

JAN 29 2003

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

TITLE: CITY OF BARSTOW, et al. vs. CITY OF ADELANTO, et al.	DATE & DEPT: 1/29/03 D-3	NUMBER: CIV 208568
COUNSEL: None present	REPORTER: None	
PROCEEDING: RULING ON MOJAVE WATER AGENCY'S MOTION TO ADJUST FREE PRODUCTION ALLOWANCE		

The court, having read and considered all of the submitted material and the arguments of counsel, submits the following intended ruling:

"Such Physical Solution requires the definition of the individual rights of all Producers within the Basin Area in a manner which will equitably allocate the natural water supplies and which will provide for equitable sharing of costs of Supplemental Water." (Judgment, signed January 10, 1996 at p. 6)

The court retains jurisdiction to interpret enforce, modify and amend the judgment. (Judgment, *supra* at p. 24)

The court has requested data concerning the increased cost to Municipal and Industrial (M & I) producers of a five percent (5%) ramp down for M & I. No information has been provided.

The overdraft can only be remedied by a reduction in production and the importation of water. The importation of water can only occur if there is a continuing ramp down of M & I production.

M & I production comprises ninety-five percent (95%) of the production in the Alto Subarea. Agricultural production has declined from thirty-one percent (31%) to five percent (5%) of the total production in the Alto Subarea. (Declaration of Robert Wagner, October 30, 2002).

The court rejects the proposed judgment as it relates to the Alto Subarea.

As to the Alto Subarea, Agricultural Producers shall remain at eighty percent (80%) of FPA without limitations. M & I producers shall be ramped down to seventy-five percent (75%) of FPA.

The proposed judgment as it relates to the Centro, Este and Baja subareas is acceptable. The Este Subarea is acceptable, if the proposed ramp down relates to M & I and not to agricultural producers.

The public meeting in the Baja Subarea on January 24, 2003 raised some interesting issues that should be addressed at the scheduled hearing on March 21, 2003.

1. Further discussion between those residents with "local knowledge" of the basin and the Mojave Water Agency.

____KAISER____, Judge

____Portillo(re)____, Clerk

2. Further discussion concerning the placement of the recharge pipeline outlets, between those residents with "local knowledge" and the Mojave Water Agency.
3. Identify subareas within the Baja Subareas due to fault lines.
4. What effect does up-stream flood control have on river recharge to the Baja Subarea during flooding?
5. California Fish & Game is to address the allegation that the failure to maintain the Mojave River in the area of Camp Cady has prevented stream flow.
6. Should producers whose consumptive use is one hundred (100%) be required to buy water equal to their use to recharge the basin?
7. Should all new development be required to purchase state project water?

Notice of this ruling is to be given by Mojave Water Agency's attorney of record; Brunick, Battersby, McElhaney & Beckett.

KAISER, Judge

Portillo(re), Clerk

**SUPERIOR COURT
COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501**

FEB 03 2003

CLERK'S CERTIFICATE OF MAILING

PLAINTIFF:

CITY OF BARSTOW

CASE NO: CIV208568

VS

DEFENDANT:

CITY OF ADELANTO

TO:

**BRUNICK, ALVAREZ & BATTERSBY
P.O. BOX 6425
SAN BERNARDINO, CA 92412**

I, clerk of the above entitled court, do hereby certify I am not a party to the within action or proceeding; that on the date below indicated, I served a copy of the attached minute order by depositing said copy enclosed in a sealed envelope with postage thereon fully prepaid, in the mail at, Riverside, California, addressed as attached.

CLERK OF THE COURT

Dated: January 31, 2003

By: 

Deputy