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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. RCVRS51010

(Assigned for All Purposes to the
Honorable Gilbert G. Ochoa)

**WATERMASTER RESPONSE TO
ONTARIO'S SUPPLEMENTAL BRIEF**

Date: August 14, 2026
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RESPONSE TO ONTARIO'S SUPPLEMENTAL BRIEF

I. INTRODUCTION

Chino Basin Watermaster submits this response to the City of Ontario's ("Ontario") Supplemental Brief in Support of Opposition to Watermaster's Motion for Court Approval of Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages ("Ontario's Supplemental Brief"). Ontario's Supplemental Brief asserts that the Court need not address the four issues reserved by the Court of Appeal. (Opinion in *Chino Basin Municipal Water District v. City of Ontario*, Nos. E080457 and E082127 (Apr. 18, 2025) ("Opinion") at p. 25.). Watermaster agrees with Ontario's conclusion in this regard, but little else.

Ontario's arguments are dependent upon a single legal fiction. They ask this Court to rule *as if* Cucamonga Valley Water District ("CVWD") and Fontana Water Company ("FWC") extracted Basin Water and not Stored Water¹ stored under the Dry Year Yield ("DYY") Storage and Recovery Agreement. Ontario characterizes this as a simple accounting correction to reclassify the water taken through CVWD's and FWC's wells from DYY Stored Water to Basin Water, on the basis that the extractions were not authorized under the "original" DYY Storage and Recovery Program ("DYY Program") agreements. But the reclassification sought by Ontario is not a neutral accounting exercise. It is the functional equivalent of voiding the Metropolitan Water District of Southern California's ("MWD") sale of DYY Stored Water to CVWD and FWC and deeming the water extracted by CVWD and FWC as if it were never imported, stored and recovered. Only with that reclassification can Ontario shift a portion of its own shared financial responsibility for Desalter replenishment to CVWD and FWC, as under the governing agreements and prior court orders, the parties bear responsibility for the Desalter Replenishment Obligation ("DRO") in proportion to their reliance on Basin Water and Safe Yield, not their recovery of DYY Stored Water.

¹ The water at issue in this proceeding is imported water that Metropolitan Water District stored in the DYY Storage Account and that CVWD and FWC subsequently recovered through the DYY Program. Under the Judgment, this water constitutes "Supplemental Water" — "water imported to Chino Basin from outside Chino Basin Watershed" (Judgment, ¶ 4(bb)) — that was held in the Basin as "Stored Water" defined as "Supplemental water held in storage, as a result of direct spreading, in lieu delivery, or otherwise, for subsequent withdrawal and use pursuant to agreement with Watermaster" (Judgment, ¶ 4(aa)). Stored Water is expressly excluded from both "Basin Water" (Judgment, ¶ 4(d)) and "Safe Yield" (Judgment, ¶ 4(x)). This brief refers to the imported supplemental water stored in and recovered from the DYY Storage Account during the fiscal years at issue as "DYY Stored Water."

1 The outcome sought by Ontario is inconsistent with the fact that (1) Stored Water extracted
2 by CVWD and FWC was imported and stored in the Basin, owned by the Metropolitan Water
3 District of Southern California (“MWD”), sold to CVWD and FWC, invoiced and accounted for
4 by the Operating Committee, and extracted and applied to beneficial use by CVWD and FWC; (2)
5 the DRO obligation described in the Peace II Agreement, as refined by the 2019 Appropriative Pool
6 Pooling Plan Amendment, which allocates replenishment costs based on each appropriator’s
7 Adjusted Physical Production, a calculation that expressly excludes production associated with
8 approved storage and recovery programs, including the DYY Program (Peace II Agreement, §
9 6.2(b)(iv)(3); Declaration of Todd M. Corbin in Support of Watermaster’s Supplemental Brief in
10 Response to the Court’s Order Requesting Further Briefing, filed July 10, 2026 (“Corbin Suppl.
11 Decl.”), ¶ 8.)

