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**EXEMPT FROM FILING FEES
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.

Plaintiffs,

CITY OF ADELANTO, et al.,

Defendants.

And All Related Cross Actions

Case No. CIV 208568

**DECLARATION OF ALISA
ELLSWORTH IN SUPPORT OF THE
DEPARTMENT OF FISH AND
WILDLIFE'S RESPONSE TO
WATERMASTER'S MOTION TO
ADJUST FREE PRODUCTION
ALLOWANCE FOR THE 2020-2021
WATER YEAR**

Hearing: June 11, 2020
Time: 1:30 p.m.
Dept: 01

I, ALISA ELLSWORTH, declare as follows:

1. I have a Bachelor's and Master's Degree in Biology from California State University, Fresno. I have been employed as a professional biologist mostly in California for more than 26 years. I have worked for the California Department of Fish and Wildlife (Department) for approximately 19 years. My current classification with the Department is Senior Environmental Scientist, and I am the supervisor for the Lands and Facilities Program (North) for the Inland Deserts Region. A copy of my current resume is attached as Exhibit A. I am providing the

1 following information in support of the Department's Response to the Notice of Motion and
2 Motion to Adjust Free Production Allowance for Water Year 2020-2021 (2020-2021 Rampdown
3 Motion) and Declaration of Robert C. Wagner in Support Thereof (2020 Wagner Decl.). I have
4 been working on general natural resource issues within the Mojave River watershed since 2010.
5 In my current capacity, I am involved in the management of Department owned lands in the
6 Mojave Basin Adjudication, including Camp Cady Wildlife Area (Camp Cady) in the Baja
7 Subarea (Baja) and Mojave Narrows Regional Park in the Alto Subarea. The Department also
8 owns and is responsible for managing the Mojave River Fish Hatchery in the Alto Subarea. The
9 following facts are true and correct, to the best of my belief and if called to testify, I could and
10 would testify completely thereto. Except where otherwise indicated below, I make this
11 declaration on personal knowledge.

12 2. The Department has statutory and common law responsibilities with regard to fish
13 and wildlife resources and habitats. California's fish and wildlife resources, including their
14 habitats, are held in trust for the people of the State by the Department. (Fish & Game Code, §
15 711.7.) The Department has jurisdiction over the conservation, protection, and management of
16 fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of
17 those species. (Fish & Game Code, § 1802.) In addition, the Department is a member of the Alto
18 and Baja Subarea Advisory committees and is a party to the Judgment.

19 3. In my capacity as Senior Environmental Scientist, my responsibilities include
20 reviewing data and documents, writing grants, managing budgets, preparing correspondence and
21 technical documents and making recommendations as they relate to public trust resources on
22 behalf of the Department, and representing the Department at meetings of various boards and
23 commissions. I have represented the Department on water use issues within the Baja Subarea of
24 the Judgment that concern the Mojave River Adjudication since 2013. On March 17, 2020, I
25 submitted a letter to the Mojave Basin Watermaster on behalf of the Department regarding
26 Rampdown in Baja. (2020 Department Letter.) The Department submitted comments in a March
27 17, 2020 letter (attached to the Watermaster 2019-20 Rampdown Motion) that made the
28 following conclusions:

1 A. The Department agrees with the Watermaster Engineer Robert C. Wagner's
2 conclusions that pursuant to the Judgment and based upon the continuing declining
3 water levels in Baja, the continuing overdraft and the unsustainable conditions,
4 additional Rampdown is warranted;

5 B. The Department agrees with the Watermaster Engineer's recommendation that
6 the Free Production Allowance in Baja be set at 25% of Base Annual Production for
7 the Water Year 2020-2021 because, among other things, the overdraft in Baja will
8 cause continued depletion of water from storage and further damage riparian
9 resources at Camp Cady. The Department further notes that the Watermaster
10 Engineer has concluded that the Free Production Allowance exceeds the Production
11 Safe Yield in Baja by more than 5% and that current water production and
12 consumptive use exceed the average net long-term supply in Baja;

