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

CHINO BASIN MUNICIPAL WATER  
DISTRICT,

Plaintiffs,

v.

CITY OF CHINO, et al.,

Defendants.

**Case No.: RCVRS51010**

Assigned All Purposes to:

Hon. Gilbert G. Ochoa

**INLAND EMPIRE UTILITIES AGENCY'S  
RESPONSE TO ONTARIO'S SUPPLEMENTAL  
BRIEF; JOINDER TO WATERMASTER'S  
SUPPLEMENTAL AND RESPONSE BRIEFS**

Date: August 14, 2026

Time: 10:00 a.m.

Dept.: R17

Inland Empire Utilities Agency ("IEUA") hereby submits its Response to Ontario's Supplemental Brief opposing Chino Basin Watermaster's ("Watermaster") Motion for Court Approval of Corrected and Amended Fiscal Years 2021/22 and 2022/23 Assessment Packages. IEUA also joins in the arguments raised in Watermaster's Supplemental and Response Briefs and the evidence submitted in support thereof.

**I. INTRODUCTION**

The Court is no doubt aware of the procedural history in this matter. IEUA will not restate it in this Response brief. In response to the Court's request for supplemental briefing, the physical origin and path of the imported water delivered to the Chino Basin by Metropolitan Water District ("MWD") as part of the

1 Dry Year Yield program (“DYYP”) is set forth in great detail in IEUA’s Supplemental Brief to Motion for  
2 Court Approval of the Fiscal years 2021/22 and 2022/23 Assessment Packages. Here, we briefly address  
3 Ontario’s arguments regarding the physical nature of DYYP water as it is commingled with native Basin  
4 groundwater. This Response will also discuss the status of the DYYP and potential ramifications under the  
5 terms of the original DYYP funding agreement.

## 6 **II. WATER HELD IN MWD’S STORAGE ACCOUNT IS SUPPLEMENTAL IMPORTED** 7 **WATER**

8 As a matter of law, the water delivered to MWD’s DYYP account is imported water. Upon  
9 introduction to the Chino Basin, the imported water becomes part of the whole, but is still accounted for  
10 separately from the native groundwater stored in the Basin. Even though the delivered imported water  
11 becomes commingled with native groundwater in the Basin, its ownership and character does not change;  
12 it remains the property of the importer. (See *City of Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68,  
13 77; *City of Los Angeles v. City of San Fernando et al.* (1975) 14 Cal.3d 199, 263-64). The argument that  
14 DYYP water, imported, stored, and sold by MWD becomes native groundwater when it reaches the Basin  
15 is not supported by law.

16 Ontario contends that as the Court of Appeal deemed voluntary DYYP extractions by Cucamonga  
17 Valley Water District (“CVWD”) and Fontana Water Company (“FWC”) were not authorized under the  
18 DYYP, said voluntary extractions must be construed as ordinary groundwater production. This is a leap,  
19 and requires water owned by MWD, imported to the Basin by MWD, held in MWD’s account, and sold  
20 by MWD to be recategorized as groundwater. While water in the Basin is, in fact, water, the specific supply  
21 introduced by MWD as part of DYYP is robustly accounted for and tracked separately to retain MWD’s  
22 ownership of the stored imported water until a final sale is made. MWD paid millions to the DYYP  
23 participating agencies for this right, among others.

24 Importers of water to underground basins retain rights to the volume of water introduced to the  
25 basin independent to others’ usufructuary rights in the basin’s native supply. The water stored by MWD  
26 under the DYYP is foreign to the Chino Basin and would not have been deposited absent the DYYP. MWD  
27 thus retains its ownership right to its stored imported water until the water is sold to another entity. As  
28

1 such, the character of MWD's property cannot be unilaterally altered by a DYYP participating agency. It  
2 remains supplemental imported water and is definitionally separate from Basin Water and Safe Yield under  
3 the Judgment. Despite Ontario's claims of potential impacts to Safe Yield, no such impact is identified or  
4 quantified. IEUA agrees with Watermaster's position on this front and hereby joins in Watermaster's  
5 Supplemental and Response arguments.

6 **III. THE OPERATING COMMITTEE DETERMINES THE AMOUNT OF WATER HELD**  
7 **IN MWD'S DYYP STORAGE ACCOUNT**

8 In its Supplemental Brief, Ontario once again implies that Watermaster can simply "put back" the  
9 previously extracted DYYP water. (Ontario's Supplemental Brief, page 13, lines 21-25). Presumably, the  
10 idea is that imported water extracted under the voluntary system was actually groundwater, and thus, the  
11 corresponding subtractions from the MWD account did not occur and should be incorporated back into the  
12 account. This is wholly unworkable under the original DYYP agreements and, if allowed, would create a  
13 rash of potential problems beyond the issues currently pending before the Court.

