

SUPERIOR COURT OF CALIFORNIA

COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 CITY OF ADELANTO, et al.,)
)
 Defendants.)
)
 MOJAVE WATER AGENCY,)
)
 Cross-Complainant,)
)
 vs.)
)
 ANDERSON, RONALD H., et al,)
)
 Cross-Defendants.)

No. CIV208568

COPY

REPORTER'S TRANSCRIPT OF PROCEEDING

Proceedings of Monday, May 7, 2007,
before the Honorable E. Michael Kaiser,
Judge Retired, sitting in Department 4.

APPEARANCES:

For Cross-Complainant: BRUNICK, McELHANEY & BECKETT
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For Cross-Defendants: GRESHAM, SAVAGE, NOLAN & TILDEN
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Patricia L. Hanson, CSR 2329
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PROCEEDINGS OF MONDAY, MAY 7, 2007

THE HONORABLE E. MICHAEL KAISER, JUDGE RETIRED

* * *

THE COURT: Good morning.

City of Barstow versus City of Adelanto.

MR. BRUNICK: Good morning, Your Honor.

Bill Brunick appearing for Mojave Water Agency.

MR. NOLAN: Good morning, Your Honor.

John Nolan appearing for Silver Lakes, Victor Valley
Water, and Mitsubishi Corporation.

MS. LEVIN: Good morning, Your Honor.

Marilyn Levin, Deputy Attorney General, representing the
Department of Fish and Game.

THE COURT: Good morning.

MS. LEVIN: Good morning.

THE COURT: I read the motion and most of the water
report.

I agree with the recommendation that the Free Production
Allowance for each of the five subareas for the water year
2007-2008 should remain unchanged. But I have a question
about the recommendation on Baja.

The report indicates that there's a decline in Baja's
production, but it doesn't indicate what that's due to and
what the amount of the decline in production is.

MR. BRUNICK: The decline in production is mostly
related to lack of continued farming in the area, farming
going out of business or it's too expensive. So the
production is dropping.

1 THE COURT: Is that reduction in production going to
2 help us with our attempt to balance that base?

3 MR. BRUNICK: It will eventually. It has to drop a lot.
4 I mean, basically the safe yield is somewhere between 4,000
5 to 8,000 acre-feet in that area. And we're still at -- we're
6 still at the approximately 30,000 acre-feet of production
7 that's taking place. So we're a long way off.

8 THE COURT: Well, are they making any progress in
9 reducing the production because of the ten-year order that I
10 issued, I think, last year, which maintained a production at
11 75 percent?

12 MR. BRUNICK: I think it's more dictated by economics,
13 Your Honor. But they are trying. The Subarea Advisory
14 Committee is trying. They're shifting their crop rotation
15 from alfalfa to grain crops. And basically the cost of
16 electricity is -- is affecting the farm production. But
17 it's -- it's got a long ways to go.

18 THE COURT: Well, in view of the prior order, the court
19 will leave the Free Production Allowance -- or the Base
20 Annual Production at 75 percent for Baja. And let's take
21 another look at it next year and see where they are.

22 And is the pipeline going to reach Baja eventually?

23 MR. BRUNICK: Yes. It reaches Baja.

24 THE COURT: Okay.

25 MR. BRUNICK: It doesn't go into past the Afton Canyon
26 area. But it does -- it does reach the Baja subarea. And
27 there is the ability of the Mojave Water Agency to recharge
28 the water in the Baja subarea.

1 THE COURT: Now, there's a recommendation that we not
2 make a determination of the subsurface flow between Baja and
3 across the MWA administration boundary. Is that going to
4 affect -- have any effect on Baja's production?

5 MR. BRUNICK: No. None whatsoever.

6 THE COURT: It's just the cost doesn't justify the end
7 result.

8 MR. BRUNICK: Correct.

9 And we have no way even if -- Afton Canyon on the way
10 out towards Zzyzx Road, we have no way to deliver water out
11 that far. And it actually would benefit Baja from a cost
12 standpoint, from a recharge standpoint.

13 THE COURT: Okay.

14 And as I understand the recommendation, that the pool of
15 unidentified producers, that we eliminate that pool at this
16 time with respect to Baja, Centro, and Este?

17 MR. BRUNICK: That's correct.

18 THE COURT: All right. The court agrees with that
19 recommendation; the unidentified producer pool will be
20 eliminated with respect to Baja, Centro, and Este.

21 Let's see if that....

22 And is the Watermaster looking at any potential effect
23 of the alleged problem with decreased rainfall and snowpack?
24 Any possibility that there will be a reduction in State
25 Project Water to the Mojave Water District?

26 MR. BRUNICK: Presently an Alameda court judge has
27 issued a take order on the Delta smelt that would drastically
28 affect Mojave Water Agency's entitlement and cut it back

1 from -- I've heard numbers all the way to 10 to 20,000
2 acre-feet of entitlement, which we currently have a right to
3 take 75,000 acre-feet. That order is being appealed and
4 stayed, but that will have a tremendous effect on our ability
5 to get supplemental water into the Mojave area. And if that
6 happens, we have enough water stored and banked that we would
7 be able to continue production. But we could come back to
8 this court immediately if our entitlement is cut back.

9 THE COURT: Okay.

10 MR. BRUNICK: And that's -- that's, in effect for all of
11 Southern California.

12 THE COURT: Any other orders that -- Anything I missed
13 in the report, I never made all the orders?

14 MR. BRUNICK: No.

15 THE COURT: Okay.

16 MR. BRUNICK: Thank you for coming back.

17 MR. NOLAN: Thank you.

18 MS. LEVIN: Thank you.

19 MR. BRUNICK: You owe her a bottle of wine if she's
20 stuck with this.

21 THE COURT: I don't know whether I can accept it.

22 MR. NOLAN: Maybe a case.

23 THE COURT: Okay.

24 Thank you, gentlemen.

25 MR. BRUNICK: Thank you.

26 (Whereupon, proceedings are adjourned.)

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