12 The Judgment defines Basin Water as including all groundwater except “Stored Water”
13 (Judgment Section 4.(d).). Absent the adoption of Ontario’s suggested legal fiction, the DYY
14 Stored Water present in an approved *storage* and *recovery program* is definitionally not Basin
15 Water or Safe Yield. (Judgment, ¶¶ 4(d), 4(x).) That distinction is dispositive *for DRO purposes*,
16 because a party’s DRO obligation is calculated based on its Adjusted Physical Production, i.e., its
17 own reliance on Safe Yield, not its recovery of DYY Stored Water. (Peace II Agreement, §
18 6.2(b)(ii).)

19 Ontario’s position can be contrasted with the treatment in Watermaster’s Corrected and
20 Amended Assessment Packages (“CAA Packages”), which was narrowly tailored to address the
21 economic injury identified by the Court of Appeal: the cost-shift resulting from exempting
22 voluntary extractions “without any corresponding reductions in “imported water” and from
23 allowing FWC to “voluntarily produce water from the program storage account without a Local
24 Agency Agreement.” (Opinion, pp. 30, 35; Declaration of Todd M. Corbin in Support of
25 Watermaster’s Response to Ontario’s Supplemental Brief, filed concurrently herewith (“Corbin
26 Reply Decl.”), ¶ 4..) All of Ontario’s responses to this Court’s request for additional briefing are
27 premised on its improper interpretation, though the Appellate Opinion never remotely suggested
28

1 that water withdrawn from the Basin should be disregarded or legally voided.²

2 Ontario responds to the Court’s question regarding the physical origins of the water
3 extracted by CVWD and FWC by repeatedly asserting that the water molecules stored in the DYY
4 Account cannot be distinguished from native Basin groundwater. This is wholly nonresponsive and
5 misleading as to relevance. There is no factual or legal dispute as to whether Supplemental Water
6 is physically commingled with other water when it is stored in the Basin. The act of commingling
7 is protected under California Supreme Court pronouncements of common law contemporaneous
8 with the entry of the original Judgment, as well as in the Judgment itself, declaring the Stored Water
9 stored in the Basin is separate from Basin groundwater and Safe Yield. (*City of Los Angeles v. City*
10 *of San Fernando* (1975) 14 Cal.3d 199, 260 [imported water stored underground retains its
11 character and the importer's ownership notwithstanding commingling with native groundwater];
12 Judgment, ¶ 4(d) [“‘Basin Water’ means Ground Water which is part of the Safe Yield . . . does not
13 include Stored Water”]; Judgment, ¶ 4(x) [defining Safe Yield as “excluding replenishment or
14 stored water”].)

15 The physical indistinguishability of molecules of commingled water does not change the
16 fact that the extracted water was stored, recovered, accounted for, and administered under the DYY
17 framework whereby the owner invoiced CVWD and FWC for the extraction. All parties to the
18 transaction evidenced the activity and Watermaster recorded the withdrawals in its accounting.

19 Meanwhile, the desalters operated according to plan in 2021-2022 and 2022-2023.
20 Replenishment obligations were calculated in accordance with the Court-approved formula for
21 allocating DRO among appropriators based on their “adjusted physical production” of Basin Water;
22 not the recovery of DYY Stored Water. Ontario’s DRO theory would produce precisely the type
23 of “windfall” the Court sought to avoid, where the water extracted had absolutely no relationship

24 ² In fact, the Opinion actually applied the 2015 Amendment’s Exhibit “G” in explaining how
25 Ontario was harmed; specifically, that Watermaster allowed withdrawals without “any
26 corresponding reductions in imported water” as required by the Exhibit G performance criteria,
27 creating “an imbalance between the use of imported surface water and stored water which the
28 program had established.” (Opinion, pp. 30, 34; see also *id.* at pp. 15–16 [noting Watermaster
exempted CVWD’s voluntary production of 20,500 AF “even though the agreed-to performance
criteria authorized it to produce only 11,353 AF in any given year” and that “[t]he shift off of
imported water is fundamental to the DYY conjunctive use program, and it is mandatory under
the terms of the court orders approving the DYY Program, which adopt Exhibit G performance
criteria”].)

