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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 28 2018

A. Rangel

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9 KEMPER CAMPBELL RANCH

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF RIVERSIDE, RIVERSIDE BRANCH

<p>11 CITY OF BARSTOW, et al.,</p> <p>12 Plaintiff,</p> <p>13 vs.</p> <p>14 CITY OF ADELANTO, et al.,</p> <p>15 Defendants.</p> <hr/> <p>16</p> <p>17 <u>AND RELATED CROSS ACTIONS.</u></p>	<p>) Case No. CIV 208568</p> <p>) RESPONSE OF KEMPER CAMPBELL RANCH TO ORDER SETTING STATUS CONFERENCE</p> <p>) Date: October 12, 2018</p> <p>) Time: 1:30 p.m.</p> <p>) Dept.: 5</p> <p>) Assigned for All Purposes to:</p> <p>) Hon. Craig G. Reimer, Judge Presiding</p>
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18 Defendant KEMPER CAMPBELL RANCH, a stipulating party, respectfully submits this
19 response to Issue No. 11 in the July 9, 2018 Order Setting Status Conference, regarding
20 differential rampdown in the Alto Subarea. As explained below, the differential rampdown is
21 permissible under the Judgment and has successfully eliminated overdraft in the Alto Subarea.
22 There is no need to abandon it.

23 **A. THE KEMPER CAMPBELL RANCH.**

24 The Kemper Campbell Ranch (named in honor of the older brother of former Presiding
25 Justice Joe Campbell) is the surviving remnant of the historic Verde Ranch at the Mojave
26 Narrows.

27 ////



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12 The Ranch is one of the Verde Ranch Producers in Exhibit F, ¶ 7, of the Judgment. The Ranch's
13 water supply is used for irrigation of pasture land on the Ranch, thereby preserving a
14 longstanding historic use of the Ranch, and to provide domestic water for the residents/visitors at
15 the Ranch. The decreed base annual production of the Ranch, as adjusted by the differential
16 rampdown for agriculture (80% of BAP) in the Alto Subarea, has allowed the Ranch to maintain
17 its historic character. Further rampdown, visited only upon agricultural producers in the Alto
18 Subarea, would greatly affect the viability of agriculture at the Ranch, and threaten to transform
19 the beautiful irrigated pasture land at the Ranch into dreary desert waste.

20 **B. THE COURT PROPOSED THE DIFFERENTIAL RAMPDOWN.**

21 The Court, not the Watermaster, first proposed use of a differential rampdown between
22 agricultural producers and municipal and industrial producers in the Alto Subarea. (See Eighth
23 Annual Report of the Mojave Basin Area Watermaster, p.26: "Following the February 2001
24 hearings, the Court asked the Watermaster and the stipulating parties to develop alternatives to
25 rampdown that would be consistent with the intent of the Judgment to arrest overdraft and would
26 allow agriculture to continue to produce without further rampdown.") The Watermaster
27 proposed an alternative that involved a differential rampdown (Agriculture at 80% of BAP and
28 M & I at 75% of BAP), but would have restricted the ability of an agricultural user to transfer

1 unused allowance. (Id.) Judge Kaiser, relying on the court’s retained jurisdiction, ordered a
2 differential rampdown, but rejected the proposed restriction on transfers. (Ruling on Mojave
3 Water Agency’s Motion to Adjust Free Production Allowance, Jan. 29, 2003, p.1.)

4 Thereafter the Watermaster proposed differential rampdown for the Alto Subarea which
5 provided for additional rampdowns municipal and industrial producers for 2002-2003, 2003-
6 2004 and 2004-2005 “[a]t the Court’s direction” (Ninth Annual Report, p. 26) and “consistent
7 with its understanding of the Court’s position on rampdown” (Tenth Annual Report, p. 27;
8 Eleventh Annual Report, p. 26). Since then, no additional rampdowns of municipal and
9 industrial producers in the Alto Subarea have been necessary. (See Twelfth Annual Report, p.
10 27; Twenty-Fourth Annual Report, p. 35.)

11 **C. THE COURT’S AUTHORITY TO ORDER A DIFFERENTIAL RAMPDOWN.**

12 The differential rampdown is a permissible exercise of the Court’s discretion under the
13 Judgment and the Watermaster has not acted improperly in implementing it.

14 The differential rampdown is not prohibited by Paragraph Section 23(a) of the
15 Judgment which states: “Standard of Performance. *Watermaster* shall, in carrying out its duties,
16 powers and responsibilities herein, act in an impartial manner without favor or prejudice to any
17 Subarea Producers, Party or Purpose of Use.” (Emphasis added.) Paragraph 23(a) governs solely
18 the Watermaster’s performance; it does not limit the Court’s discretion. Instead Paragraph 21
19 provides the Court with much more flexibility. Paragraph 21 states: “Need for Flexibility. It is
20 essential that this Physical Solution *provide maximum flexibility and adaptability* in order that
21 *the Court may be free to use* existing and *future* technological, social, institutional and economic
22 *options* in order to *maximize reasonable beneficial* use of the waters of the Basin Area. To that
23 end, the Court’s *retained jurisdiction* may be utilized *where appropriate*, to supplement the
24 Physical Solution.” (Emphasis added.) Paragraph 23 in turn obligates the Watermaster to abide
25 the Court’s exercise of this power: “Administration by Watermaster. Watermaster shall
26 administer and enforce the provisions of the Judgment *and any subsequent instructions or orders*
27 *of the Court.*” (Emphasis added.) Nothing in the Judgment prohibited the Court from adopting
28

1 or maintaining a differential rampdown for the Alto Subarea after the initial five-year rampdown
2 scheduled in Paragraph 22.

