



January 25, 2022

Peter Kavounas, General Manager  
Chino Basin Watermaster  
9641 San Bernardino Road  
Rancho Cucamonga, CA 91730

**Dry Year Yield Program**

Dear Mr. Kavounas,

Monte Vista Water District (District) appreciates this opportunity to respond to Chino Basin Watermaster's (Watermaster) request for advice and assistance concerning the Dry Year Yield Storage and Recovery Program (DYY Program). The District believes there are important issues regarding the DYY Program that should be addressed in further implementation of the program and in the development and implementation of future Storage and Recovery Programs.

• **Agreement Amendments and Imported Water Baseline**

Watermaster is empowered by the Chino Basin Judgment (Judgment) to manage groundwater storage through the development and execution of groundwater storage agreements. Watermaster is further empowered to enter into contracts for the performance of its powers, with a requirement that any contract with Inland Empire Utilities Agency (IEUA) receive prior recommendation and approval from the Advisory Committee and be pursuant to written order of the Court (§25). The Peace Agreement established the storage category of Storage and Recovery Program and the uniform criteria for this type of storage agreement.

Watermaster's entry into the DYY Program Funding Agreement with Metropolitan Water District of Southern California (Metropolitan), IEUA, and Three Valleys Municipal Water District was approved by the Watermaster Advisory Committee and Board and ordered by the Court in 2003, with the subsequent Storage and Recovery Program Agreement receiving similar authorization the following year. In turn, IEUA entered into separate Local Agency Agreements with groundwater producers participating in the DYY Program, including the District. These agreements were also approved by Watermaster and the Court.



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The first seven amendments to the Funding Agreement were handled administratively, having to do with funding and extensions of time to complete facilities. However, the eighth amendment dealt directly with local agency performance under the DYY Program and was approved by the Watermaster Advisory Committee and Board. Additionally, participating local agencies' Local Agency Agreements were formally amended consistent with the eighth amendment.

The 2019 letter agreement does not present itself as an amendment to the Funding Agreement. However, the letter agreement clearly changes local agency performance under the DYY Program. The letter agreement introduces a methodology whereby parties may voluntarily purchase water from the DYY Program storage account through production above their calculated Chino Groundwater Baseline as defined in Exhibit "G" to the Funding Agreement. No mention is made in the letter agreement as to the Imported Water Baseline provisions of Exhibit "G" which are used to certify that the groundwater produced out of the DYY Program storage account is produced in lieu of using imported water. The voluntary methodology and the waiver of an Imported Water Baseline to measure performance are material changes to Exhibit "G" provisions and meet the criteria for amending the Funding Agreement in a similar way to the eighth amendment. Therefore, in the District's opinion the 2019 letter agreement should have been approved as an amendment to the Funding Agreement following the same approval process as the eighth amendment.

The purpose of the DYY Program, as a conjunctive use program, is for program participants to replace imported water with groundwater during dry years. If participants take groundwater without accounting for a corresponding reduction in import water (because there is no Import Water Baseline in which to measure against the in-lieu take), then that changes the nature of the DYY Program from its original conjunctive use goals. As stated in the District's Local Agency Agreement with IEUA:

*Metropolitan anticipated that programs funded by the Prop. 13 Funds [such as the DYY Program] would store water (by various methods) that Metropolitan imports from the State Water Project and the Colorado River. This stored water would be pumped by the member agency (or a sub-agency) with a corresponding reduction in surface water deliveries from Metropolitan. As a result, Metropolitan would have a greater amount of water to distribute within its service area.*

As we currently face a series of unprecedented dry years and the potential severe limitation of imported water supply availability from Metropolitan, the District recommends that the DYY Program return to its primary role in providing imported water supply reliability during dry years such as those we are currently experiencing. This may mean setting aside the provisions of the 2019 letter agreement and returning the DYY Program to the terms of the most recent Funding Agreement amendment.

- **Groundwater Production Assessments**

The producing parties to the Judgment and the various Court-approved management agreements invest millions of dollars in basin management through annual groundwater production assessments. The District is unaware of any provision in the Judgment, Peace Agreement, or the DYY Program's Funding Agreement or Storage and Recovery Program Agreement that exempts production from the DYY Program storage account from production-based assessments. The District is aware that past DYY Program implementation has exempted this production from assessment, while use of imported water in lieu of groundwater production has been assessed.

The voluntary purchase methodology introduced in the 2019 letter agreement creates the potential for differential impact on producing parties due to the waiving of production assessments for those parties who voluntarily produce groundwater from the DYY Program account. Additionally, the lack of an Imported Water Baseline makes it impossible to certify that production from the account is in lieu of imported water use.

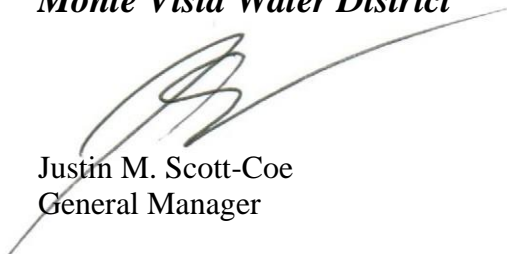
The District recommends that clear and consistent criteria be developed and agreed to by all DYY Program parties, including local agencies, for how Watermaster assesses groundwater produced from the DYY Program account. This agreement should be in the form of a Funding Agreement amendment approved by all parties and local agencies.

Watermaster serves an important function in overseeing Storage and Recovery Programs, enforcing the terms of storage agreements, and ensuring that all program criteria as established by the Peace Agreement are met during program implementation. We offer these comments and recommendations in the spirit of assisting Watermaster in fulfilling its obligations under the Judgment, Peace Agreement, and other contracts and agreements.

Once again, thank you for this opportunity to provide the District's perspective on the recent implementation of the DYY Program.

Sincerely,

***Monte Vista Water District***



Justin M. Scott-Coe  
General Manager