1 to the function of the desalters, or the parties' reliance on Basin Water. Because the parties' stored
2 water did not impose a physical burden on the Safe Yield of the Basin, to shift a portions of
3 Ontario's replenishment obligations to CVWD and FWC would be a windfall. The evidence before
4 the Court establishes that the recovery of DYY Stored Water did not impose such a burden, and
5 Ontario has offered no evidence to the contrary.

6 For these reasons, as explained further below, the Court should overrule Ontario's
7 objections and approve Watermaster's Corrected and Amended Assessment Packages.

8 **II. WATERMASTER'S CAA PACKAGES DO NOT RESOLVE THE FOUR**
9 **RESERVED ISSUES**

10 **A. The Parties Agree the Four Reserved Issues Need Not Be Decided**

11 The Court of Appeal held it "need not resolve...(1) whether water from the DYY Program
12 is withdrawn (not produced), (2) whether stored and supplemental water are simply two types of
13 ground water, (3) whether all stored and supplemental water in the Basin is categorically exempt
14 from assessment, and (4) the future viability and application of the 2019 Letter Agreement..." and
15 left these issues "in the hands of the parties who are much better suited than the superior and
16 appellate courts to decide." (Opinion at pp. 25, 39 ("Four Reserved Issues").) The Court directed
17 the parties to resolve these issues "prior to judicial intervention." (*Id.* at p. 39.) Both Watermaster
18 and Ontario agree that the resolution of the physical nature of the water extracted and whether it is
19 subject to the DRO assessment does not overlap with the Four Reserved Issues such that those
20 issues must be addressed now. (Watermaster's Supplemental Brief in Response to the Court's Order
21 Requesting Further Briefing, filed July 10, 2026 ("Watermaster's Supplemental Brief") at p. 4;
22 Ontario's Supplemental Brief at p. 4.)

23 **B. Watermaster Did Not "Unilaterally" Answer The Four Reserved Questions**

24 Ontario argues that Watermaster "unilaterally 'answered' each of the Four Questions" by
25 treating the DYY recoveries as Stored Water exempt from DRO in the CAA Packages. (Ontario
26 Supplemental Brief at 10.) This is false.

27 In treating the DYY recoveries as Stored Water exempt from DRO, the CAA Packages
28 apply the Judgment's existing definitions of "Basin Water," "Supplemental Water," and "Stored

Water” (Judgment, ¶¶ 4(d), 4(aa), 4(bb)) to withdrawals that were treated at the time they occurred as withdrawals of DYY Stored Water under the DYY framework, as approved by the Operating Committee. (Declaration of Franklin Yoo in Support of Watermaster’s Supplemental Brief (“Yoo Decl.”), ¶¶ 3–5, 9, 11–15 & Exhs. B–C; Declaration of Elizabeth Hurst in Support of Watermaster’s Supplemental Brief (“Hurst Decl.”), ¶¶ 20–24 & Exhs. 9–11.) The Judgment defines “Basin Water” as “Ground Water which is part of the Safe Yield” and expressly provides that Basin Water “does not include Stored Water.” (Judgment, ¶ 4(d).) Those definitions are settled. Applying them to withdrawals that Watermaster, the Operating Committee, MWD, IEUA, and the extracting parties themselves, all contemporaneously treated as DYY Stored Water does not unilaterally “answer” any of the Four Reserved Issues, it follows the existing Judgment framework as applied to documented historical facts.

