2020 Safe Yield  
19 Reset process. While Chino's Opposition infers the process should have been directed by the  
20 Parties, the Restated Judgment makes the act of setting Safe Yield an action authorized under the  
21 Court's continuing jurisdiction and this Court has expressly ordered Watermaster to assume  
22 responsibility for the necessary evaluation.<sup>1</sup>

23 Watermaster conducted and facilitated the 2020 Safe Yield reset process with ongoing  
24 opportunities for participation by the Parties. The Ag Pool and Chino each availed themselves of

25 <sup>1</sup> See, e.g., 2017 Order, p. 15 ["Watermaster will initiate a process to evaluate and reset the Safe  
26 Yield . . ."], p. 16 ["Watermaster, with the recommendation and advice of the Pools and Advisory  
27 Committee, may supplement the Reset Technical Memorandum's methodology to incorporate  
28 future advances in best management practices and hydrologic science as they evolve over the  
term of this order."], p. 17 ["Watermaster shall cause the Basin Model to be updated and a model  
evaluation of Safe Yield, in a manner consistent with the Reset Technical Memorandum, to be  
initiated no later than January 1, 2024 . . ."].

1 these opportunities. For example, as early as 2017, Watermaster directly engaged the parties in  
2 the Appropriative Pool—including Chino—as to their “*projections*” for groundwater pumping  
3 within the Reset Period. (Declaration of Mark Wildermuth (“Wildermuth Decl.”), ¶ 6, Ex. B, p. 7-  
4 4-5.) Watermaster and the Watermaster Engineer held two technical workshops related to the  
5 development of the Chino Valley Model (“CVM”) (July 2019) and its calibration and the  
6 planning scenario to be used in estimating net recharge and Safe Yield (January 2020). (*Id.* at ¶¶  
7 7, 9; Declaration of Peter Kavounas (“Kavounas Decl.”), ¶ 4.) Watermaster and Watermaster  
8 Engineer also held a third workshop to answer questions on Watermaster Engineer’s Safe Yield  
9 recommendation for the Reset Period (April 2020). (Wildermuth Decl., ¶ 19; Kavounas Decl., ¶  
10 10.) The Ag Pool and Chino had representatives at these workshops. (Declaration of David  
11 Crosley (“Crosley Decl.”), ¶¶ 3-8; Declaration of Eric Fordham (“Fordham Decl.”), ¶ 3);  
12 Wildermuth Decl., ¶ 6, Ex. B, App. F.)

13 While Chino states that Watermaster “rushed” the reset process (City of Chino’s  
14 Opposition to Watermaster Motion Regarding 2020 Safe Yield Reset, Amendment of Restated  
15 Judgment, Paragraph 6 (“Chino Opp.”), p. 4), it is a process that began before the timeframe  
16 required by the Court’s 2017 Order and before the appeal to the 2017 Order was dismissed in  
17 2019. (Wildermuth Decl., ¶ 6.) Following the release of the draft Safe Yield Report,<sup>2</sup>  
18 Watermaster staff held a third workshop in response to requests from the Appropriative and Ag  
19 Pools. (Kavounas Decl., ¶¶ 7-10.) Further, the Watermaster Board delayed its consideration of the  
20 item by nearly a month, setting a special meeting to allow additional time for the Parties and  
21 Committees to consider and provide their input. (*Id.* at ¶ 9.)

22 Present at the March 15, 2019 hearing and an active participant in the settlement of the  
23 appeal from this Court’s 2017 Order, Chino expressed no objection to the timetable established  
24 by the Court for concluding the Safe Yield reset by June 2020. Similarly, Chino never identified  
25 any concerns with the Safe Yield reset process or requested additional time to review the reset

26  
27 <sup>2</sup> While the Safe Yield Report is lengthy, much of its contents refer to the setting and the  
28 construction and calibration of the CVM. Section 7 of the report, entitled “2020 Safe Yield  
Calculation,” which explained the application of the 2017 Order methodology in order to evaluate  
the Safe Yield, is 16 pages in length. (Wildermuth Decl., ¶ 6, Ex. B.)

1 materials until it transmitted a letter on May 21, 2020 (the day before the Board's special meeting  
2 to adopt the 2020 Safe Yield reset recommendation), and even then, it did not provide detail as to  
3 any concerns other than the request by the Appropriative Pools' expert, Thomas Harder, to  
4 receive additional information. (Kavounas Decl., ¶ 17, Ex. F.) The Appropriative Pool, however,  
5 has indicated that it does not oppose the reset of the Safe Yield as recommended in the Safe Yield  
6 Report, and its recommendations regarding Mr. Harder's questions were proposals in regard to  
7 future processes following the currently proposed reset. (Kavounas Decl., ¶ 15, Ex. C.)

8 Undertaking model runs toward the optimization of long term Safe Yield, as Chino  
9 suggests, is a worthy objective. To rise to the level of making a change in outcome sufficiently  
10 certain to be incorporated into a Safe Yield reset evaluation, there would need to be coordinating  
11 agreements and an operating plan—none of which exist today. The Court has observed from its  
12 own experience that such agreements take time. If such planning efforts gain support in the  
13 future, further relief and direction can be obtained from the Court as may be prudent under the  
14 circumstances; the purpose of continuing jurisdiction.

