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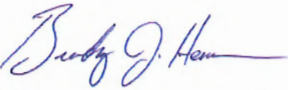
TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 8, 2022, at 1:30 p.m., or as soon thereafter as the matter may be heard, in Department S35 of the above-entitled Court located at 247 West Third Street, San Bernardino, California 92415, the Chino Basin Watermaster (“Watermaster”) will and hereby does move this Court, pursuant to Paragraph 2 of this Court’s July 21, 2021 Order Regarding Implementation of the Local Storage Limitation Solution and Paragraph 15 of the Restated Judgment, for an Order approving revisions to Watermaster Rules and Regulations. This request is made pursuant to the Court’s continuing jurisdiction and authority to make such further or supplemental orders or directions as may be necessary or appropriate for interpretation, enforcement, or carrying out of the Restated Judgment.

The Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the pleadings, records, and files in this action, and upon such oral argument and other evidence as may be presented at the hearing on the Motion. As described in the Declaration of Bradley J. Herrema in support of Motion for Court Approval of the Update to Watermaster Rules and Regulations, the filing of this motion was directed by the Watermaster Board at its January 27, 2022 regular meeting.

Dated: February 4, 2022

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

SCOTT S. SLATER
BRADLEY J. HERREMA
LAURA K. YRACEBURU
Attorneys for CHINO BASIN
WATERMASTER

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Paragraph 2 of this Court’s July 21, 2021 Order Regarding Implementation of
4 the Local Storage Limitation Solution (“LSLS Order”) in this action, the Chino Basin
5 Watermaster (“Watermaster”) respectfully requests that the Court approve the 2022 Update to the
6 2019 Chino Basin Watermaster Rules and Regulations (“2022 Update”), which would conform
7 Watermaster Rules and Regulations to the LSLS Order. A clean copy of the 2022 Update is
8 attached as Exhibit A to Bradley J. Herrema's Declaration in Support of Motion for Court
9 Approval of Update to Watermaster Rules and Regulations (“Herrema Declaration” or “Herrema
10 Decl.”). A redline comparison of the 2022 Update to the existing version of the Rules and
11 Regulations is attached as Exhibit B to the Herrema Declaration.

12 **II. BACKGROUND**

13 **A. Watermaster Rules and Regulations**

14 The 1978 Judgment in this action provided that “[u]pon recommendation by the Advisory
15 Committee, Watermaster shall make and adopt, after public hearing, appropriate rules and
16 regulations for conduct of Watermaster affairs, including meeting schedules and procedures, and
17 compensation of member of Watermaster . . .” (Judgment, ¶ 18.) In early 2001, following the
18 Court’s approval of the Peace Agreement, Watermaster conducted an intensive process to revise
19 the Rules and Regulations, including combining the original Rules and Regulations with the
20 Uniform Groundwater Rules and Regulations into a single document. (See Watermaster Rules &
21 Regulations, section 1.6.) The revisions to the Rules and Regulations were adopted and approved
22 by the Court in July 2001. (Order Granting Final Approval of Watermaster Rules and
23 Regulations; Approving Intervention of CCG Ontario, LLC; Continuance of Hearing re Status
24 Report; Filing of Motions to Amend Judgment, dated July 19, 2001.) The present Watermaster
25 Rules and Regulations were adopted by the Watermaster Board in October 2019 pursuant to
26 Paragraph 18(a) of the Restated Judgment. (Herrema Decl., ¶ 3.)

