

# FEE EXEMPT

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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 FOR THE COUNTY OF SAN BERNARDINO

19 CHINO BASIN MUNICIPAL WATER  
20 DISTRICT,

Case No.: RCVRS 51010

Assigned to the Honorable Stanford E. Reichert

21 Plaintiff,

**DECLARATION OF JOSH SWIFT IN  
SUPPORT OF FONTANA WATER  
COMPANY'S AND CUCAMONGA VALLEY  
WATER DISTRICT'S OPPOSITION TO CITY  
OF ONTARIO'S APPLICATION FOR AN  
ORDER TO EXTEND TIME UNDER  
JUDGMENT, PARAGRAPH 31(c) TO  
CHALLENGE WATERMASTER ACTION/  
DECISION ON NOVEMBER 18, 2021 TO  
APPROVE THE FY 2021/2022 ASSESSMENT  
PACKAGE**

22 v.

23 CITY OF CHINO, et al.,

24 Defendants.

Date: April 8, 2022

Time: 1:30 p.m.

Place: Dept S35

25 1. I am the Vice President and General Manager of Fontana Water Company ("FWC"). In  
26 that capacity, I am responsible for FWC's participation in the Metropolitan Water District of Southern  
27 California's ("MWD") Dry Year Yield Program ("DYYP") in the Chino Basin. FWC participates in  
28 the DYYP as a member of the Chino Basin Watermaster Appropriative Pool and a customer of the  
Inland Empire Utilities Agency ("IEUA").

1           2. Pursuant to a letter agreement signed by MWD, IEUA, Three Valleys Municipal Water  
2 District and the Chino Basin Watermaster in 2019, IEUA offered FWC the opportunity to withdraw  
3 imported water from storage on a voluntary basis. FWC withdrew 2,500 acre-feet in production year  
4 2020-21, and is in the process of withdrawing 5,000 acre-feet in production year 2021-22.

5           3. FWC has always paid the MWD service rates amounts in full when withdrawing MWD  
6 Stored Water.

7           4. FWC will incur significant financial and operational harm if their past or ongoing  
8 withdrawals of Stored Water under the DYYP are subject to production assessments. First, FWC will  
9 have to attribute its production to another, more expensive water source for which it has already paid.  
10 Second, the production will become assessable itself. Third, FWC will be subject to a higher Desalter  
11 Replenishment Obligation, which will have to be purchased from a more expensive source. These costs  
12 are not precisely known, because the Chino Basin Watermaster would have to calculate a new  
13 assessment package, which is an intricate process and dependent on many factors, including actions of  
14 other parties. However, based on information currently available, the additional cost to FWC is  
15 estimated at a minimum of \$885,000 for production year 2020-21 and subject to significant increases  
16 depending on how CVWD satisfies its production. The additional cost for production year 2021-22 is  
17 not able to be determined at this time due to unknown Appropriative Pool total production quantities  
18 and actions, but FWC is withdrawing twice the amount of water.

19           5. These extra charges would make the cost of producing each acre-foot of water under the  
20 DYYP far more expensive than simply purchasing imported surface water from IEUA or other  
21 available sources. As a result, there would be no financial reason for FWC, or any other appropriator,  
22 to participate in the DYYP, which would have a chilling effect on the entire program and the  
23 participating agencies.

24           6. If, for example, the Court determines that pumping under the DYYP is assessable as  
25 regular production, FWC will eliminate DYYP pumping going forward and likely stop all participation  
26 in the DYYP until program uncertainty is resolved. Therefore, delays in a Court ruling will thus have  
27 significant impacts on FWC's operational and financial decisions for the remainder of production year  
28 21/22 and beyond.

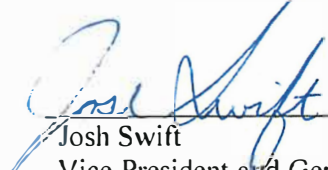
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7. In addition, withdrawal of MWD Stored Water under the voluntary program benefited all the parties by protecting them from threats of losing stored water rights in Production Year 2020-21 due to the cap on storage amounts.

8. FWC and Cucamonga Valley Water District ("CVWD") met with Ontario representatives twice in January 2022 and received a written unilateral term sheet by Ontario at the second January 24, 2022 meeting. However, based on the term sheet, FWC does not believe agreement on the terms is possible.

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

Dated: March 25, 2022

  
\_\_\_\_\_  
Josh Swift  
Vice President and General Manager of  
Fontana Water Company

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 March 25, 2022 I served the following:

1. DECLARATION OF JOSH SWIFT IN SUPPORT OF FONTANA WATER COMPANY'S AND CUCAMONGA VALLEY WATER DISTRICT'S OPPOSITION TO CITY OF ONTARIO'S APPLICATION FOR AN ORDER TO EXTEND TIME UNDER JUDGMENT, PARAGRAPH 31(C) TO CHALLENGE WATERMASTER ACTION/DECISION ON NOVEMBER 18, 2021 TO APPROVE THE FY 2021/2022 ASSESSMENT PACKAGE

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 March 25, 2022 in Rancho Cucamonga, California.



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Chino Basin Watermaster

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