15 **B. Watermaster Considered and Responded to All of the Parties' Questions and**  
16 **Comments**

17 As both the Ag Pool and Chino describe, there were opportunities for questions to be  
18 submitted to Watermaster and Watermaster Engineer regarding the Safe Yield Report and its  
19 recommendations. Both the Ag Pool and Chino—on its own and through the Appropriative  
20 Pool—submitted multiple rounds of questions, all of which were considered and responded to by  
21 Watermaster and the Watermaster Engineer. (Wildermuth Decl., ¶¶ 6, 20, Ex. B, App. F.) In the  
22 case of the Appropriative Pool, as Chino notes, these included 89 separate comments. (Chino  
23 Opp., p. 5; see, e.g., Wildermuth Decl., ¶ 6, Ex. B, App. F-2.)<sup>3</sup> The Ag Pool and one of its

---

24 <sup>3</sup> Chino complains that it was not provided with the CVM; however, Chino never requested  
25 access to the CVM. Instead, Chino implies that it never asked for the CVM because it knew what  
26 the answer to such a request would be. (Chino Opp., p. 2.) Chino quotes portions of  
Watermaster's response to the Ag Pool's request for the CVM, but leaves out important portions  
of the same, including that:

27 [a]s the administrator of the decree, Watermaster has no specific  
28 interest in the application of the model, other than for the assistance  
to the parties to the Judgment and under the direct oversight of the

members, the State of California, submitted numerous comments as part of this process as well. (Wildermuth Decl., ¶ 6, Ex. B, App. F-5 & F-6; Kavounas Decl., ¶ 14, Ex. B.)

The Ag Pool's characterization of the comment process as having its questions and concerns "rebuffed" or "ignored" is perplexing and inconsistent with the record. (Wildermuth Decl., ¶¶ 6, 20, Ex. B, App. F.) While the Ag Pool is correct that the Safe Yield Report's conclusions and recommendations were not modified as a result of the comments submitted on the draft Safe Yield Report, this does not mean they were "*ignored*."<sup>4</sup> The Watermaster Engineer considered the input and responded to each and every question the Ag Pool and its consultant provided. Mr. Wildermuth's declaration shares the Watermaster Engineer's deliberative process in fielding the comments and questions and editing the Safe Yield Report in response.

(Wildermuth Decl., ¶¶ 19-20.) While the final conclusions and recommendations concerning the

---

Court. Maintaining the integrity of the model is paramount to its duties. Release of the model could lead to parties and individuals changing inputs into the model that enable advocacy to be injected into the modeling process. As a result, public confidence in the Judgment may be undermined by Watermaster and the Court having to respond to allegations supported by various and potentially iterations of the model and modeling reports. The Parties are not disadvantaged by not having the model files. The 2020 CVM and findings from its use have been the subject of three peer review workshops where the Parties and their technical experts participated. Watermaster retained an independent expert to review the Watermaster's hydrologist modeling work and that expert found that the model "does meet or exceed generally accepted industry standards" and that "application of the model and the updated safe yield analysis were consistent with prevailing professional standards in addition to being compliant with the Court-approved methodology for estimating net recharge and associated safe yield. Since the publication of the April 2, 2020 Safe Yield Recalculation report, 120 questions/comments were submitted by the Overlying Agricultural and Appropriative Pools and others and they have been responded to. Watermaster and its professional team will continue to work with the Parties to respond to new questions as they arise. Watermaster's assurances regarding transparency and open access to information are buttressed by the Court's oversight pursuant to its continuing jurisdiction over Safe Yield.

(Wildermuth Decl., ¶ 6, Ex. B, App. F-7.) It is unclear how a remand to Watermaster for additional process may be beneficial if Chino has not identified any request that was not satisfactorily addressed.

<sup>4</sup> "Ignore" means "to refuse to notice, recognize, or consider." (Black's Law Dictionary (11th ed. 2019).)

1 appropriateness of the 131,000 Safe Yield did not change, the Ag Pool's comments were  
2 carefully considered and resulted in a better and more complete final report. (*Ibid.*)

3 **C. The Reset Recommendation is Based on Proper Use of Historical Data**

4 The Watermaster Engineer authored the Reset Technical Memorandum. (Wildermuth  
5 Decl., ¶¶ 4-5.) He has worked in the Chino Basin for 40 years and he has developed and updated  
6 sophisticated models of the Basin, including the version of the model on which the Court relied in  
7 resetting the Safe Yield for the 2011-2020 period. (*Id.* at ¶¶ 2-5.) As explained in Appendix F to  
8 the Safe Yield Report, in his professional opinion, he has followed the Court's directions in  
9 regard to the "use" of Basin data from 1921-1949. (Wildermuth Decl., ¶ 6, Ex. B, App. F-6.)  
10 While Chino argues that the language at page 16 of the Court's 2017 Order required the  
11 Watermaster engineer to set the CVM base period to include that entire period, nowhere in the  
12 language of the 2017 Order or the Reset Technical Memorandum is this mandated. (Chino Opp.,  
13 pp. 3:14-20, 8:3-18.) Watermaster Engineer explained:

14 The methodology used in the 2020 Safe Yield Reset Final Report  
15 ("Final Report") follows the methodology in the Court's April 28,  
16 2017 order as carried forward in the Chino Basin Watermaster  
17 Rules and Regulations. The court-ordered methodology requires,  
18 and the 2020 Safe Yield recalculation used, a long-term historical  
19 record of precipitation falling on current and projected future land  
20 uses to estimate the long-term average net recharge to the Basin.  
21 The Court order states that the Safe Yield reset will rely upon long-  
22 term hydrology and will include data from 1921 to the date of the  
23 reset evaluation (emphasis added). Watermaster used long-term  
24 precipitation data from 1895 to the present to estimate the long-  
25 term average precipitation inclusive of the period 1921 to the  
26 present. From that analysis we selected the period 1950 through  
27 2011, a sixty-two year period, for the planning period. It represents  
28 a balancing between the availability of climate change factors (1915  
through 2011) and the need to select a period where the average  
period-precipitation equals the long-term average precipitation, per  
standard practice. The long-term average precipitation for 1921 to  
2011 period is greater than the long term average precipitation and  
use of the 1921 to 2011 period would overestimate the long term  
recharge, net recharge and Safe Yield. Use of the 1921 to 2011  
period would not be consistent with the court-ordered methodology.

(Wildermuth Decl., ¶ 6, Ex. B, App. F-6.) Chino's suppositions as to how incorporating that  
information into the base period would affect the net recharge to the Basin for the Reset Period  
are just that, and are not relevant to the presently pending recommendation to the Court.

1 **II. WATERMASTER CANNOT CHANGE THE RESET PROCESS IN RESPONSE**  
2 **TO THE AG POOL AND CHINO'S REQUESTS**

3 **A. The Court-Ordered Process Includes a Prospective Analysis of the Safe Yield**

4 The Ag Pool contends that Watermaster's recommended Safe Yield "does not account for  
5 the overallocation of Safe Yield by approximately 100,000 acre-feet (AF) from 2011 to 2020."  
6 (Agricultural Pool's Opposition to Watermaster Motion Regarding 2020 Safe Yield Reset,  
7 Amendment of Restated Judgment, Paragraph 6 ("Ag Pool Opp."), 4:1-3.) The short answer is  
8 that there is no "overallocation." There was a discrepancy between projected and actual net  
9 recharge. Safe Yield reset was never intended to precisely match actual net recharge over a ten  
10 year period. A long-term hydrologic record and projected changes in cultural conditions will  
11 result in a Safe Yield for ensuing 10 year periods that will always differ from actual conditions.

12 As contemplated by the Restated Judgment, the historical record includes intermittent  
13 cycles of wet and dry years and consequently, variations—up and down—between projected and  
14 actual net recharge over each 10 year period. That does not change the validity of the analysis or  
15 the methodology. To the contrary, the Restated Judgment and the Court's orders require the use  
16 of a long-term hydrology (Restated Judgment ¶4(x)), not a weighing of the last 10 year period  
17 requested by the Ag Pool.

18 It is also clear that the Ag Pool does not take issue with the CVM or the Safe Yield  
19 Report's estimate of 131,000 AFY as the projected net recharge to the Basin during the Reset  
20 Period. Essentially, it argues that in undertaking the fifth step of the Reset Technical  
21 Memorandum's prescribed methodology,<sup>5</sup> allowing production at the *projected* net recharge  
22 during the Reset Period, without deducting a quantity equal to the difference between the  
23 allocation and the estimated net recharge during that *prior* reset period, constitutes an undesirable

24 \_\_\_\_\_  
25 <sup>5</sup> "5. Qualitatively evaluate whether the groundwater production at the net recharge rate estimated  
26 in [4] above will cause or threaten to cause "undesirable results" or "Material Physical Injury". If  
27 groundwater production at net recharge rate estimated in [4] above will cause or threaten to cause  
28 "undesirable results" or "Material Physical Injury" then Watermaster will identify and implement  
prudent measures necessary to mitigate "undesirable results" or "Material Physical Injury", set  
the value of Safe Yield to ensure there is no "undesirable results" or "Material Physical Injury",  
or implement a combination of mitigation measures and a changed Safe Yield." (Wildermuth  
Decl., ¶ 4, Ex. A.)



1 result<sup>6</sup> or Material Physical Injury<sup>7</sup> to the Basin. This is simply unsupported by any evidence in  
2 the record, and is contrary to the Court ordered methodology. Based on his vast experience in the  
3 Basin and as author of the Reset Technical Memorandum, in Mr. Wildermuth's professional  
4 opinion, allocating a Safe Yield equivalent to net recharge during the Reset Period would not  
5 result in undesirable results or Material Physical Injury.