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1 **B. Local Storage Limitation Solution Order**

2 On May 27, 2021, Watermaster filed its Notice of Motion and Motion Regarding
3 Implementation of the Local Storage Limitation Solution (“LSLS Motion”) requesting the Court
4 order Watermaster to implement the LSLS “for the purpose of establishing clear rules under
5 which the storage capacity of the [Chino] Basin may be used to store quantities of water in excess
6 of 500,000 AF.” (LSLS Motion at 1.) Following a June 25, 2021 hearing on the LSLS Motion,
7 the LSLS Order directed Watermaster to manage stored water from 500,001 AF to 700,000 AF
8 until June 30, 2030 and thereafter a maximum of 620,000 AF until June 30, 2035 consistent with
9 the provisions of Peace Agreement and Peace II Agreement. (LSLS Order, ¶ 1.) The LSLS Order
10 additionally included the requirement that “Watermaster conform the Watermaster Rules and
11 Regulations consistent with such order, subject to Court approval.” (LSLS Order, ¶ 2.)

12 **C. Process and Development of the 2022 Update**

13 Following the Court’s issuance of the LSLS Order, Watermaster staff and counsel
14 prepared a draft update to the Rules & Regulations in conformance with the LSLS Order
15 (Herrema Decl., ¶ 4.) The draft 2022 Update was circulated to the Parties on November 10, 2021
16 and comments were requested by December 10, 2021. (Herrema Decl., ¶ 5.) During that time
17 period, Watermaster received comments from the State of California and the City of Ontario on
18 December 10, 2021. (Herrema Decl., ¶ 6 & Ex. C.) Watermaster revised the draft 2022 Update in
19 response to those comments and included a revised draft 2022 Update in the agenda package for
20 the January Pool and Advisory Committee regular meetings. (Herrema Decl., ¶ 6.)

21 The City of Chino and Monte Vista Water District, which had not commented during the
22 initial review period, submitted comments on January 11, 2022 regarding inclusion of excess
23 carry over water within the “Maximum Local Storage Quantity”. (Herrema Decl., ¶ 7 & Ex. C.)
24 Additionally the City of Chino raised concerns that the 2022 Update did not provide specific
25 procedures as to how Watermaster could recommend an interim update to the safe yield under
26 section 6.5(c)(i) and questioned Watermaster’s ability to place reasonable limits on accrual of
27 excess carryover water and supplemental water in local storage, as described in section 8.2(g).
28 (*Id.*) Watermaster staff responded to the comments at the January 13, 2022 Appropriative Pool

1 Committee meeting and stated that further revisions to the draft 2022 Update were not advised at
2 that time. (Herrema Decl., ¶ 6.) Watermaster presented the 2022 Update, including comments
3 received, to each Pool Committee at their January 13, 2021 meetings. (Herrema Decl., ¶ 7.)
4 Watermaster did not receive any additional comments from the Pool Committees. (Herrema
5 Decl., ¶ 7.)

6 The Advisory Committee approved the 2022 Update at its January 20, 2022 with 95.83 of
7 100 votes in favor and the City of Chino casting a dissenting vote. (Herrema Decl., ¶ 9.) The City
8 of Chino reiterated its position as stated in its January 11, 2022 letter. (Herrema Decl., ¶ 8.) To
9 further address these concerns, on January 21, Watermaster General Manager Peter Kavounas and
10 General Counsel Brad Herrema met with the City of Chino’s representative and counsel to
11 discuss their concerns. (Herrema Decl., ¶ 10.)

12 At its regularly scheduled meeting on January 27, 2022, the Watermaster Board approved
13 the 2022 Update unanimously. (Herrema Declaration, ¶ 11.) At the time of the Board’s
14 consideration of the 2022 Update, no Party spoke to oppose the Watermaster Board’s approval.
15 (*Id.*)

16 **III. THE 2022 UPDATE TO WATERMASTER RULES AND REGULATIONS**

17 Other than changes to reflect the date and title of the 2022 Update, the following changes
18 have been made to the Rules and Regulations in the 2022 Update.

19 **A. Section 1.1(cc): Definition of “Court’s Findings and Order, dated July 21,**
20 **2021”**

21 The 2022 Update adds “Court’s Findings and Order, dated July 21, 2021” as a defined
22 term in section 1.1(cc) to reference the LSLS Order. (Herrema Decl., Exs. A & B.) This addition
23 allows for other sections of the Rules and Regulations to be conformed to the LSLS Order.