3 The differential rampdown in the Alto Subarea successfully eliminated overdraft in the
4 Alto Subarea while allowing preservation of historic agricultural use at the Ranch, thereby
5 fulfilling the Judgment's stated objective of a Physical Solution that is "a practical means for
6 making the maximum reasonable beneficial use of the waters of the Basin Area . . . to meet the
7 reasonable beneficial use requirements of the water users therein." (§20). Agricultural
8 producers in the Alto subarea do not have a free ride; they have been cut back 20% from their
9 decreed Base Annual Production. With the Alto Subarea in balance, no further rampdowns are
10 needed from any category of producers.

11 Dated: September 28, 2018

Respectfully Submitted,
REDWINE AND SHERRILL, LLP

12
13
14 By: Steven B. Abbott
Steven B. Abbott
Attorneys for Defendant,
KEMPER CAMPBELL RANCH

PROOF OF SERVICE

I, Josefina M. Luna, declare:

I am a citizen of the United States and employed in Riverside County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 3890 Eleventh Street, Suite 207, Riverside, California 92501-3557.

On September 28, 2018, I served a copy of the within document(s):

RESPONSE OF KEMPER CAMPBELL RANCH TO ORDER SETTING STATUS CONFERENCE

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) who have agreed to service by electronic mail, at the e-mail address(es) set forth below.

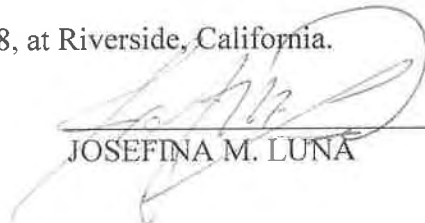
William J. Brunick, Esq.
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Valerie Wiegenstein
Watermaster Services Manager
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13846 Conference Center Drive
Apple Valley, CA 92307

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on September 28, 2018, at Riverside, California.



JOSEFINA M. LUNA

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Steven B. Abbott, SBN#125270 Redwine and Sherrill, LLP 3890 Eleventh Street, Suite 207 Riverside, CA 92501 TELEPHONE NO.: 951-684-2520 FAX NO (Optional): 951-684-5491 E-MAIL ADDRESS (Optional): sabbott@redwineandsherrill.com ATTORNEY FOR (Name): Defendant, KEMPER CAMPBELL RANCH	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE SEP 28 2018 A. Rangel
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Riverside-Civil Department	CASE NUMBER: CIV 208568 JUDICIAL OFFICER: HON. CRAIG G. REIMER
PLAINTIFF/PETITIONER: CITY OF BARSTOW, et al. DEFENDANT/RESPONDENT: CITY OF ADELANTO, et al. AND ALL RELATED CROSS-ACTIONS	DEPT.: 5
NOTICE OF CHANGE OF ADDRESS OR OTHER CONTACT INFORMATION	

1. **Please take notice** that, as of (date): **SEPTEMBER 28, 2018**

the following self-represented party or

the attorney for:

- a. plaintiff (name):
- b. defendant (name): **KEMPER CAMPBELL RANCH**
- c. petitioner (name):
- d. respondent (name):
- e. other (describe):

has **changed his or her address** for service of notices and documents or other contact information in the above-captioned action.

A list of additional parties represented is provided in Attachment 1.

2. The **new address** or other contact information for (name): **REDWINE AND SHERRILL, LLP**

is as follows:


- a. Street: **3890 ELEVENTH STREET, SUITE 207**
- b. City: **RIVERSIDE, CA 92501**
- c. Mailing address (if different from above):
- d. State and zip code:
- e. Telephone number: **951-684-2520**
- f. Fax number (if available): **951-684-5491**
- g. E-mail address (if available): **sabbott@redwineandsherrill.com**

3. **All notices and documents** regarding the action should be sent to the above address.

Date: **September 28, 2018**

STEVEN B. ABBOTT

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

Page 1 of 2

PROOF OF SERVICE

I, Josefina M. Luna, declare:

I am a citizen of the United States and employed in Riverside County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 3890 Eleventh Street, Suite 207, Riverside, California 92501-3557.

On September 28, 2018, I served a copy of the within document(s):

NOTICE OF CHANGE OF ADDRESS OR OTHER CONTACT INFORMATION

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) who have agreed to service by electronic mail, at the e-mail address(es) set forth below.

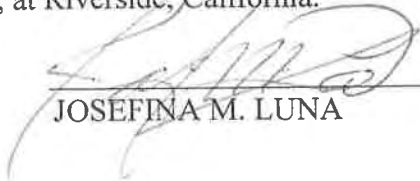
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Valerie Wiegenstein
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on September 28, 2018, at Riverside, California.


JOSEFINA M. LUNA

PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO}

I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 13846 Conference Center Drive, Apple Valley, California 92307.

On October 1, 2018, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing each document being served, to each Party or its designee according to the official service list, a copy of which is attached hereto, and which shall be maintained by the Mojave Basin Area Watermaster pursuant to Paragraph 37 of the Judgment. Served documents will be posted to and maintained on the Mojave Water Agency's internet website for printing and/or download by Parties wishing to do so.

Document(s) filed with the court and served herein are described as follows:

RESPONSE OF KEMPER CAMPBELL RANCH TO ORDER SETTING STATUS CONFERNECE

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

Executed on October 1, 2018 at Apple Valley, California.



Valerie Wiegenstein

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Mojave Basin Area Watermaster Service List as of October 01, 2018

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Mojave Basin Area Watermaster Service List as of October 01, 2018

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Mojave Basin Area Watermaster Service List as of October 01, 2018

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Mojave Basin Area Watermaster Service List as of October 01, 2018

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Mojave Basin Area Watermaster Service List as of October 01, 2018

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