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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JAN 22 2019

1 SIMALUSA

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF RIVERSIDE**

11
12 CITY OF BARSTOW, et al.,

13 Plaintiff,

14 v.

15 CITY OF ADELANTO, et al.,

16 Defendant,

17 AND RELATED CROSS ACTIONS

CASE NO. CIV 208568

**WATERMASTER'S SUPPLEMENTAL
STATUS CONFERENCE REPORT**

Date: January 31, 2019
Time: 10:00 a.m.
Dept: 5

Assigned for All Purposes to:
Hon. Craig G. Riemer, Judge Presiding

22
23 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

24 PLEASE TAKE NOTICE THAT on January 31, 2019 at 10:00 a.m., or as soon thereafter as
25 counsel may be heard, in Department 5 of the above-entitled Court located at 4050 Main Street,
26 Riverside, California 92501, Defendant/Cross-Complainant, Mojave Water Agency, acting in its
27 capacity as the Mojave Basin Area Watermaster, will respectfully provide a supplemental status report

1 on the following subjects. The court held a status conference on October 12, 2018 and Mojave Water
2 Agency (MWA) and Watermaster provided answers to the Court's questions detailed in its Order
3 Setting Status Conference dated July 9, 2018. The Mojave Watermaster files this supplemental status
4 conference statement in response to issues raised in the October 12, 2018 conference.

5 **Supplemental Status Report Items:**

- 6 1. Purpose of the Judgment and its Implementation
- 7 2. Production Safe Yield (PSY)
- 8 3. Consumptive Use
- 9 4. Compliance with the Subarea Sub-Surface Obligations
- 10 5. Population by Subarea
- 11 6. Baja Water Production
- 12 7. Funding for Watermaster Services

13 For this status conference the Watermaster Engineer and the Watermaster Executive Officer
14 have indicated they are working on updates on these items and are available to answer the Court's
15 questions on these issues and others as the Court deems necessary.

16 **1. Purpose of the Judgment and its implementation**

17 The Physical Solution as included in the Judgment was intended to provide a mechanism to
18 balance supply and demand within each Subarea and to distribute the cost of importing water to offset
19 overdraft, within a given Subarea to the producers who pump in excess of their share of the Subarea
20 Free Production Allowance (FPA). It is important to note that all of the demands within a Subarea are
21 to be met, and, that imported water would be purchased by producers within the Subarea, delivered and
22 recharged as necessary. Baja Subarea producers have only purchased a small amount of imported
23 water due to replacement obligations. MWA has used funding recently to deliver 2,000 acre-feet to
24 Baja for recharge and there is currently 22,306 acre-feet of water in storage.

25 The Physical Solution envisioned that the long term average water supply, based on 60 years of
26 record, would repeat in the future, and that surface flow in the river system would produce roughly the
27

1 same recharge to each Subarea in the future as in the past. Subsurface obligations were established
2 between Subareas. Those obligations are as follows:

3 Subsurface Obligations

4	Este to Alto	200 acre-feet	
5	Oeste to Alto	800 acre-feet	
6	Alto to Centro	2,000 acre-feet	(21,000 acre-feet surface obligation)
7	Centro to Baja	1,200 acre-feet	
8	Baja to Afton	400 acre-feet	(relieved by Court)

9 Implementation of the Physical Solution has resulted in sustainability in four of the five
10 Subareas. In the Alto Subarea, where there is the greatest population, water production has declined
11 23% since 1990 while population has increased by 116%. Water production has declined significantly
12 in all Subareas, including the Baja Subarea. Watermaster will continue to implement the Judgment
13 and continue to evaluate the need to adjust pumping allocations (Free Production Allowance) in all
14 Subareas as necessary. The recommendation as to pumping allocations will be made in Watermaster’s
15 report to the Court in May 2019.

16 **2. Production Safe Yield (PSY)**

17 PSY is defined in the Judgment as follows:

18 *Production Safe Yield - The highest average Annual Amount of water that can be*
19 *produced from a Subarea: (1) over a sequence of years that is representative of long-*
20 *term average annual natural water supply to the Subarea net of long-term average*
21 *annual natural outflow from the Subarea, (2) under given patterns of Production, applied*
22 *water, return flows and Consumptive Use, and (3) without resulting in a long-term net*
23 *reduction of groundwater in storage in the Subarea.*

24 Two key elements of PSY are the base study period and the land use conditions or cultural
25 conditions during the base study period and changes moving forward. In the Mojave case, the base
26 study period (60 year base period) was Water Year 1931 to 1990. It is assumed that the “average”
27 hydrologic conditions, related to inflow, outflow, and uses by native plants (phreatophytes) would

1 remain unchanged over a long period of time (at least the next 60 years). It is important to understand
2 that the “average” amount of inflow does not occur every year. In fact, many years of well below
3 average inflow occur between large events. It is assumed that over at least 60 years the average inflow
4 in the future will be similar to the past.

5 The PSY calculation also assumes that the land use conditions, how water is used by humans
6 for any beneficial purpose would remain relatively unchanged over a long period of time. Currently,
7 1997 is considered to represent the cultural conditions in each Subarea. However, it is important to
8 consider that land uses change over time and consequently the way that water is used also changes.
9 These changes and others affect PSY.