24 **B. Section 1.1(rr): Definition of “Judgment”**

25 Two of this Court’s orders since the time of the 2019 update to the Rules and Regulations
26 have been added to the definition of “Judgment” in section 1.1(rr) based on their amendment of
27 the Restated Judgment: “Order Granting Motion for Court Approval of Amendments to Restated
28 Judgment Regarding Compensation of Watermaster Pool and Advisory Committee Members,

1 dated June 26, 2020, Orders Regarding Chino Basin Watermaster Motion Regarding 2020 Safe
2 Yield Resent, Amendment of Restated Judgment, Paragraph 6, dated July 31, 2020.” (Herrema
3 Decl., Exs. A & B.)

4 **C. Section 1.1(uu): Definition of “Local Storage”**

5 The 2022 Update adds the following sentence to the definition of “Local Storage” in
6 section 1.1(uu): “As to that portion of the Maximum Local Storage Quantity in excess of the
7 initial 500,000 AF Safe Storage Capacity, Local Storage accounts may consist of Producers’
8 Excess Carry-Over Water or parties’ to the Judgment’s Supplemental Water.” (Herrema Decl.,
9 Exs. A & B.) This change extends rules pertaining to Local Storage to quantities in excess of
10 500,000 AF, as ordered in the LSLs Order.

11 **D. Section 1.1(xx): Definition of “Maximum Local Storage Quantity”**

12 The 2022 Update adds “Maximum Local Storage Quantity” as a defined term in section
13 1.1(xx) to clarify that the maximum quantity of water that may be held in local storage when
14 combined with carry-over water is 700,000 AF until June 30, 2030 and 620,000 AF until June 30,
15 2035, pursuant to the LSLs Order. (Herrema Decl., Exs. A & B.) This is consistent with the
16 environmental review conducted by the Inland Empire Utilities Agency as to the Local Storage
17 Limitation Solution.

18 **E. Sections 1.1(eeee) and 1.6: Definition of “Rules and Regulations” and Repeal**
19 **of Existing Rules and Regulations**

20 The definition of “Rules and Regulations” in section 1.1(eeee) was updated to reflect the
21 time of the 2022 Update. (Herrema Decl., Exs. A & B.) The 2022 Update removes reference to
22 the Uniform Groundwater Rules and Regulations in the definition of “Rules and Regulations”,
23 but rearranges section 1.6 to explain that the Uniform Groundwater Rules and Regulations were
24 previously repealed by the 2019 update. (*Id.*)

25 **F. Sections 2.3 and 2.7: Special Meetings and Notice**

26 The 2022 Update changed the term “electronic mail” to “e-mail” in sections 2.3 and 2.7.
27 (Herrema Decl., Exs. A & B.) This change was made to make the Rules and Regulations
28 internally consistent.

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G. Section 6.5: Recalculation of Safe Yield

The 2022 Update conforms section 6.5 to the Orders Regarding Chino Basin Watermaster Motion Regarding 2020 Safe Yield Reset, Amendment of Restated Judgment, Paragraph 6, dated July 31, 2020 (“2020 Safe Yield Order”), which was entered by the Court since the Rules and Regulations were last revised in 2019. (Herrema Decl., Exs. A & B.) The 2022 Update revises subsection reflect the 2020 Safe Yield reset. (*Id.*)

The 2022 Update revises subsection (b) to reflect the next scheduled Safe Yield Reset for the period of July 1, 2030 to June 30, 2040, and the date by which Watermaster must initiate the 2030 reset process and present its evaluation and recommendation regarding the 2030-2040 Safe Yield . (*Id.*) The 2022 Update incorporates the requirement that Watermaster take into account “then prevailing best management practices and advances in hydrological science” in the next Safe Yield Reset. (*Id.*)

