

SCOTT S. SLATER (State Bar No. 117317)
SSlater@bhfs.com
BRADLEY J. HERREMA (State Bar No. 228976)
BHerrema@bhfs.com
CHRISTOPHER R. GUILLEN (State Bar No. 299132)
CGuillen@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2102
Telephone: 805.963.7000
Facsimile: 805.965.4333

Attorneys for
CHINO BASIN WATERMASTER

FEE EXEMPT

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

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendants.

Case No. RCV RS 51010

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

**REQUEST FOR THE COURT TO
APPROVE THE INTERVENTIONS OF
NICHOLSON FAMILY TRUST – EXEMPT
MARITAL TRUST AND HAMNER PARK
ASSOCIATES**

Date: September 25, 2020
Time: 1:30 p.m.
Dept: S35

[Filed concurrently herewith: Declaration of
Bradley J. Herrema; [Proposed] Order]


TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, on September 25, 2020 at 1:30 p.m. in Department S35 of the above-entitled court located at 247 West Third Street, San Bernardino, California 92415-0210, the Chino Basin Watermaster ("Watermaster") will hereby request that the Court approve the interventions of Nicholson Trust – Exempt Marital Trust into the Appropriative Pool and Hamner Park Associates into the Overlying (Non-Agricultural) Pool.

Watermaster's request will be based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Bradley J. Herrema concurrently filed herewith, all documents on file herein, and such oral and documentary evidence as may be presented at the time of the hearing on this matter.

Dated: August 10, 2020

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

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

MEMORANDUM OF POINTS AND AUTHORITIES

The Chino Basin Watermaster (“Watermaster”) hereby requests that the Court approve the interventions of Nicholson Family Trust – Exempt Marital Trust into the Appropriative Pool and Hamner Park Associates, LP (“Hamner Park”) into the Overlying (Non-Agricultural) Pool (“Non-Ag Pool”) (these parties are collectively referred to herein as the “Intervening Parties”).

I. LEGAL STANDARD

Paragraph 60 of the Restated Judgment provides:

Any non-party assignee of the adjudicated appropriative rights of any appropriator, or any other person newly proposing to produce water from Chino Basin, may become a party to this Judgment upon filing a petition in intervention. Said intervention must be confirmed by order of this Court. Such intervenor shall thereafter be a party bound by this judgment and entitled to the rights and privileges accorded under the Physical Solution herein, through the pool to which the Court shall assign such intervenor.

On July 14, 1978, this Court further clarified the intervention procedures in its “Order re Intervention Procedures,” which provides as follows:

[A]ll subsequent petitions in intervention may be accepted by Watermaster and accumulated for filing from time to time in an ex parte proceeding, except upon 48-hour notice to any party or to any attorney of record who shall have requested such notice; and that prior to filing with the Court, Watermaster shall be permitted to take all administrative steps pertaining to the Judgment provided, however, that no assessments shall be made until a formal order has been entered by this Court.

Pursuant to this direction, Watermaster’s practice has been to accept intervention requests informally by way of a letter and then process the requests through the Pool Committees, Advisory Committee, and Watermaster Board. After this internal process, Watermaster files the request for intervention with the Court for approval along with Watermaster’s recommendation as to its disposition. Only after Court approval is an intervenor bound by the Restated Judgment and entitled to the rights and privileges accorded under the Physical Solution. Neither the Restated Judgment nor the July 14, 1978 Order requires a hearing to be held for uncontested interventions.

II. BACKGROUND AND ANALYSIS

Over the course of the past several years, Watermaster has undertaken efforts to ensure this Court has approved the intervention of all active parties under the Judgment. (Declaration of

Bradley J. Herrema (“Herrema Decl.”), ¶ 3.) Pursuant to this review and recent actions by the Watermaster Board, Watermaster now respectfully requests the Court grant the interventions of the Intervening Parties for the reasons described below.