6 The "operational storage requirement" quantity cited by the Ag Pool is a remnant of a  
7 prior analysis that was prepared as a precursor to the 2020 Storage Management Plan. (Ag Pool  
8 Opp., 6:14-20; Declaration of Tracy Egoscue ("Egoscue Decl."), ¶ 8, Ex. C, p. 2.) The quantities  
9 cited therein have been superseded by the analysis performed using the CVM, which estimates  
10 the total quantity of water in the Basin is at least 12 million acre feet ("MAF"). (Wildermuth  
11 Decl., ¶ 6, Ex. B, p. 6-15.). Regardless of the estimated quantity in storage, and recognizing that  
12 the Court-ordered methodology does not include a "true up" related to the prior reset period, the  
13 financial planning model<sup>8</sup> adopted by the Ag Pool does not consider the large quantity of water in  
14 Basin storage or the other mechanisms, discussed further *infra*, through which it may be assured  
15 that groundwater pumping does not result in undesirable results or Material Physical Injury.

16 In regard to the Ag Pool's comments regarding the consistency of the Safe Yield Report's  
17 recommendation with the OBMP Implementation Plan and the Watermaster Rules and  
18 Regulations, the documents cited have been superseded based on the Court's 2017 Order and  
19 2019 Order and do not govern the 2020 Safe Yield reset.<sup>9</sup> The Ag Pool's reference to a 2014

20 \_\_\_\_\_  
21 <sup>6</sup> *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 278 ["The phrase  
22 'undesirable result' is understood to refer to a gradual lowering of the ground water levels  
23 resulting eventually in depletion of the supply."].

24 <sup>7</sup> "Material Physical Injury" means material injury that is attributable to the Recharge, Transfer,  
25 Storage and Recovery, management, movement or Production of water, or implementation of the  
26 OBMP, including, but not limited to, degradation of water quality, liquefaction, land subsidence,  
27 increases in pump lift (lower water levels) and adverse impacts associated with rising  
28 Groundwater. Material Physical Injury does not include "economic injury" that results from other  
than physical causes. Once fully mitigated, physical injury shall no longer be considered to be  
material. (Peace Agreement § 1.1(y).)

<sup>8</sup> The financial model used by the Ag Pool as an illustration attempts to liken a financial budget  
with a water budget, and fails to recognize the dynamic nature of a groundwater basin's budget.

<sup>9</sup> In October, 2019, the Watermaster Board adopted updated Rules and Regulations, (found here:  
[http://www.cbwm.org/docs/rulesregs/CBWM%20Rules%20and%20Regulations%20\[2019\].pdf](http://www.cbwm.org/docs/rulesregs/CBWM%20Rules%20and%20Regulations%20[2019].pdf))  
which mirror the language of the Court's 2017 Order (pp. 15-18). Thus, the language of section  
6.5 the Ag Pool cites (Ag Pool Opp., 12:11-14) is no longer part of the Rules and Regulations.

1 presentation as instructive as to the Court’s 2017 Order and the Reset Technical Memorandum is  
2 inapposite. (Ag Pool Opp., 8:23-9:6.) The language at pages 15-18 of the 2017 Order and the  
3 Reset Technical Memorandum were the product of a negotiated settlement process that did not  
4 begin until 2015. (Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement,  
5 Amendment Of Restated Judgment, Paragraph 6, pp. 7-9.)

6 The language in the Reset Technical Memorandum to which the Ag Pool refers is an  
7 accurate statement of the process described in the OBMP *prior to the Court’s 2017 Order*. Read  
8 in context, it is also clear that that language was referring to a prior Safe Yield reset methodology  
9 (“Watermaster’s OBMP Implementation Plan *called for*”) as contrasted with the newly proposed  
10 methodology for the 2011-2020 reset and the 2021-2030 reset that is described in the next  
11 paragraph (“The methodology to redetermine the Safe Yield for 2010/11 and the recommended  
12 methodology for future Safe Yield evaluations is listed below”). The Ag Pool specifically  
13 conditioned its agreement to the suite of amendments to the Court-Approved Management  
14 Agreements that would resolve the appeal of the 2017 Order on the Court’s reaffirmation of the  
15 methodology that includes the Reset Technical Memorandum’s new methodology. (See Ag  
16 Pool’s Opposition to Motion to Approve Amendments to Appropriative Pool Pooling Plan and  
17 Court-Approved Management Agreements, filed February 28, 2019.)

18 The short answer to the Ag Pool’s concerns that “phantom” water is accumulating in  
19 storage as a result of any discrepancy—to the extent that should prove to be the case—the harm,  
20 if any, would occur in the withdrawal of water from storage. They have a remedy to ensure that  
21 the Basin is not harmed through production of this water.<sup>10</sup> As the Ag Pool’s Opposition explains,  
22 the Ag Pool is a party to a contest proceeding regarding applications to store and transfer Excess  
23 Carryover water.<sup>11</sup> (Egoscue Decl., ¶ 4.) The Ag Pool also has participated in the development of

24  
25 <sup>10</sup> Contrary to the Ag Pool’s characterization, all water allocated as Safe Yield each year is not  
26 pumped. In recent years, water production within the Basin has been below the Safe Yield and, as  
a result, water in storage has increased. While the Ag Pool’s Opposition might be read to suggest  
water is both produced and stored, or double-counted, in a particular year, this is not the case.