The 2022 Update also adds section 6.5(c)(ii) to the Rules and Regulations in order to reflect the 2020 Safe Yield Order’s provision that, in addition to the scheduled Safe Yield resets, the Safe Yield may be reset if: “The California State Water Resources Control Board develops water conservation measures prior to June 30, 2030, that result in a reduction in urban irrigation in the Chino Basin (i.e., reduced Evapotranspiration Adjustment Factors), as required by Water Code § 10609, et seq., that is reasonably likely to materially reduce recharge in the Chino Basin and such measures are determined to change the Safe Yield by more than 2.5% of the then-effective Safe Yield, and Watermaster moves the Court to reset the Safe Yield accordingly.” (*Id.*)

Finally, as to section 6.5, the 2022 Update revises section 6.5(h) to reflect that the effective date for the initial Safe Yield reset is in the past. (*Id.*)

H. Sections 8.1(b) and 8.1(f)(iii): Reference to Pre-Existing Groundwater Storage Agreements

Article VIII of the Rules and Regulations pertains to Storage. The 2022 Update deletes references to pre-existing groundwater storage agreements because these quantities are the subject of storage agreements that have been approved since the 2001 Rules and Regulations were adopted and because the Maximum Local Storage Quantity includes all of the Parties’ projected

1 managed storage (carryover, excess carryover, and supplemental water) through June 30, 2035.
2 (Herrema Decl., ¶ 12.)

3 Section 8.1(b) of the Rules and Regulations describes the categories of storage and types
4 of storage agreements. (Herrema Decl., Exs. A & B.) As the prior section 8.1(f)(iii) has been
5 deleted, the 2022 Update deletes the sentence referring to section 8.1(f)(iii). (*Id.*) As all quantities
6 of water in storage have been documented in updated storage agreements, references to local
7 storage agreements and stored water quantities that pre-dated the Peace Agreement and their
8 extension limitations have been removed. (*Id.*)

9 **I. Section 8.2: Reference to Maximum Local Storage Quantity**

10 The 2022 Update replaces references in section 8.2 to the cumulative limit for local
11 storage (100,000 AF) with the “Maximum Local Storage Quantity” – i.e., 700,000 AF until June
12 30, 2030 and 620,000 AF until June 30, 2035. (Herrema Decl., Exs. A & B.) The revisions also
13 clarify that both supplemental water and excess carryover water count towards the Maximum
14 Local Storage Quantity. (*Id.*) The 2022 Update also revises the date after which Watermaster can
15 use its discretion to further limit accrual of water in local storage to 2035, consistent with the
16 LSLs Order. (*Id.*)

17 **IV. CONCLUSION**

18 Pursuant to this Court’s continuing jurisdiction, reserved to it by Paragraph 15 of the
19 Restated Judgment in this action, upon application of any party by a properly noticed motion and
20 after hearing thereon, the Court may “. . .make such further or supplemental orders or directions
21 as may be necessary or appropriate for interpretation, enforcement or carrying out of this
22 Judgment, and to modify, amend or amplify any of the provisions of the Judgment.” (Restated
23 Judgment, ¶ 15.)

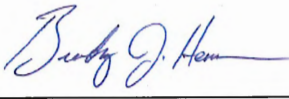
24 For the reasons stated above, there is good cause to grant Watermaster’s Motion,
25 approving the 2022 Update to the 2019 Chino Basin Watermaster Rules and Regulations.
26 Watermaster is not aware of any remaining dissent; no Party opposed the 2022 Update when the
27 Watermaster Board approved it.

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Dated: February 4, 2022

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 

SCOTT S. SLATER
BRADLEY J. HERREMA
LAURA K. YRACEBURU
Attorneys for CHINO BASIN
WATERMASTER

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 4, 2022 served the following:

1. NOTICE OF MOTION AND MOTION FOR COURT APPROVAL OF UPDATE TO WATERMASTER RULES AND REGULATIONS

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: Master Email Distribution List

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 4, 2022 in Rancho Cucamonga, California.