Watermaster’s CAA Packages take no position as to how DYY water must be treated in future assessment packages. That question, which implicates the future viability of the 2019 Letter Agreement and the broader categorization of Stored Water and Supplemental Water, remains for the parties to resolve as the Court of Appeal directed. (Opinion, pp. 25, 39; Declaration of Todd M. Corbin in Support of Motion for Court Approval of CAA Packages for Fiscal Years 2021/22 and 2022/23, filed April 1, 2026 (“Corbin Decl. in Support of Motion”), ¶ 16 [“Watermaster refrained from adjudicating or conclusively resolving any of four issues expressly reserved by the Court of Appeal’s Opinion...” and the CAA Packages were “intentionally limited to addressing the specific errors and economic injuries identified by the Court of Appeal, while leaving the reserved issues for future resolution by the parties or in subsequent assessment proceedings.”].) The CAA Packages correct the economic consequences of Watermaster’s interpretation and application of the 2019 Letter Agreement in these specific years, specifically the improper exemption of the offending portions of CVWD’s and FWC’s DYY withdrawals from production assessments. (Corbin Reply Decl., ¶¶ 4, 16.) They do not retroactively recharacterize DYY Stored Water as Basin Water, or extend those corrections to DRO, which serves a fundamentally different function³ and is triggered

³ DRO is levied upon appropriators in proportion to their use of the Basin’s Safe Yield and Operating Safe Yield, for the purpose of replenishing groundwater produced by the Desalters, to which no Safe Yield was ever assigned. (Declaration of Mark Wildermuth, P.E., in Support of Watermaster’s Supplemental Brief in Response to the Court’s Order Requesting Further Briefing,

1 by reliance on Safe Yield, not simply by the act of physical extraction of any water from the Basin.
2 (Corbin Reply Decl., ¶ 16.)

3 **III. ONTARIO’S “MOLECULES” ARGUMENT DOES NOT ANSWER THE COURT’S**
4 **QUESTION**

5 **A. The Court Asked Where the Water Physically Came From and Whether the**
6 **Extractions Imposed a Physical Burden on the Basin**

7 This Court’s question was straightforward: The Court asked the parties to clarify the
8 “physical aspect” of the water, specifically, “when FWC and CVWD extracted their water, where
9 did it physically come from?” (June 12 Ruling, pp. 23.) The Court identified precisely why the
10 answer to this question matters: “if ultimately the parties’ water did not impose a physical burden
11 on the Safe Yield of the Basin, to recover those fees would be a windfall.” (*Id.* at p. 23.) Ontario’s
12 Supplemental Brief does not answer this question.

13 **B. Ontario’s Focus on the Physical Indistinguishability of Water Molecules is**
14 **Misplaced**

15 Ontario argues that there is no physical distinction between groundwater pumped from a
16 well and groundwater previously stored through the DYY Program. (Ontario’s Supplemental Brief,
17 pp. 13-15.) While that argument responds, at least in the abstract, to the Court’s request for
18 clarification regarding the “physical aspect” of the water, it does not meaningfully address the
19 broader question reflected in the Court’s ruling: where the water physically came from and whether
20 the extraction of that water imposed a physical burden on the Safe Yield. (June 12 Ruling, pp. 23.)
21 By contrast, Watermaster thoroughly addressed this question in its Supplemental Brief. As
22 explained in Watermaster’s Supplemental Brief, as supported by multiple declarations, the water
23 extracted by FWC and CVWD originated as imported water that had been stored in the DYY
24 Storage Account, and was later recovered from that account. (Watermaster Supplemental Brief at

25 _____
26 filed July 10, 2026 (“Wildermuth Decl.”), ¶¶ 11–12, 16, 18; Peace II Agreement, § 6.2(b)(ii).)
27 The burden of contributing replenishment water to offset Desalter production is apportioned
28 among the parties that benefit from the Desalters’ principal purpose: preservation of Safe Yield.
(Wildermuth Decl., ¶ 18; Declaration of Todd M. Corbin in Support of Watermaster’s
Supplemental Brief in Response to the Court’s Order Requesting Further Briefing, filed July 10,
2026 (“Corbin Suppl. Decl.”), ¶ 8.) In short, the more an individual appropriator relies upon Safe
Yield, the greater its relative burden to fund the acquisition of replenishment water to keep the
Basin in balance. (*Ibid.*; Peace II Agreement, § 6.2(b)(ii).)