27 <sup>11</sup> The Ag Pool’s Opposition refers to a document produced in regard to its contest, which  
28 compares the percentage increase in water in storage accounts to the trigger percentages for a  
potential “Interim Correction” of the Safe Yield. (Ag Pool Opp., 6:14-20; Egoscue Decl., ¶ 8, Ex.  
, p. 2.) Though the Ag Pool compares two percentages, this is not an “apples to apples”

1 the 2020 Storage Management Plan and, any Storage Management Plan that amends the Peace  
2 Agreement and the OBMP Implementation Plan will require the Ag Pool's consent, not to be  
3 unreasonably withheld. To the extent there are plans to extract groundwater from storage in the  
4 future that do not ameliorate the risk of harm to the Basin that may be attributable to the  
5 accumulation of stored water, Watermaster is unlikely to approve them and certainly the Ag Pool  
6 has its own independent right of review and consideration.

7 **B. The Reset Process Is Predicated on Best Estimates of Future Conditions**

8 Watermaster's 2020 Safe Yield reset recommendation is based on the Safe Yield Report's  
9 estimate of net recharge during the Reset Period. The net recharge is estimated using the Parties'  
10 projected water demands and production, among other data. In the case of Appropriative Pool  
11 Parties, these estimates are *provided by the Parties themselves*. While Chino states that the net  
12 result of the Watermaster process is that no party can offer any "recommendation about the  
13 basin's net recharge nor the Safe Yield for the next decade" (Chino Opp., 7:13-15), this is not  
14 true. Watermaster will follow the inclusive and participatory process outlined.

15 **III. CONCLUSION**


16 For all of the reasons discussed above and in the Reset Motion, Watermaster respectfully  
17 requests that this Court grant the Reset Motion, find that Watermaster has complied with the  
18 provisions of the 2017 Order pertaining to the 2020 Safe Yield reset, and reset the Safe Yield of  
19 the Basin to 131,000 AFY.

20  
21  
22  
23  
24 comparison. Whether the parties that store water in the Basin pump their water rights each year or  
25 place water in storage has no relevance to the relationship between the allocated Safe Yield and  
26 the actual estimated net recharge to the Basin during that same period. Additionally, to the extent  
27 the Ag Pool is asserting Watermaster should have initiated the process for an Interim Correction  
28 that is described in the Court's 2017 Order (2017 Order, p. 15), the discrepancy between the Safe  
Yield and net recharge during the 2011-2020 period was only identified when the draft Safe Yield  
Report was prepared. (Kavounas Decl., ¶ 5.) As the draft Safe Yield Report was released in April  
2020 (*Ibid.*) and Watermaster has been engaged in the present reset proceedings, it is unclear  
when the Ag Pool believes the Interim Correction process should have taken place.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: June 19, 2020

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

By:   
SCOTT S. SLATER  
BRADLEY J. HERREMA  
CHRISTOPHER R. GUILLEN  
Attorneys for  
CHINO BASIN WATERMASTER

21134054

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 June 19, 2020 I served the following:

1. CHINO BASIN WATERMASTER'S REPLY TO OPPOSITIONS TO MOTION REGARDING 2020 SAFE YIELD RESET, 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.

/ \_\_\_ / 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.

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

Executed on June 19, 2020 in Rancho Cucamonga, California.

  
By: Janine Wilson  
Chino Basin Watermaster



BRIAN GEYE  
CA SPEEDWAY CORPORATION  
9300 CHERRY AVE  
FONTANA, CA 92335

BOB KUHN  
THREE VALLEYS MWD  
669 HUNTERS TRAIL  
GLEN DORA, 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

JEFF PIERSON  
INTEX PROPERTIES CORP.  
PO BOX 1440  
LONG BEACH, CA 90801-1440

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

## Members:

Agnes Cheng  
Al Lopez  
Alan Frost  
Alberto Mendoza  
Alfonso Ruiz  
Allen W. Hubsch  
Alonso Jurado  
Amanda Coker  
Amer Jakher  
Amy Bonczewski  
Andrea Olivas  
Andrew Gagen  
Andrew Silva  
Andy Campbell  
Andy Malone  
Angelica Todd  
Anna Nelson  
April Robitaille  
April Woodruff  
Arnold Rodriguez  
Art Bennett  
Arthur Kidman  
Ashok Dhingra  
Ben Lewis  
Ben Peralta  
Benjamin M. Weink (ben.weink@tetrattech.com)

Betty Anderson  
Bob Bowcock  
Bob DiPrimio  
Bob Feenstra  
Bob Kuhn  
Bob Kuhn  
Bob Page  
Brad Herrema  
Braden Yu  
Brandon Howard  
Brenda Fowler  
Brent Yamasaki  
Brian Dickinson  
Brian Geye  
Brian Lee  
Cameron Andreasen  
Carmen Sierra  
Carol Bennett  
Carol Boyd  
Carolina Sanchez  
Casey Costa  
Cassandra Hooks  
Catharine Irvine  
Chad Blais