By: Janine Wilson
Chino Basin Watermaster

PAUL HOFER
11248 S TURNER AVE
ONTARIO, CA 91761

JEFF PIERSON
2 HEXAM
IRVINE, CA 92603

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

Members:

Agnes Cheng	agnes.cheng@cc.sbcounty.gov
Al Lopez	alopez@wmwd.com
Alan Frost	Alan.Frost@dpw.sbcounty.gov
Alberto Mendoza	Alberto.Mendoza@cmc.com
Alfonso Ruiz	alfonso.ruiz@cmc.com
Allen W. Hubsch	ahubsch@loeb.com
Alma Heustis	alma.heustis@californiasteel.com
Alonso Jurado	ajurado@cbwm.org
Amanda Coker	amandac@cvwdwater.com
Amanda Meere	Amanda.Meere@cao.sbcounty.gov
Amer Jakher	AJakher@cityofchino.org
Amy Bonczewski	ABonczewski@ontarioca.gov
Andrew Gagen	agagen@kidmanlaw.com
Andy Campbell	acampbell@ieua.org
Andy Malone	amalone@westyost.com
Angelica Todd	angelica.todd@ge.com
Angelo Simoes	Angelo.Simoes@linde.com
Anna Nelson	atruongnelson@cbwm.org
April Robitaille	arobitaille@bhfs.com
Armando Martinez	armartinez@fontana.org
Art Bennett	citycouncil@chinohills.org
Arthur Kidman	akidman@kidmanlaw.com
Ashok Dhingra	ash@akdconsulting.com
Ben Lewis	benjamin.lewis@gswater.com
Ben Peralta	bperalta@tvmwd.com
Benjamin M. Weink	ben.weink@tetrattech.com
Beth.McHenry	Beth.McHenry@hoferranch.com
Betty Anderson	banderson@jcsd.us
Betty Folsom	bfolsom@jcsd.us
Bill Schwartz	bschwartz@mvwd.org
Bob Bowcock	bbowcock@irmwater.com
Bob DiPrimio	rjdiprimio@sgvwater.com
Bob Feenstra	bobfeenstra@gmail.com
Bob Kuhn	bkuhn@tvmwd.com
Bob Kuhn	bgkuhn@aol.com
Bob Page	Bob.Page@rov.sbcounty.gov
Brad Herrema	bherrema@bhfs.com
Braden Yu	Byu@ci.upland.ca.us
Bradley Jensen	bradley.jensen@cao.sbcounty.gov
Brandon Howard	brahoward@niagarawater.com
Brenda Fowler	balee@fontanawater.com
Brent Yamasaki	byamasaki@mwdh2o.com
Brian Dickinson	bdickinson65@gmail.com
Brian Geye	bgeye@autoclubspeedway.com
Brian Lee	blee@sawaterco.com
Carmen Sierra	carmens@cvwdwater.com
Carol Boyd	Carol.Boyd@doj.ca.gov
Carolina Sanchez	csanchez@westyost.com
Casey Costa	ccosta@chinodesalter.org
Cassandra Hooks	chooks@niagarawater.com
Catharine Irvine	cirvine@DowneyBrand.com

Chad Blais	cblais@ci.norco.ca.us
Chander Letulle	cletulle@jcsd.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@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
Cindy Cisneros	cindyc@cvdwater.com
Cindy Li	Cindy.li@waterboards.ca.gov
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
Danny Kim	dkim@linklogistics.com
Dave Argo	daveargo46@icloud.com
Dave Crosley	DCrosley@cityofchino.org
David Aladjem	daladjem@downeybrand.com
David De Jesus	ddejesus@tvmwd.com
David Huynh	dhuynh@cbwm.org
Dawn Martin	Dawn.Martin@cc.sbcounty.gov
Denise Garzaro	dgarzaro@ieua.org
Dennis Mejia	dmejia@ontarioca.gov
Dennis Williams	dwilliams@geoscience-water.com
Diana Frederick	diana.frederick@cdcr.ca.gov
Ed Means	edmeans@roadrunner.com
Edgar Tellez Foster	etellezfoster@cbwm.org
Eduardo Espinoza	EduardoE@cvdwater.com
Edward Kolodziej	edward.kolodziej@ge.com
Elizabeth M. Calciano	ecalciano@hensleylawgroup.com
Elizabeth Skrzat	ESkrzat@cbwcd.org
Eric Fordham	eric_fordham@geopentech.com
Eric Garner	eric.garner@bbklaw.com
Eric Grubb	ericg@cvdwater.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@cvdwater.com
Frank Brommenschenkel	frank.brommen@verizon.net
Frank Yoo	FrankY@cbwm.org
Fred Fudacz	ffudacz@nossaman.com
Fred Galante	fgalante@awattorneys.com
Gabriela Garcia	ggarcia@cbwm.org
Garrett Rapp	grapp@westyost.com