1 4–11; Hurst Decl., ¶¶ 7–11, 13–17, 20, 22–24; Yoo Decl., ¶¶ 3–5, 9–15; Wildermuth Decl., ¶¶ 16–
2 19.)

3
4 Rather than addressing the significance of the water’s physical origin under the Judgment’s
5 storage framework, Ontario relies on a footnote in the Court of Appeal’s opinion discussing the
6 Judgment’s definition of “Groundwater,” which includes water “‘beneath the surface of the ground
7 and within the zone of saturation, i.e., below the existing water table.’” (Ontario Supplemental Brief
8 at 6, citing Opinion at 7, fn. 4.) From that definition, Ontario argues that all water extracted from
9 the Basin is “Groundwater” and therefore subject to assessment regardless of its origin. This is
10 definitionally false.

11 A replenishment assessment (Judgment ¶ 45) is fundamentally different than a production
12 assessment (Judgment, ¶ 51). A “production assessment” uniformly distributes the cost of
13 Watermaster administration over production. (Judgment Exhibit “H” Appropriative Pool Pooling
14 Plan ¶ 5). Conversely, not all groundwater extraction is subject to a *replenishment assessment*. The
15 extraction of Safe Yield, Operating Safe Yield and stored water have never been the subject of a
16 replenishment assessment since the inception of the Judgment. (Declaration of Frank Yoo at ¶ 10.)
17 This is because the replenishment assessment is imposed for the exclusive purpose of bringing
18 supplemental water to the Basin to re-establish balance when a party pumps more groundwater than
19 its respective share of Operating Yield and Safe Yield. The Judgment provides: “To the extent that
20 pumping exceeds the share of the Safe Yield assigned to the Overlying Pools, or the Operating Safe
21 Yield in the case of the Appropriative Pool, each pool will provide funds to Watermaster to replace
22 such overproduction.” (Judgment, ¶ 42.) Consistent with that directive, the Appropriative Pool
23 Pooling Plan requires that “Watermaster shall levy and collect assessments in each year... in
24 amounts sufficient to purchase replenishment water to replace production by any pool during the
25 preceding year which exceeds that pool’s share of Safe Yield in the case of the overlying pools or
26 Operating Safe Yield in the case of the Appropriative Pool.” (Judgment, Exhibit “H,” Appropriative
27 Pool Pooling Plan, ¶ 5.)
28

1 **C. The Judgment Distinguishes Between Groundwater as a Physical Condition**
2 **and Stored Water as a Legal Category**

3 Ontario’s argument that all water extracted from the Basin is “Groundwater” and is
4 therefore subject to assessment regardless of its origin overlooks the distinction between the
5 Judgment’s broad physical definition of “Groundwater” and its separate legal classifications of
6 groundwater for purposes of the Physical Solution. The Court of Appeal observed that the
7 Judgment’s definition of groundwater “does not distinguish between the ‘type’ of groundwater or
8 how that water made its way into the Basin.” (Opinion at 7, fn. 4.) In other words, this definition is
9 only useful for describing the physical location of “groundwater” (i.e., beneath the surface of the
10 ground), not whether that groundwater constitutes Basin Water, Stored Water, or Supplemental
11 Water under the Judgment. The Court of Appeal was not citing to the Judgment’s definition of
12 “Groundwater” to hold that all groundwater is treated identically under the Judgment or that all
13 groundwater constitutes Basin Water for every assessment purpose. Indeed, the Court expressly
14 declined to decide “whether stored and supplemental water are simply two types of ground[]water.”
15 (Opinion at p. 25.) The Judgment itself, however, does distinguish among categories of water as
16 previously described. (See, *infra*, at fn 1 [citing to definitions of “Basin Water”, “Stored Water”
17 and “Supplemental Water” at Judgment, ¶¶ 4(d), 4(aa), 4(bb), and 4(x).])