agnes.cheng@cc.sbcounty.gov  
alopez@wmwd.com  
Alan.Frost@dpw.sbcounty.gov  
Alberto.Mendoza@cmc.com  
alfonso.ruiz@cmc.com  
ahubsch@loeb.com  
ajurado@cbwm.org  
acoker@cityofchino.org  
AJakher@cityofchino.org  
ABonczewski@ontarioca.gov  
aolivas@jcsd.us  
agagen@kidmanlaw.com  
Andrew.Silva@cao.sbcounty.gov  
acampbell@ieua.org  
amalone@weiwater.com  
angelica.todd@ge.com  
atruongnelson@cbwm.org  
arobitaille@bhfs.com  
awoodruff@ieua.org  
jarodriguez@sarwc.com  
citycouncil@chinohills.org  
akidman@kidmanlaw.com  
ash@akdconsulting.com  
benjamin.lewis@gswater.com  
bperalta@tvmwd.com

ben.weink@tetrattech.com  
banderson@jcsd.us  
bbowcock@irmwater.com  
rjdiprimio@sgvwater.com  
bobfeenstra@gmail.com  
bgkuhn@aol.com  
bkuhn@tvmwd.com  
Bob.Page@rov.sbcounty.gov  
bherrema@bhfs.com  
bradeny@cvwdwater.com  
brahoward@niagarawater.com  
balee@fontanawater.com  
byamasaki@mwdh2o.com  
bdickinson65@gmail.com  
bgeye@autoclubspeedway.com  
blee@sawaterco.com  
memphisbelle38@outlook.com  
carmens@cvwdwater.com  
cbennett@tkeengineering.com  
Carol.Boyd@doj.ca.gov  
csanchez@weiwater.com  
ccosta@chinodesalter.org  
chooks@niagarawater.com  
cirvine@DowneyBrand.com  
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)	citycouncil@chinohills.org
Chris Berch	cberch@jcsd.us
Chris Diggs	Chris_Diggs@ci.pomona.ca.us
Christiana Daisy	cdaisy@ieua.org
Christofer Coppinger	ccoppinger@geoscience-water.com
Christopher M. Sanders	cms@eslawfirm.com
Christopher Quach	cquach@ontarioca.gov
Christopher R. Guillen	cguillen@bhfs.com
Chuck Hays	chays@fontana.org
Cindy Cisneros	cindyc@cvwdwater.com
Cindy Li	Cindy.li@waterboards.ca.gov
Cinthia Heredia	Cinthia.Heredia@cmc.com
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
Dan Arrighi	darrighi@sgvwater.com
Dan McKinney	dmckinney@douglascountylaw.com
Daniel Bobadilla (dbobadilla@chinohills.org)	dbobadilla@chinohills.org
Dave Argo	daveargo46@icloud.com
Dave Crosley	DCrosley@cityofchino.org
David Aladjem	daladjem@downeybrand.com
David De Jesus	ddejesus@tvmwd.com
David Doublet	ddoublet@dpw.sbcounty.gov
David Huynh	dhuynh@cbwm.org
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
Don Galleano	dongalleano@icloud.com
Ed Means	edmeans@roadrunner.com
Edgar Tellez Foster	etellezfoster@cbwm.org
Eduardo Espinoza	EduardoE@cvwdwater.com
Edward Kolodziej	edward.kolodziej@ge.com
Elizabeth Skrzat	ESkrzat@cbwcd.org
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Grubb	ericg@cvwdwater.com
Eric Papathakis	Eric.Papathakis@cdcr.ca.gov
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



Fred Fudacz	ffudacz@nossaman.com
Fred Galante	fgalante@awattorneys.com
Gabby Garcia	ggarcia@mvwd.org
Garrett Rapp	grapp@weiwater.com
Gene Tanaka	Gene.Tanaka@bbklaw.com
Geoffrey Kamansky	gkamansky@niagarawater.com
Geoffrey Vanden Heuvel	geoffreyvh60@gmail.com
Gerald Yahr	yahrj@koll.com
Gina Nicholls	gnicholls@nossaman.com
Gino L. Filippi	Ginoffvine@aol.com
Greg Woodside	gwoodside@ocwd.com
Henry DeHaan	Hdehaan1950@gmail.com
Hope Smythe	hsmythe@waterboards.ca.gov
Irene Islas	irene.islas@bbklaw.com
James Curatalo	jamesc@cvwdwater.com
James Jenkins	cnomgr@airports.sbcounty.gov
James McKenzie	jmckenzie@dpw.sbcounty.gov
Jane Anderson	janderson@jcsd.us
Janelle Granger	jgranger@niagarawater.com
Janine Wilson	JWilson@cbwm.org
Jasmin A. Hall	jhall@ieua.org
Jason L. Bishop	jason.bishop@cdcr.ca.gov
Jason Marseilles	jmarseilles@ieua.org
Jason Pivovaroff - Western Municipal Water District	JPivovaroff@wmwd.com
Jean Cihigoyenetché	Jean@thejclawfirm.com
Jean Perry	JPerry@wmwd.com
Jeanina M. Romero	jromero@ontarioca.gov
Jeff Evers	jevers@niagarawater.com
Jeffrey L. Pierson	jpierson@intexcorp.com
Jennifer Hy-Luk	jhyluk@ieua.org
Jessie Ruedas	Jessie@thejclawfirm.com
Jim Markman	jmarkman@rwglaw.com
Jim W. Bowman	jbowman@ontarioca.gov
Jimmy Gutierrez - Law Offices of Jimmy Gutierrez	jimmylaredo@gmail.com
Jimmy Medrano	Jaime.medrano2@cdcr.ca.gov
jimmy@city-attorney.com	jimmy@city-attorney.com
Joanne Chan	jchan@wvwd.org
Joao Feitoza	joao.feitoza@cmc.com
Joe Graziano	jgraz4077@aol.com
Joe Joswiak	JJoswiak@cbwm.org
Joel Ignacio	jignacio@ieua.org
John Abusham	john.abusham@nrg.com
John Bosler	johnb@cvwdwater.com
John Harper	jrharper@harperburns.com
John Huitsing	johnhuitsing@gmail.com
John Lopez and Nathan Cole	customerservice@sarwc.com
John Mendoza	jmendoza@tvmwd.com
John Partridge	jpartridge@angelica.com
John Schatz	jschatz13@cox.net
John Thornton	JThorntonPE@H2OExpert.net
Jose Galindo	jose_a_galindo@praxair.com