Gene Tanaka
Geoffrey Kamansky
Geoffrey Vanden Heuvel
Gerald Yahr
Gidti Ludesirishoti
Gina Nicholls
Gino L. Filippi
Gracie Torres
Grant Mann
Greg Woodside
Gregor Larabee
Henry DeHaan
Irene Islas
James Curatalo
James Jenkins
James McKenzie
Jane Anderson
Janine Wilson
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Jason Marseilles
Jason Pivovaroff
Jayne Joy
Jean Cihigoyenetche
Jeff Evers
Jeff Mosher
Jeffrey L. Pierson
Jennifer Hy-Luk
Jeremy N. Jungries
Jessie Ruedas
Jim Markman
Jim W. Bowman
Jimmy Gutierrez - Law Offices of Jimmy Gutierrez

Jimmy L. Gutierrez
Jimmy Medrano
Jiwon Seung
Joanne Chan
Joao Feitoza
Jody Roberto
Joe Graziano
Joe Joswiak
Joel Ignacio
John Abusham
John Bosler
John Harper
John Huitsing
John Lopez
John Lopez and Nathan Cole
John Mendoza
John Partridge
John Schatz
John Thornton
Jose A Galindo

Gene.Tanaka@bbklaw.com
gkamansky@niagarawater.com
geoffreyvh60@gmail.com
yahrj@koll.com
GidtiL@cvwdwater.com
gnicholls@nossaman.com
Ginoffvine@aol.com
gtorres@wmwd.com
GMann@dpw.sbcounty.gov
gwoodside@ocwd.com
Gregor.Larabee@cdcr.ca.gov
Hdehaan1950@gmail.com
irene.islas@bbklaw.com
jamesc@cvwdwater.com
cnomgr@airports.sbcounty.gov
jmckenzie@dpw.sbcounty.gov
janderson@jcsd.us
JWilson@cbwm.org
jhall@ieua.org
jmarseilles@ieua.org
JPivovaroff@wmwd.com
Jayne.Joy@waterboards.ca.gov
Jean@thejclawfirm.com
jevers@niagarawater.com
jmosher@sawpa.org
jpierson@intexcorp.com
jhyluk@ieua.org
jjungreis@rutan.com
Jessie@thejclawfirm.com
jmarkman@rwglaw.com
jbowman@ontarioca.gov

jimmylaredo@gmail.com
Jimmy@City-Attorney.com
Jaime.medrano2@cdcr.ca.gov
JiwonS@cvwdwater.com
jchan@wwd.org
joao.feitoza@cmc.com
jroberto@tvmwd.com
jgraz4077@aol.com
JJoswiak@cbwm.org
jignacio@ieua.org
john.abusham@nrg.com
johnb@cvwdwater.com
jrharper@harperburns.com
johnhuitsing@gmail.com
jlopez@sarwc.com
customerservice@sarwc.com
jmendoza@tvmwd.com
jpartridge@angelica.com
jschatz13@cox.net
JThorntonPE@H2OExpert.net
Jose.A.Galindo@linde.com