13 C. The Department's position is also based upon an additional analysis conducted by
14 the Department that 1) water levels in Camp Cady have declined during the past
15 eleven years¹; and, 2) that the five year alternative Rampdown of 2.5% instead of
16 5% of Base Annual Production pursuant to this Court's 2010 Order, and other
17 alternative Rampdown approaches throughout the history of the implementation of
18 the Judgment at various times, have not resulted in ensuring a healthy and
19 sustainable groundwater basin;² and,

20 D. In addition to the Rampdown, the Department continues to evaluate additional
21 approaches to bring the Basin into balance and to help stop the decline in water
22 levels each year from existing pumping, including 1) the purchase of Base Annual
23 Production and Carryover in order to retire those production rights; 2) support for
24

25
26 ¹ See also Declaration of Kit Custis in Support of the Department of Fish and Wildlife's
27 Response to Watermaster's Motion to Adjust Free Production Allowance for the 2020-2021
28 Water Year, Table 2 and 3, Exhibits 4 and 5 (2020 Custis Decl. pp. 4-6 ¶¶ 8 A-K.)

² (2020 Custis Decl. p. 6, ¶ 8J.)

1 the implementation of land use limitations; and, 3) support for the purchase and/or
2 use of imported water in Baja.

3 4. I have reviewed the following documents in order to prepare this declaration:

- 4 A. The Judgment in *City of Barstow, et al., vs. City of Adelanto, et al.*, Riverside
5 County Superior Court case no. 208568, including Exhibit H. (A copy of the
6 Judgment's Exhibit H is attached hereto as Exhibit B.)
- 7 B. The Mojave Basin Area Twenty-Sixth Annual Report of the Mojave Basin Area
8 Watermaster, Water Year 2018-2019, dated May 1, 2020, including the Baja
9 sections of the report, that was submitted concurrently by the Watermaster with its
10 Rampdown Motion. (26th Annual Watermaster Report, WY 2018-2019.)
- 11 C. The 2020-2021 Rampdown Motion and 2020 Wagner Decl.
- 12 D. The February 26, 2020 and April 22, 2020 Watermaster meeting Powerpoint
13 presentations on the *FPA Recommendation for Water Year 2020-21* and two
14 accompanying Memoranda by Watermaster Engineer, R.C. Wagner. The two
15 memoranda are attached hereto as Exhibit C. ³
- 16 E. The 2011 and 2012 Declarations of Troy Kelly, a former Senior Environmental
17 Scientist with the Department.
- 18 F. Draft Camp Cady Wildlife Area Land Management Plan July 2005.
- 19 G. Patrick William Tennant; Impacts of Saltcedar on the Avian Community of a
20 Mojave Desert Wildlife Area May 2002.
- 21 H. Basin Conceptual Model Baja Subarea Status Report – Community Workshop,
22 November 7, 2011, aerial photos of the Mojave River at Camp Cady from 1929 to
23 January 2013.
- 24 I. The January 2013 Todd Engineering report titled *Hydrogeologic Investigation of*
25 *Camp Cady Wildlife Area, Newberry Springs, California*.

26 ³ The Watermaster Engineer's recommendations were presented on February 26, 2020 and
27 April 22, 2020 at the Watermaster meetings as part of Powerpoint presentations entitled *FPA*
28 *Recommendation for Water Year 2020-2021* and in his Memoranda circulated as part of the
agenda for the meetings on the same dates.