Josh Swift  
Joshua Aguilar  
Julie Saba  
Justin Brokaw  
Justin Nakano  
Justin Scott-Coe Ph. D.  
Karen Johnson  
Kathleen Brundage  
kberchtold@gmail.com  
Keith Kramer  
Keith Person  
Kelly Berry  
Ken Waring  
Kevin O'Toole  
Kevin Sage  
Kimberly E. Leefatt  
Kyle Snay  
Larry Cain  
Larry Rothman  
Laura Mantilla  
Lauren Harold  
Linda Jadeski  
Lisa Lemoine  
Liz Hurst  
Marco Tule  
Maria Mendoza-Tellez  
Maribel Sosa  
Marilyn Levin  
Mark D. Hensley  
Mark Wildermuth  
Mark Wiley  
Martin Cihigoyenetché  
Martin Rauch  
Martin Zvirbulis  
Mathew C. Ballantyne  
Matthew H. Litchfield  
May Atencio  
Melissa L. Walker  
mgarcia@ieua.org  
Michael Adler  
Michael Camacho  
Michael Camacho  
Michael P. Thornton  
Michelle Licea  
Michelle Staples - Jackson Tidus  
Mike Blazevec  
Mike Maestas  
Moore, Toby  
MWDProgram  
Nadia Aguirre  
Nadia Loukeh  
Natalie Costaglio  
Nathan deBoom

jmswift@fontanawater.com  
jaguilar@ieua.org  
jsaba@jcsd.us  
jbrokaw@marygoldmutualwater.com  
JNakano@cbwm.org  
jscottcoe@mvwd.org  
kejwater@aol.com  
kathleen.brundage@californiasteel.com  
kberchtold@gmail.com  
kkramer@fontana.org  
keith.person@waterboards.ca.gov  
KBerry@sawpa.org  
kwaring@jcsd.us  
kotoole@ocwd.com  
Ksage@IRMwater.com  
kleefatt@bhfs.com  
kylesnay@gswater.com  
larry.cain@cdcr.ca.gov  
lawrence.rothman@cmc.com  
lmantilla@ieua.org  
lharold@liprop.com  
ljadeski@wvwd.org  
LLemoine@wmwd.com  
ehurst@ieua.org  
marco.tule@nrg.com  
MMendoza@weiwater.com  
msosa@ci.pomona.ca.us  
marilyn.levin@doj.ca.gov  
mhensley@hensleylawgroup.com  
mwildermuth@weiwater.com  
mwiley@chinohills.org  
marty@thejclawfirm.com  
martin@rauchcc.com  
mezvirbulis@sgvwater.com  
mballantyne@cityofchino.org  
mlitchfield@tvmwd.com  
matencio@fontana.org  
mwalker@dpw.sbcounty.gov  
mgarcia@ieua.org  
michael.adler@mcmcnet.net  
Mcamacho@pacificaservices.com  
mcamacho@ieua.org  
mthornton@tkeengineering.com  
mlicea@mvwd.org  
mstaples@jacksontidus.law  
mblazevec@weiwater.com  
mikem@cvwdwater.com  
TobyMoore@gswater.com  
MWDProgram@sdca.org  
naguirre@tvmwd.com  
nloukeh@wvwd.org  
natalie.costaglio@mcmcnet.net  
n8deboom@gmail.com

Neetu Gupta  
Nick Jacobs  
Nicole Escalante  
Noah Golden-Krasner  
Pam Wilson - Brownstein Hyatt Farber Schreck

Paul Hofer  
Paul Hofer  
Paul S. Leon  
Paul.deutsch@tetrattech.com  
Penny Alexander-Kelley