Josh Swift	jmswift@fontanawater.com
Joshua Aguilar	jaguilar@ieua.org
Justin Brokaw	jbrokaw@marygoldmutualwater.com
Justin Nakano	JNakano@cbwm.org
Justin Scott-Coe Ph. D.	jscottcoe@mvwd.org
Karen Williams	kwilliams@sawpa.org
Kathleen Brundage	kathleen.brundage@californiasteel.com
Keith Kramer	kkramer@fontana.org
Keith Person	keith.person@waterboards.ca.gov
Ken Waring	kwaring@jcsd.us
Kevin O'Toole	kotoole@ocwd.com
Kevin Sage	Ksage@IRMwater.com
Kristina Robb	KRobb@cc.sbcounty.gov
Kurt Berchtold	kberchtold@gmail.com
Kyle Brochard	KBrochard@rwglaw.com
Kyle Snay	kylesnay@gswater.com
Larry Cain	larry.cain@cdcr.ca.gov
Laura Mantilla	lmantilla@ieua.org
Laura Yraceburu	lyraceburu@bhfs.com
Lauren Harold	lharold@linklogistics.com
Linda Jadeski	ljadeski@wvwd.org
Lisa Lemoine	LLemoine@wmwd.com
Liz Hurst	ehurst@ieua.org
Marcella Correa	MCorrea@rwglaw.com
Marco Tule	mtule@ieua.org
Maria Ayala	mayala@jcsd.us
Maria Mendoza	mmendoza@westyost.com
Maribel Sosa	msosa@ci.pomona.ca.us
Marilyn Levin	marilyn.levin@doj.ca.gov
Mark D. Hensley	mhensley@hensleylawgroup.com
Mark Wildermuth	mwildermuth@westyost.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
Melanie Trevino	Mtrevino@jcsd.us
Michael A. Blazevic	mblazevic@westyost.com
Michael Adler	michael.adler@mcmcnet.net
Michael P. Thornton	mthornton@tkeengineering.com
Michelle Licea	mlicea@mvwd.org
Michelle Staples	mstaples@jacksontidus.law
Mike Gardner	mgardner@wmwd.com
Mike Maestas	mikem@cvwdwater.com
Miriam Garcia	mgarcia@ieua.org
Moore, Toby	TobyMoore@gswater.com
MWDProgram	MWDProgram@sdcw.org
Nadia Aguirre	naguirre@tvmwd.com
Natalie Costaglio	natalie.costaglio@mcmcnet.net
Nathan deBoom	n8deboom@gmail.com
Neetu Gupta	ngupta@ieua.org

Nichole.Horton@pomonaca.gov
Nick Jacobs
Nicole deMoet
Nicole Escalante
Noah Golden-Krasner
Parker Simon
Paul Deutsch
Paul Hofer
Paul Hofer
Paul S. Leon
Pete Hall
Pete Hall
Pete Vicario
Peter Hettinga
Peter Kavounas
Peter Rogers
Rachel Avila
Randy Visser
Richard Anderson
Rick Darnell
Rick Rees
Rickey S. Manbahal
Rita Pro
Robert C. Hawkins
Robert DeLoach
Robert E. Donlan
Robert Neufeld
Robert Wagner
Ron Craig
Ron LaBrucherie, Jr.
Ronald C. Pietersma
Ruben Llamas
Ruby Favela
Ryan Shaw
Sally H. Lee
Sam Nelson
Sam Rubenstein
Sandra S. Rose
Sarah Foley
Scott Burton
Scott Slater
Seth J. Zielke
Shawnda M. Grady
Shivaji Deshmukh
Skylar Stephens
slee@tvmwd.com
Sonya Barber
Sonya Zite
Stephanie Gutierrez
Stephanie Reimer
Stephen Deitsch
Steve Kennedy
Steve M. Anderson