- 1 J. The 1996 U.S. Geological Survey's Water Resource Investigation Report 96-4241
2 by G.C. Lines and T.W. Bilhorn titled *Riparian Vegetation and Its Water Use*
3 *During 1995 Along the Mojave River, Southern California.*
- 4 K. The 1999 U.S. Geological Survey's Water Resource Investigation Report 99-4112
5 by G.C. Lines titled *Health of Native Riparian Vegetation and Its Relation to*
6 *Hydrologic Conditions along the Mojave River, Southern California.*
- 7 L. The 2015 USFWS Report on Willow Flycatcher, Yellow-billed Cuckoo, and
8 Bell's Vireo Surveys in Inyo and Mono Counties by Lacey Greene, California
9 Department of Fish and Wildlife.
- 10 M. Supporting documents for the April 22, 2019 Watermaster Stakeholder Workshops
11 entitled Watermaster Workshop on FPA Recommendation for Water Year 2019-20
12 by Robert C. Wagner, April 22, 2019; Review of Watermaster Engineer's
13 Recommendation for Water Year 2019-2020 Relating to Este/Alto/Oeste Subareas
14 April 22, 2019.
- 15 N. Supporting documents for the May 8, 2019 Status of Centro and Baja Subareas
16 and Discussion of Alternatives Submitted by Parties Related to Rampdown by
17 Robert C. Wagner, May 6, 2019; Review of Watermaster Engineer's
18 Recommendation for Water Year 2019-2020 Relating to Centro/Baja Subareas,
19 May 6, 2019.
- 20 O. Supporting documents for the October 12, 2018 Status Conference, including
21 Watermaster's Response to Status Conference Questions Issued by the Court;
22 Memorandum of Point and Authorities; Declaration of Robert C. Wagner, Valerie
23 L. Wiegenstein and Thomas D. McCarthy in Support Thereof; Declaration of
24 Marilyn H. Levin, Kit Custis and Alisa Ellsworth In Support of the Department of
25 Fish and Wildlife's Response to Order Setting Status Conference, October 12,
26 2018.
- 27 P. Supporting documents for the January 31, 2019 Status Conference including
28 Watermaster's Supplemental Status Conference Report.

1 Q. Riparian Vegetation and Its Water Use During 1995 Along the Mojave River,
2 Southern California by Gregory C. Lines and Thomas W. Bilhorn 1996.

3 5. A continuous reduction of pumping in Baja as required by the Judgment has
4 been an ongoing dispute. At the time the Judgment was entered, Baja was a subarea that was
5 significantly out of balance. Since I have been representing the Department on water use issues
6 within Baja that concern the Mojave River Adjudication, I have observed that environmental
7 problems, including wind-blown sand overtaking desert habitat in the Newberry Springs area and
8 extensive loss of riparian habitat as shown in aerial photography from 1929 to January 2013 have
9 continued. Below is a short history of recent Rampdown Motions and Orders.

10 6. In 2016, 2017 and 2018, the Watermaster Engineer concluded that Baja continued in
11 overdraft and water level hydrographs continued to decline. The Watermaster Engineer
12 recommended that Baja Free Production Allowance be reduced by a 5% of Base Annual
13 Production. The Department submitted comments to the Watermaster in 2016, 2017 and 2018 in
14 support of the additional 5% Rampdown in Baja and set forth its concerns that the continued
15 overdraft in Baja would cause continued depletion of water from storage and further damage
16 riparian resources at Camp Cady. The Court approved the Watermaster Engineer
17 recommendations for Rampdown, including the 5% Rampdown in Baja in, 2016, 2017 and 2018.

18 7. At the July 6, 2018 Court Hearing and October 12, 2018 Status Conference, the
19 Court, based upon the Department's recommendation, asked the Watermaster Engineer to
20 complete an update of the Consumptive Use and Production Safe Yield data. The results of that
21 analysis are included in the Watermaster's Rampdown Motion entitled "Consumptive Water Use
22 Study and Production Safe Yield Update 2017-18 Water Year, May 1, 2019." (2019-2020
23 Rampdown Motion; 2019 Wagner Decl.).