14 The unilateral reaccounting of previously purchased and used imported water, back into the MWD  
15 account, runs afoul of the original DYYP agreement. The amount of water stored in the MWD account  
16 must be approved by the Operating Committee. (Declaration of Elizabeth Hurst in Support of IEUA's  
17 Supplemental Brief, Exhibit 1, page 14 thereof). Ontario's prior request to redeposit and/or reallocate  
18 purchased water back into the MWD account in relation to this matter, would be hugely problematic. First,  
19 confirming and certifying the amount of water in the MWD DYYP account is a task reserved to the  
20 Operating Committee. Two of the five voting members of the Operating Committee represent MWD, a  
21 nonparty to this action and owner of the pertinent storage account. Under the DYYP, MWD is allowed to  
22 store up to 100,000 acre-feet in the Chino Basin for later use. MWD is also authorized to issue a Call for  
23 up to 33,000 collective acre-feet of extraction via purchase in a given year. Should Ontario succeed in its  
24 effort to pretend that the water in MWD's account was not purchased and used as part of the DYYP, and  
25 secure an order increasing the total amount of water now held in the MWD account, each of the above  
26 requirements would be violated.

27  
28 The DYYP is set to conclude by 2028, meaning MWD has production years 2026 and 2027

1 remaining to ensure all water stored in the DYYP account is purchased. Accordingly, MWD has issued a  
2 Call to extract the maximum amount of 33,000 acre-feet for calendar year 2026. Once all 33,000 acre-feet  
3 of water is extracted in response to the 2026 Call, MWD will be left with approximately 30,808 acre-feet  
4 of water in its DYYP storage account. This water must be extracted over the next calendar year (2027)  
5 prior to the conclusion of the DYYP agreement in March, 2028. Redepositing over 45,000 acre-feet of  
6 previously extracted water into the MWD account at this time will make full extraction impossible during  
7 the DYYP term. Ontario seems to believe that this excess water remaining at the end of the DYYP will be  
8 considered abandoned and available to the Appropriative Pool for purposes of offsetting desalter  
9 replenishment obligations. However, it is extremely unlikely that MWD will freely strand over 43,000  
10 acre-feet of imported water, currently valued at over \$40,000,000, in the Chino Basin when the DYYP  
11 concludes. It is more likely to result in a conflict between the parties to the original DYYP agreement with  
12 potential for significant regional exposure.

13         Under the original DYYP, should the Operating Committee fail to reach agreement on a particular  
14 issue, the matter will enter a dispute resolution process unless the matter relates to an exercise of MWD  
15 discretion. (Hurst decl., Ex. 1, pg. 31-32). One such MWD discretionary item, is Section VII(A) of the  
16 original funding agreement, governing MWD's DYYP storage account rights. (Hurst decl., Ex. 1, pg. 18-  
17 19). This section of the original DYYP agreement contemplates the accounting issue described above, and  
18 specifically precludes Watermaster from imposing policies which would result in significant discrepancies  
19 between the amount of DYYP water delivered by MWD for storage in the Basin and the amount of DYYP  
20 water that MWD is entitled to Call for extraction. (*Id.*). Presumably, causing over 45,000 acre-feet of water  
21 to be added to the MWD account without authorization from MWD, thereby rendering performance during  
22 the DYYP term impossible, would constitute a significant discrepancy. As this is an item relating to the  
23 exercise of MWD discretion, it could also result in MWD terminating the DYYP agreement for breach,  
24 pursuant to Section XIII(C)(1) thereof. (Hurst decl., Ex. 1, pg. 33). Termination for breach allows MWD  
25 to compel reimbursement of DYYP funds advanced by MWD to the breaching party and to require the  
26 breaching party to purchase all water in the MWD storage account at full price, without the offsetting  
27 energy credit. For reference, MWD advanced approximately \$27.5 million of DYYP funds to the parties  
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1 for construction of extraction facilities. The current rate to purchase MWD water is \$984 per acre-foot,  
2 without the DYYP energy credit (\$488 per acre-foot currently).

3 As this calendar year began with 63,808 acre-feet of water in the MWD account, a forced purchase  
4 without the corresponding energy credit would result in a massive financial burden on all participating  
5 agencies. This concern is only increased by the prospect of adding over 45,000 acre-feet to the account and  
6 should be avoided.

7 **IV. CONCLUSION**

8 Based on the foregoing, IEUA joins in Watermaster's arguments set forth in Watermaster's  
9 Supplemental and Response Briefs and the evidence submitted in support thereof. IEUA also requests this  
10 Court overrule Ontario's opposition and approve the Corrected and Amended Assessment Packages for  
11 Fiscal Years 2021/22 and 2022/23.

12  
13 Dated: August 3, 2026

INLAND EMPIRE UTILITIES AGENCY

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15  
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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. INLAND EMPIRE UTILITIES AGENCY'S RESPONSE TO ONTARIO'S SUPPLEMENTAL BRIEF; JOINDER TO WATERMASTER'S SUPPLEMENTAL AND RESPONSE BRIEFS

/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.

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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*

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