10 Consumptive use and return flow are also important parts of the PSY calculation. Consumptive
11 use is the portion of the water applied to beneficial uses that is consumed (evaporated to the
12 atmosphere) and lost to the groundwater supply. The return flow from water applied to beneficial use
13 is the portion of water that percolates into the ground and eventually “returns” to the water supply.
14 Thus, less than 100% of the water produced is consumed. The return flow portion is considered part of
15 a Subarea’s supply and augments the natural yield.

16 Imported water (replacement water purchases) is important to balance the supply and demand
17 in each Subarea. The return flow from imported water also augments the supply.

18 A preliminary update to the PSY calculation will be presented to Watermaster in March or
19 April 2019. As described to the Court at the October 12, 2018 status conference, Watermaster is on
20 schedule to make a recommendation to the Court regarding PSY at the next rampdown hearing, after
21 submittal of the Watermaster’s Annual Report in May 2019.

22 **3. Consumptive Use**

23 Consumptive use is not easily measured. Some water is used by homes for domestic indoor use
24 and for landscape outdoors. Water is used for parks, golf courses, commercial and industrial purposes
25 and recreation. Watermaster collects water production data from all producers under the judgment and
26 estimates the amount consumed by each producer and then estimates return flow. The Watermaster
27 Engineer has completed an update for consumptive use for each Subarea for each producer for 2011

1 through 2017 and is currently evaluating 2018. The 2018 consumptive use evaluation is on schedule
2 and will be completed in February of 2019 as previously discussed during the last status conference.
3 Consumptive use is necessary to make a determination of PSY.

4 **4. Compliance with Subarea Subsurface Obligations**

5 Watermaster believes that the gradients between Subareas have changed very little over time
6 and indicate that the Subarea subsurface obligations in the Judgment continue to be satisfied.
7 Watermaster adopted Subarea subsurface obligations, as required by the Judgment, in 2006 and those
8 obligations are being met. There is only one surface flow obligation in the Judgment. The Alto
9 Subarea is obligated to the Centro Subarea for 23,000 acre-feet per year consisting of 21,000 acre-feet
10 of surface base flow reckoned at Mojave River, Lower Narrows Gage, and an assumed 2,000 acre-feet
11 of subsurface flow at Helendale Fault. Those obligations as reported in the Watermaster annual report
12 are being met. (Annual Report Tables 4-2, & 4-3)

13 **5. Population by Subarea**

14 The following is a breakdown of the current estimate of population for each Subarea. This
15 information is updated annually along with the consumptive use estimates.

16 Estimated 2017 Population by Subarea

17	Alto	356,541
18	Alto-Transition Zone	25,071
19	Baja	4,782
20	Centro	35,871
21	Este	7,817
22	Oeste	11,742

23 *Source: "Mojave Water Agency Population Forecast", Beacon Economics, 2015*

24 **6. Baja Water Production**

25 The following is a breakdown of 2016-17 Baja Water Production. This information will be
26 updated for 2017-18 in the upcoming Watermaster Annual Report on May 1, 2019.

1 Baja Water Production

2	Agriculture	19,300 acre-feet	(75% of total)
3	Recreational Lakes	2,000 acre-feet	(8% of total)
4	Urban/Other	2,400 acre-feet	(9% of total)
5	Minimal Producers	2,200 acre-feet	(8% of total)
6	Total	25,900 acre-feet	

7 Assuming that the Minimal Producers represent a population of 4,000 people, the estimated domestic
8 indoor water requirement is approximately 255 acre-feet.

9 **7. Funding for Watermaster Services**

10 Watermaster is funded pursuant to Paragraph 25 (a) Judgment which levies an administrative
11 assessment rate against each acre-foot of water production by the parties. The current administrative
12 assessment rate is \$3.55 per acre-foot which generates about \$426,000 annually depending on water
13 production levels. The MWA funds 50% of the Watermaster Services for purposes of receiving data
14 needed for long range planning and analysis.

15 **Conclusion**

16 Watermaster will hold hearings as required by the Judgment in February and March to set FPA
17 (proposed Rampdown) for each Subarea for the next Water Year (2019-20). Watermaster will prepare
18 and submit its Annual Report to the Court on May 1, 2019. Subsequently, we anticipate that the Court
19 will hold a hearing to consider annual adjustments to Free Production Allowance (Rampdown) and
20 changes to PSY and present further information as required by the Court for managing the basin. In
21 any event, the MWA will continue to pursue grants for the basin as a whole.

22
23 Dated: January 22, 2019

BRUNICK, McELHANEY & KENNEDY PLC

24
25 BY: 

26 WILLIAM J. BRUNICK, ESQ.
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27 MOJAVE WATER AGENCY

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 January 22, 2019, 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:

WATERMASTER'S SUPPLEMENTAL STATUS CONFERENCE REPORT

 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 January 22, 2019 at Apple Valley, California.


Valerie Wiegstein

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Mojave Basin Area Watermaster Service List as of January 22, 2019

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Mojave Basin Area Watermaster Service List as of January 22, 2019

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Mojave Basin Area Watermaster Service List as of January 22, 2019

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Mojave Basin Area Watermaster Service List as of January 22, 2019

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