A. Intervention Into the Appropriative Pool

The Watermaster Board has previously recommended approval of the intervention of the predecessor of the Nicholson Family Trust – Exempt Marital Trust into the Appropriative Pool. In December 2001, the Nicholson Trust acquired a four-acre feet right to safe yield from Fontana Union Water Company and submitted a petition for intervention to Watermaster to produce the right. (Herrema Decl., ¶ 4, Ex. A.) The Watermaster Board unanimously recommended approval of Nicholson Trust’s intervention into the Appropriative Pool on February 28, 2002. (*Id.* at ¶ 5, Ex. B.) In April 2020, the Nicholson Trust notified Watermaster that, due to the death of one of the trustees, the water rights had been transferred to a successor trust, the Nicholson Family Trust – Exempt Marital Trust. (Herrema Decl., ¶ 6.) While Watermaster has recommended approval of this intervention, no formal request has been made to the Court to permit Nicholson Trust’s intervention into the Judgment. Watermaster now formally requests the Court take such action and grant the intervention in accordance with Watermaster’s approvals.

B. Intervention Into the Non-Ag Pool

Watermaster is informed that, in 1987, Carlsberg Mobile Home Properties, Ltd. ’73 (“Carlsberg”), an original Non-Ag Pool party to the Judgment, transferred its real property, including appurtenant overlying water rights, to Hamner Park. (Herrema Decl., ¶ 7, Ex. C.) While Hamner Park has participated as a Party to the Judgment since 1987, complying with the provisions of the Judgment and appearing in hearings before the Court in the present case, Watermaster has not been able to locate any approval of Hamner Park’s intervention as a Party to the Judgment, or the transfer of the water right from Carlsberg to Hamner Park. (*Id.*)

To clarify its status as a Party to the Judgment holding the former Carlsberg water rights, on June 22, 2020, Hamner Park submitted a letter requesting intervention in the Judgment. (Herrema Decl., ¶ 7, Ex. C.) At the same time, Hamner Park submitted an application confirming the transfer of the water right from Carlsberg to Hamner Park. The Watermaster Board

1 unanimously recommended approval of Hamner Park's intervention into the Non-Ag Pool on
2 July 23, 2020. (Herrema Decl., ¶ 8.)

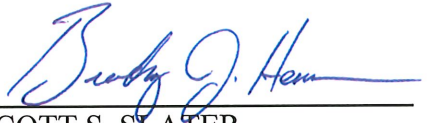
3 Watermaster now formally requests this Court to approve the intervention of Hamner Park
4 into the Non-Ag Pool.

5 **III. CONCLUSION**

6 For all of the reasons discussed above, Watermaster respectfully requests that this Court
7 grant the interventions of the Intervening Parties into the Judgment, placing Nicholson Family
8 Trust – Exempt Marital Trust in the Appropriative Pool and Hamner Park Associates in the
9 Overlying (Non-Agricultural) Pool.

10
11 Dated: August 10, 2020

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

12
13
14 By: 
15 SCOTT S. SLATER
16 BRADLEY J. HERREMA
17 CHRISTOPHER R. GUILLEN
18 Attorneys for CHINO BASIN
19 WATERMASTER
20
21
22
23
24
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26
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1
2
3
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendants.

Case No. RCV RS 51010

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

**[PROPOSED] ORDER RE REQUEST FOR
THE COURT TO APPROVE THE
INTERVENTIONS OF NICHOLSON
FAMILY TRUST – EXEMPT MARITAL
TRUST AND HAMNER PARK
ASSOCIATES**

Date: September 25, 2020
Time: 1:30 p.m.
Dept: S35

1 **[PROPOSED] ORDER**

2 On September 25, 2020, Chino Basin Watermaster's ("Watermaster") Request that the
3 Court approve the interventions of (1) Nicholson Family Trust – Exempt Marital Trust into the
4 Appropriative Pool and (2) Hamner Park Associates, LP ("Hamner Park") into the Overlying
5 (Non-Agricultural) Pool came on regularly for hearing in the above-captioned matter. Having
6 read and considered the papers and heard the arguments of counsel, the Request is **GRANTED**.
7 It is **HEREBY ORDERED** that:

- 8 1. The Court grants the intervention request of Nicholson Family Trust – Exempt
9 Marital Trust into the Appropriative Pool. Effective as of the date upon which the
10 Watermaster Board recommended approval of the intervention of its predecessor
11 trust into this matter, it shall be a member of the Appropriative Pool and shall be
12 bound by all benefits and burdens of the Restated Judgment.
- 13 2. The Court confirms the intervention of Hamner Park Associates, LP into the
14 Overlying (Non-Agricultural) Pool. Effective as of the date upon which Carlsberg
15 Mobile Home Properties, Ltd. '73 transferred its real property, including
16 appurtenant overlying water rights, to Hamner Park, Hamner Park is a member of
17 the Overlying (Non-Agricultural) Pool and is bound by all benefits and burdens of
18 the Restated Judgment.