18 Read together, these Judgment provisions recognize a distinction between native Basin
19 Water, which is part of Safe Yield and subject to the Physical Solution, and Stored Water, which
20 consists of imported supplemental supplies stored for later recovery under Watermaster-approved
21 programs. The DYY Program falls squarely within the framework of Stored Water. It allows
22 imported water to be stored under Watermaster’s oversight for subsequent withdrawal. (Judgment,
23 ¶¶ 11-12, 28-29.) As noted in Section C above, if one is not exceeding their share of Safe Yield or
24 Operating Safe Yield, no replenishment assessment is required. Period. Thus, Ontario relies upon
25 its proposed legal fiction to shift its own replenishment obligation for desalter replenishment to
26 CVWD and FWC.

27 **D. Commingling Does Not Change the Character of DYY Stored Water**

28 DYY Stored Water does not lose its character merely because it becomes physically

1 commingled with native groundwater in the aquifer. If commingling alone transformed stored
2 imported water into Basin Water, the Judgment’s storage-and-recovery provisions would be
3 rendered meaningless. California law recognizes the opposite principle: imported water retained in
4 underground storage remains identifiable as stored imported water notwithstanding physical
5 commingling. (*City of Los Angeles v. City of San Fernando*, *supra*, 14 Cal.3d at 260; *City of Los*
6 *Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 76-77; *Orange County Water Dist. v. Sabic*
7 *Innovative Plastics US LLC* (2017) 14 Cal.App.5th 343, 411-412.)

8 The DYY Program’s administration and accounting framework further demonstrates why
9 physical commingling does not alter the character of DYY Stored Water. The recharge, storage,
10 and recovery activities underlying the withdrawals were conducted pursuant to Annual Operating
11 Plans approved through the governance structure established for the DYY Program. (Hurst Decl.,
12 ¶ 6.) Those plans were reviewed and authorized by the Operating Committee, a multi-party body
13 consisting of representatives from IEUA, Three Valleys Municipal Water District, Watermaster,
14 and MWD. (Hurst Decl., ¶ 6; 2003 Funding Agreement, § VI.A.) The withdrawals at issue were
15 therefore not unauthorized extractions later characterized by Watermaster as DYY recoveries; they
16 were recoveries undertaken pursuant to contemporaneous approvals issued under the DYY
17 Program’s established procedures. (Yoo Decl., ¶¶ 11–15 & Exhs. B–C; Hurst Decl., ¶¶ 21–24 &
18 Exhs. 10–11 [“The Subject DYY Water . . . was stored, credited, and recovered through the DYY
19 Program’s established administrative process, with the Operating Committee coordinating and
20 reporting the storage and extraction activity and Watermaster maintaining the corresponding
21 account records.”].) Ontario’s theory requires the Court to disregard that historical reality. To treat
22 the DYY Stored Water as ordinary Basin Water subject to DRO assessments, the Court would
23 necessarily have to conclude that the approved storage, accounting, and recovery treatment
24 governing the water during the years at issue should be ignored and replaced with a different
25 characterization after the fact. Yet Ontario identifies no mechanism by which Watermaster could
26 unilaterally overturn the Operating Committee’s approvals or retroactively invalidate the storage
27 and recovery accounting reflected in those approved operating plans. The issue before the Court is
28 whether the withdrawals should be assessed under the Judgment and the governing DYY

1 framework, not whether years of Operating Committee decisions can be collaterally rewritten
2 through an assessment-package dispute.

3 Furthermore, Ontario characterizes the “Storage and Recovery Adjustments” entry in
4 column 20G of page 20.1 of the CAA Packages as a column Watermaster “invented” for this
5 proceeding. (Ontario Opp. at 16:1–10; Ontario Suppl. Br. at 16.) That characterization is inaccurate.
6 Watermaster added column 20G so the parties and the Court could readily identify, within the
7 existing Adjusted Physical Production calculation, the specific increment of water attributable to
8 the correction required by the Court of Appeal’s Opinion. The addition of the column did not
9 change the underlying water accounting. (Corbin Reply Decl., ¶ 14.)