Nichole.Horton@pomonaca.gov
njacobs@somachlaw.com
ndemoet@ci.upland.ca.us
NEscalante@ontarioca.gov
Noah.goldenkrasner@doj.ca.gov
psimon@bhfs.com
paul.deutsch@woodplc.com
farmerhofer@aol.com
farmwatchtoo@aol.com
pleon@ontarioca.gov
rpetehall@gmail.com
pete.hall@cdcr.ca.gov
PVicario@cityofchino.org
peterhettinga@yahoo.com
PKavounas@cbwm.org
progers@chinohills.org
R.Avila@MPGLAW.com
RVisser@sheppardmullin.com
horsfly1@yahoo.com
Richard.Darnell@nrgenergy.com
richard.rees@woodplc.com
smanbahal@wwd.org
rpro@cityofchino.org
RHawkins@earthlink.net
robertadeloach1@gmail.com
red@eslawfirm.com
robneu1@yahoo.com
rwagner@wbecorp.com
Rcraig21@icloud.com
ronLaBrucherie@gmail.com
rcpietersma@aol.com
rllamas71@yahoo.com
rfavela@cbwm.org
RShaw@wmwd.com
shlee@ieua.org
snelson@ci.norco.ca.us
srubenstein@wpcarey.com
directorrose@mvwd.org
Sarah.Foley@bbklaw.com
sburton@ontarioca.gov
sslater@bhfs.com
sjzielke@fontanawater.com
sgrady@eslawfirm.com
sdeshmukh@ieua.org
SStephens@sdca.org
slee@tvmwd.com
sbarber@ci.upland.ca.us
szite@wmwd.com
Stephanie.Gutierrez@cc.sbcounty.gov
SReimer@mvwd.org
stephen.deitsch@bbklaw.com
skennedy@bmklawplc.com
steve.anderson@bbklaw.com

Steve Nix	snix@ci.upland.ca.us
Steve Riboli	steve.riboli@sanantoniowinery.com
Steve Smith	ssmith@ieua.org
Steve W. Ledbetter, PE	sledbetter@tkeengineering.com
Steven Andrews Engineering	sandrews@sandrewsengineering.com
Steven Flower	sflower@rwglaw.com
Steven J. Elie	selie@ieua.org
Steven J. Elie	s.elie@mpglaw.com
Steven Popelar	spopelar@jcsd.us
Steven Raughley	Steven.Raughley@cao.sbcounty.gov
Susan Palmer	spalmer@kidmanlaw.com
Tammi Ford	tford@wmwd.com
Tariq Awan	Tariq.Awan@cdcr.ca.gov
Taya Victorino	tayav@cvwdwater.com
Teri Layton	tlayton@sawaterco.com
Terry Catlin	tlcatlin@wfajpa.org
Tim Barr	tbarr@wmwd.com
Tim Kellett	tkellett@tvmwd.com
Timothy Ryan	tjryan@sgvwater.com
Toby Moore	TobyMoore@gswater.com
Todd Minten	tminten@sbcglobal.net
Tom Barnes	tbarnes@esassoc.com
Tom Bunn	TomBunn@Lagerlof.com
Tom Cruikshank	tcruikshank@linklogistics.com
Tom Harder	tharder@thomashardercompany.com
Tom McPeters	THMcP@aol.com
Tom O'Neill	toneill@chinodesalter.org
Toni Medell	mmedel@mbakerintl.com
Tony Long	tlong@angelica.com
Toyasha Sebbag	tsebbag@cbwcd.org
Tracy J. Egoscue	tracy@egoscuelaw.com
Van Jew	vjew@wwwd.org
Vanny Khu	VKhu@ontarioca.gov
Veronica Tristan	vtristan@jcsd.us
Veva Weamer	vweamer@westyost.com
Victor Preciado	Victor_Preciado@ci.pomona.ca.us
Vivian Castro	vcastro@cityofchino.org
Wade Fultz	Wade.Fultz@cmc.com
WestWater Research, LLC	research@waterexchange.com
William J Brunick	bbrunick@bmblawoffice.com
William Urena	wurena@emeraldus.com