19 **IT IS SO ORDERED.**

20 Dated: _____

21
22 _____
23 Hon. Stanford E. Reichert
24 Judge of the Superior Court

25 21368568

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 August 11, 2020 I served the following:

1. REQUEST FOR THE COURT TO APPROVE THE INTERVENTIONS OF NICHOLSON FAMILY TRUST – EXEMPT MARITAL TRUST AND HAMNER PARK ASSOCIATES
2. [PROPOSED] ORDER RE REQUEST FOR THE COURT TO APPROVE THE INTERVENTIONS OF NICHOLSON FAMILY TRUST – EXEMPT MARITAL TRUST AND HAMNER PARK ASSOCIATES

/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 August 11, 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
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

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:

Adrianna.Ortiz@airports.sbcounty.gov
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
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

Adrianna.Ortiz@airports.sbcounty.gov
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
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@wvwd.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 Marseilles	jmarseilles@ieua.org
Jason Pivovarov - Western Municipal Water District	JPivovarov@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 (jlopez@sarwc.com)	jlopez@sarwc.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	jmswift@fontanawater.com
Joshua Aguilar	jaguilar@ieua.org
Julie Saba	jsaba@jcsd.us
Justin Brokaw	jbrokaw@marygoldmutualwater.com
Justin Nakano	JNakano@cbwm.org
Justin Scott-Coe Ph. D.	jscottcoe@mvwd.org
Karen Johnson	kejwater@aol.com
Kathleen Brundage	kathleen.brundage@californiasteel.com
kberchtold@gmail.com	kberchtold@gmail.com
Keith Kramer	kkramer@fontana.org
Keith Person	keith.person@waterboards.ca.gov
Kelly Berry	KBerry@sawpa.org
Ken Waring	kwaring@jcsd.us
Kevin O'Toole	kotoole@ocwd.com
Kevin Sage	Ksage@IRMwater.com
Kimberly E. Leefatt	kleefatt@bhfs.com
Kristina Robb	KRobb@cc.sbcounty.gov
Kyle Snay	kylesnay@gswater.com
Larry Cain	larry.cain@cdcr.ca.gov
Larry Rothman	lawrence.rothman@cmc.com
Laura Mantilla	lmantilla@ieua.org
Lauren Harold	lharold@liprop.com
Linda Jadeski	ljadeski@wvwd.org
Lisa Lemoine	LLemoine@wmwd.com
Liz Hurst	ehurst@ieua.org
Marco Tule	marco.tule@nrg.com
Maria Mendoza-Tellez	MMendoza@weewater.com
Maribel Sosa	msosa@ci.pomona.ca.us
Marilyn Levin	marilyn.levin@doj.ca.gov
Mark D. Hensley	mhensley@hensleylawgroup.com
Mark Wildermuth	mwildermuth@weewater.com
Mark Wiley	mwiley@chinohills.org
Martin Cihigoyenetché	marty@thejclawfirm.com
Martin Rauch	martin@rauchcc.com
Martin Zvirbulis	mezvirbulis@sgvwater.com
Mathew C. Ballantyne	mballantyne@cityofchino.org
Matthew H. Litchfield	mlitchfield@tvmwd.com
May Atencio	matencio@fontana.org
Melissa L. Walker	mwalker@dpw.sbcounty.gov
mgarcia@ieua.org	mgarcia@ieua.org
Michael Adler	michael.adler@mcmcnet.net
Michael Camacho	mcamacho@ieua.org
Michael Camacho	MCamacho@pacificaservices.com
Michael P. Thornton	mthornton@tkeengineering.com
Michelle Licea	mlicea@mvwd.org
Michelle Staples - Jackson Tidus	mstaples@jacksontidus.law
Mike Blazevic	mblazevic@weewater.com
Mike Maestas	mikem@cvwdwater.com
Moore, Toby	TobyMoore@gswater.com
MWDProgram	MWDProgram@sdca.org
Nadia Aguirre	naguirre@tvmwd.com
Nadia Loukeh	nloukeh@wvwd.org
Natalie Costaglio	natalie.costaglio@mcmcnet.net

Nathan deBoom
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
Shawnda M. Grady
Skylar Stephens
Sonya Barber

n8deboom@gmail.com
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@nrgenergy.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
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 (tminten@sbcglobal.net)
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@sbcglobal.net
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