10 Ontario cites no authority holding that DYY Stored Water is converted into native Basin
11 Water simply because it resides in the aquifer. California law, the Judgment’s express definitions,
12 and the DYY Program’s operational framework all support the opposite conclusion. The water at
13 issue was stored, accounted for, and recovered as DYY Stored Water pursuant to Watermaster-
14 approved procedures and Operating Committee-approved Annual Operating Plans. Ontario offers
15 no legal or factual basis for retroactively disregarding those approvals and treating recovered DYY
16 Stored Water as Basin Water subject to DRO assessments.

17 **E. Ontario Identifies No Basis for Concluding That the Withdrawals Burdened**
18 **Safe Yield**

19 Even accepting Ontario’s description of the physical nature of the water extracted, Ontario
20 still does not establish the element necessary for DRO applicability: that the withdrawals imposed
21 a burden on Basin Safe Yield. DRO exists to allocate replenishment costs among parties whose
22 production draws upon Safe Yield. (Judgment, ¶¶ 29, 41, 42; Peace Agreement, § 7.5.) The relevant
23 inquiry, therefore, is not whether water was pumped from beneath the ground, but whether the
24 withdrawals constituted reliance on Safe Yield rather than recovery of DYY Stored Water.

25 Ontario never makes that showing. Rather than identify evidence that the challenged
26 withdrawals burdened Safe Yield, Ontario relies on provisions requiring Watermaster to *evaluate*
27 the effects of storage and recovery operations before approving them. (Ontario Supplemental Brief
28 at 5:11-16, quoting Judgment, ¶ 11 [Judgment requirement that supplemental-water storage occur

1 under Watermaster regulation to protect Stored Water, Basin Water, and the Basin's Safe Yield]);
2 (*Id.* at 5:21-26, quoting RJN, Ex. 6, § VI.A.3(b) [Funding Agreement's requirement that Annual
3 Operating Plans provide information sufficient to assess the DYY Program's potential impacts];
4 (*Id.* at 15:1-5, quoting RJN, Ex. 4 at 24:19-25:2 [Watermaster's representation that no Annual
5 Operating Plan could be approved if it would cause Material Physical Injury]).

6 The oversight provisions cited by Ontario are procedural safeguards. They require
7 Watermaster to evaluate potential impacts before approving storage and recovery operations; they
8 do not create a presumption that every recovery of Stored Water adversely affects Safe Yield.
9 Indeed, those provisions reflect the opposite premise: storage and recovery operations are treated
10 as distinct activities whose effects must be evaluated on their own facts. Here, the evidence shows
11 that no such adverse effect occurred. (Wildermuth Decl., ¶¶ 16–19 [DYY Program and Desalters
12 serve different purposes; recovery of water from a DYY account has no physical impact on the
13 Basin or the Desalters]; Yoo Decl., ¶ 10 [no replenishment charge has ever been imposed on
14 withdrawals of imported water held in a DYY storage account].)

15 Ontario's argument ultimately conflates extraction of water with reliance on Safe Yield.
16 The fact that water was pumped from a beneath the ground establishes only that water was
17 extracted. DRO assessments serve a different function: they allocate replenishment costs among
18 parties whose production draws on the Basin's Safe Yield. Stored Water is not Basin Water. While
19 the Opinion found adverse economic impacts to Ontario occurred when CVWD and FWC were not
20 assessed for production, they did not take Basin Water.