24 8. In 2019, the Watermaster Engineer concluded that Baja continued in overdraft and
25 water level hydrographs continued to decline. The Watermaster Engineer recommended that Baja
26 Free Production Allowance be reduced by 5% to 30% of Base Annual Production. The
27 Department submitted comments to the Watermaster on March 27, 2019 in support of the
28 additional Rampdown in Baja and set forth its concerns that the continued overdraft in Baja will

1 cause continued depletion of water from storage and further damage riparian resources at Camp
2 Cady. The Court approved the Watermaster Engineer recommendations for Rampdown, including
3 the 5% Rampdown in Baja on July 23, 2019.

4 9. For water year 2020-2021, Baja continues to be in overdraft. (2020-21 Rampdown
5 Motion.) The verified production in Baja and the Free Production Allowance continue to be
6 greater than the Production Safe Yield by more than 5%. (2020 Custis Decl. p. 5, ¶ 8A.) The
7 Watermaster Board has recommended that Baja Free Production Allowance be reduced by 5% to
8 25% of the Base Annual Production this year, consistent with paragraph 24 (o) and Exhibit H of
9 the Judgment. As stated above, the Department submitted comments to the Watermaster on
10 March 17, 2020 in support of the additional Rampdown in Baja and set forth its concerns that the
11 continued overdraft in Baja will cause continued depletion of water from storage and further
12 damage riparian resources at Camp Cady.

13 10. The Watermaster Agendas for its public hearings on February 26, 2020 and April 22,
14 2020 considered the annual Rampdown recommendations from Robert C. Wagner, Watermaster
15 Engineer and included two memoranda from him. The Watermaster Engineer's Memoranda
16 dated February 26, 2020 and April 22, 2020 recommend a 5% Rampdown in Baja to 25% of Base
17 Annual Production for Water Year 2020-21. Specifically, in the February 26, 2020 and April 22,
18 2020 Memorandums, Mr. Wagner states that "Overdraft continues as water levels continue to fall.
19 Continuous declines result from pumping in excess of supply..."

20 11. In addition to the above, the Watermaster Engineer made two powerpoint
21 presentations on February 26 and April 22, 2020 to the Watermaster Board, stating the following
22 regarding Baja: 1) Watermaster is directed by paragraph 24 and Exhibit H of the Judgment to
23 recommend a 5% Rampdown; 2) the recommendation is based on review of water supply
24 conditions in each subarea and water level changes; 3) hydrologic conditions indicate additional
25 Rampdown is warranted; 4) the Free Production Allowance be set at 25% of BAP for Water Year
26 2020-21. (2020-2021 Rampdown Motion)

1 12. Based upon my knowledge of Camp Cady, and my knowledge of declining water
2 levels at Camp Cady, and the importance of riparian habitat to wildlife species, continuing
3 Rampdown in Baja is important and urgent.

4 13. Camp Cady consists of 1,866 acres acquired between 1979 through 2001 for a total
5 cost of \$2,046,481 in state bonds. Camp Cady had extensive surface water and riparian habitat
6 when it was acquired. The decline in water levels has had a significant negative effect on the
7 biological resources at Camp Cady and Baja. The natural vegetation, especially riparian
8 vegetation, in Baja, is dependent on groundwater. The roots of these groundwater dependent
9 plants (called phreatophytes) must be able to reach groundwater to survive.

10 14. Declining groundwater levels have caused the death of large stands of mesquite,
11 cottonwoods, and willows (all phreatophytes) at Camp Cady and throughout the Mojave River in
12 Baja. Notwithstanding, Camp Cady still contains valuable riparian habitat. Riparian habitat is a
13 rare habitat type in the desert. Desert riparian habitat serves as critical bird breeding habitat, as
14 well as important migratory stopover sites and wintering areas for many bird species. One
15 hundred six species of birds have been documented using riparian habitat at Camp Cady,
16 including the state-listed endangered willow flycatcher and state and federally-listed endangered
17 least Bell's vireo. At Camp Cady, habitat with a cottonwood and willow canopy and a mesquite
18 understory had the highest abundance of birds of all habitat types at the Wildlife Area. (Patrick
19 William Tennant; Impacts of Saltcedar on the Avian Community of a Mojave Desert Wildlife
20 Area May, 2002, document 4G listed above.)