Pete Hall  
Pete Hall  
Pete Vicario  
Peter Hettinga  
Peter Kavounas  
Peter Rogers  
Praseetha Krishnan  
Rachel Avila  
Rachel Ortiz  
Ramsey Haddad  
Randy Visser  
Ray Wilkings  
Rick Darnell  
Rick Rees  
Rita Pro  
Robert C. Hawkins  
Robert DeLoach  
Robert E. Donlan  
Robert Neufeld  
Robert Stockton  
Robert Wagner  
Ron Craig  
Ron LaBrucherie, Jr.  
Ronald C. Pietersma  
Rosemary Hoerning  
Ryan Shaw  
Sally H. Lee  
Sam I. Gershon  
Sam Nelson  
Sam Rubenstein (srubenstein@wpcarey.com)

Sandra S. Rose  
Sarah Foley  
Sarah Schneider  
Scott Burton  
Scott Slater  
sdeshmukh@ieua.org  
Seth J. Zielke  
Shaun Stone  
Shawnda M. Grady  
Skylar Stephens  
Sonya Barber

ngupta@ieua.org  
njacobs@somachlaw.com  
NEscalante@ontarioca.gov  
Noah.goldenkrasner@doj.ca.gov

pwilson@bhfs.com  
farmwatchtoo@aol.com  
farmerhofer@aol.com  
pleon@ontarioca.gov  
Paul.deutsch@tetrattech.com  
Palexander-kelley@cc.sbcounty.gov  
pete.hall@cdcr.ca.gov  
rpetehall@gmail.com  
PVicario@cityofchino.org  
peterhettinga@yahoo.com  
PKavounas@cbwm.org  
progers@chinohills.org  
praseethak@cvwdwater.com  
R.Avila@MPGLAW.com  
rortiz@nossaman.com  
ramsey.haddad@californiasteel.com  
RVisser@sheppardmullin.com  
rwilkings@autoclubspeedway.com  
Richard.Darnell@nrenergy.com  
richard.rees@woodplc.com  
rpro@cityofchino.org  
RHawkins@earthlink.net  
robertadeloach1@gmail.com  
red@eslawfirm.com  
robneu1@yahoo.com  
bstockton@wmwd.com  
rwagner@wbecorp.com  
Rcraig21@icloud.com  
ronLaBrucherie@gmail.com  
rcpietersma@aol.com  
rhoerning@ci.upland.ca.us  
RShaw@wmwd.com  
shlee@ieua.org  
sam.gershon@webbassociates.com  
snelson@ci.norco.ca.us

srubenstein@wpcarey.com  
directorrose@mvwd.org  
Sarah.Foley@bbklaw.com  
sarah.schneider@amec.com  
sburton@ontarioca.gov  
sslater@bhfs.com  
sdeshmukh@ieua.org  
sjzielke@fontanawater.com  
stones@emwd.org  
sgrady@eslawfirm.com  
SStephens@sdca.org  
sbarber@ci.upland.ca.us

Sonya Zite (szite@wmwd.com)  
Steve Kennedy  
Steve M. Anderson  
Steve Riboli  
Steve Smith  
Steve W. Ledbetter, PE  
Steven Andrews Engineering  
Steven J. Elie  
Steven J. Elie  
Steven Popelar  
Susan Palmer  
Sylvie Lee  
Tamer Ahmed  
Taya Victorino  
Teri Layton  
Terry Bettencourt  
Terry Catlin  
Tim Barr  
Tim Kellett  
Timothy Ryan  
Toby Moore (TobyMoore@gswater.com)  
Todd Minten  
Tom Bunn  
Tom Cruikshank - Link Industrial Properties

Tom Harder  
Tom Haughey  
Tom McPeters  
Tom O'Neill  
Toni Medell  
Tony Long  
Tracy J. Egoscue  
Trish Geren  
Van Jew  
Vanessa Aldaz  
Vanessa Campos  
Veva Weamer  
Victor Preciado  
Vivian Castro  
WestWater Research, LLC  
William J Brunick  
William Urena

szite@wmwd.com  
skennedy@bmklawplc.com  
steve.anderson@bbklaw.com  
steve.riboli@sanantoniowinery.com  
ssmith@ieua.org  
sledbetter@tkeengineering.com  
sandrews@sandrewsengineering.com  
s.elie@mpglaw.com  
selie@ieua.org  
spopelar@jcsd.us  
spalmer@kidmanlaw.com  
slee@ieua.org  
tamer.ahmed@cdcr.ca.gov  
tayav@cvwdwater.com  
tlayton@sawaterco.com  
miles.bettencourt@cdcr.ca.gov  
tlcatlin@wfajpa.org  
tbarr@wmwd.com  
tkellett@tvmwd.com  
tjryan@sgvwater.com  
TobyMoore@gswater.com  
tminten@chinodesalter.org  
TomBunn@Lagerlof.com

tcruikshank@liprop.com  
tharder@thomashardercompany.com  
Thaughey@cityofchino.org  
THMcP@aol.com  
toneill@chinodesalter.org  
mmedel@mbakerintl.com  
tlong@angelica.com  
tracy@egoscuelaw.com  
tgeren@sheppardmullin.com  
vjew@mvwd.org  
valdaz@cbwm.org  
VCampos@ontarioca.gov  
vweamer@weiwater.com  
Victor\_Preciado@ci.pomona.ca.us  
vcastro@cityofchino.org  
research@waterexchange.com  
bbrunick@bmblawoffice.com  
wurena@angelica.com