21 The DYY Program necessarily contemplates the physical extraction of water without
22 increasing reliance on Safe Yield because such extraction represents recovery of previously stored
23 supplemental supplies. When a party to the Judgment extracts Stored Water from the Basin it does
24 not produce Basin Water, Safe Yield or Operating Safe Yield and it does not occur a replenishment
25 obligation or assessment. (Yoo Decl., ¶¶ 9–10 [water recovered by CVWD and FWC was recorded
26 as recovered from the DYY Storage Account, not as production of native Basin water or OSY; no
27 replenishment charge has ever been imposed on such withdrawals]; Wildermuth Decl., ¶ 17
28 [removal of supplemental water from the DYY account "has no physical impact on the Basin or

1 the desalters”]; Corbin Suppl. Decl., ¶ 8 [2019 Pooling Plan excluded withdrawals of supplemental
2 water from storage and recovery accounts from the DRO assessment].) Stored Water is expressly
3 excluded from Basin Water and Safe Yield under the Judgment. (Judgment, ¶¶ 4(d), 4(x) [defining
4 “Stored Water” as supplemental water stored in the Basin and defining “Basin Water” as excluding
5 Stored Water].) Therefore, even accepting Ontario’s description of the physical extraction process,
6 Ontario still has not shown that the withdrawals imposed a burden on Safe Yield sufficient to trigger
7 DRO consequences.

8 Watermaster’s treatment of DRO in the CAA Packages is consistent with this analysis. The
9 production-assessment corrections required by the Court of Appeal did not alter the DRO allocation
10 methodology reflected on pages 19.1 through 21.1 of the CAA Packages. (Corbin Reply Decl., ¶¶
11 16, 21.) Watermaster did not modify that methodology because no modification was required: the
12 DYY withdrawals were recoveries of Stored Water from an approved storage and recovery
13 program, not production of Basin Water or Safe Yield. (Corbin Reply Decl., ¶ 21.)

14 In summary, Ontario, one of the largest users of Safe Yield in the Basin and a substantial
15 beneficiary of the desalters, seeks to use the legal fiction that CVWD and FWC recovered Basin
16 Water (which excludes stored water) to shift a portion of its own desalter replenishment expense to
17 them. Ontario’s proposal, imposing DRO assessments on the recovery of stored supplemental water
18 that by definition is not part of Safe Yield, is precisely the problematic windfall that this Court
19 previously identified. (Final Ruling on Watermaster’s Motion (June 12, 2026, at p. 23.)

20 **IV. CONCLUSION**

21 The CAA Packages correctly identified economic consequences arising from
22 Watermaster’s failure to impose a production assessment on CVWD and FWC to account for the
23 “cost shift” associated with their withdrawals of stored supplemental water as identified by the
24 Court of Appeal.

25 Ontario’s “molecules” argument does not answer the Court’s question. Physical
26 indistinguishability of commingled groundwater is a truism; it does not change the historical facts
27 about where the water originated, and how it was stored, recovered, and accounted for under the
28 DYY framework. California law recognizes that stored supplemental water retains its legal

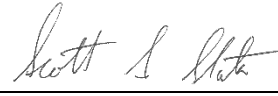
1 character regardless of physical commingling.

2 Ontario's DRO theory is the very "windfall" this Court identified. DYY Stored Water is
3 definitionally excluded from Basin Water and Safe Yield and therefore does not impose a physical
4 burden on Safe Yield. If the DYY Stored Water did not impose a physical burden on Safe Yield,
5 to recover DRO fees would be a windfall. Ontario has not shown, and cannot show, that DYY
6 Stored Water imposes such a burden.

7 For all these reasons, Watermaster respectfully requests that the Court overrule Ontario's
8 opposition and approve the Corrected and Amended Assessment Packages for FY 2021–22 and FY
9 2022–23.

10 DATED: August 3, 2026

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

On August 3, 2026, I served the following:

1. WATERMASTER RESPONSE TO ONTARIO'S SUPPLEMENTAL BRIEF

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the 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.
See attached service list: Master Email Distribution List

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

Executed on August 3, 2026, in Rancho Cucamonga, California.

Noemi Medrano

By: Noemi Medrano
Chino Basin Watermaster

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