21 15. A 2015 CDFW willow flycatcher survey was conducted during the 2015 survey
22 season, May 15-July 24, 2015, and four migratory willow flycatchers were documented at Camp
23 Cady during the first of three survey periods, May 15-June 7, 2015 (2015 USFWS Report on
24 Willow Flycatcher, Yellow-billed Cuckoo, and Bell's Vireo Surveys in Inyo and Mono Counties,
25 document 4L, listed above). Since willow flycatcher subspecies identification requires genetic
26 information, it is unknown which subspecies was detected at Camp Cady.

27 16. Camp Cady was purchased for its surface water and associated riparian habitat
28 values. When running and pooled surface water was present, cottonwoods and willows were

1 abundant with a dense understory of honey mesquite. The Mojave River historically surfaced in
2 the center of Camp Cady and generally flowed from late October to August (2011 and 2012
3 Declarations of Troy Kelly, a former Senior Environmental Scientist with CDFW, document 4E
4 listed above). The months of September and October are generally the driest based upon my
5 knowledge of the Mojave Desert climate. These surface flows have ceased in recent years as a
6 result of the declining groundwater levels throughout the Mojave Basin.

7 17. At the time of its acquisition in 1979, Camp Cady contained an extensive mesquite
8 bosque of more than 500 acres, about 60 acres of cottonwood/willow forest, three groundwater-
9 fed riverbed ponds totaling six acres, and other locations within the riverbed with seasonal springs
10 and seeps. By 1997, there was a loss of more than 400 acres of mesquite, the riverbed ponds and
11 seeps had been lost, and remaining cottonwood willow was limited to mostly mature trees. By
12 2003, the cottonwood/willow stands consisted of mostly mature trees with scattered patches of
13 mesquite, which were unhealthy with sparse leaves. Because the surrounding area continues to
14 be overdrafted without Basin recharge, less water has been available to support riparian and
15 aquatic habitats. The cottonwood/willow forest at Camp Cady may persist and remain healthy
16 when water table depths do not exceed about seven feet and become highly stressed when depths
17 exceed 10 feet. Mesquites may not be able to survive a water table drop to below 15-20 feet.
18 (*Draft Camp Cady Wildlife Area Land Management Plan*, July 2005, document 4F listed above;
19 *Riparian Vegetation And Its Water Use During 1995 Along The Mojave River*, Southern
20 California, document 4Q listed above.)

21 18. Baja is undergoing rapid environmental change due to groundwater drawdown,
22 causing the death of deep-rooted, native vegetation and the reactivation of wind-blown sand. The
23 loss of near-surface water has converted an area near Camp Cady that was vegetated in the 1960's
24 to a dry, migrating dune field that inundates both vegetation and buildings. According to the
25 2020 Declaration of Kit Custis, groundwater levels continue to exceed the critical depth of 7 to 10
26 feet needed to sustain a healthy riparian forest. (2020 Custis Decl. p. 5, ¶ 8C, Exh. 4-Table 2.)
27 Subsequently, other critical riparian vegetation such as cottonwood and willows get scoured
28 during large flood events and their seedlings can no longer get established due to the lowered

1 ground water table. New areas of river are now open to wind erosion. Without competition from
2 native vegetation, non-native saltcedar (also known as tamarisk) becomes established and further
3 draws down the water table. The Department is now faced with the daunting task of trying to
4 stabilize blowing sand, removing non-native salt cedar, and restoring the severely degraded
5 riparian system at Camp Cady.

6 19. The Department continues to do what it can to decrease water use by non-native
7 vegetation within the Mojave River watershed and Baja. Since 1996, when the Mojave River
8 Judgment was entered by the Court, the Department has removed approximately 30-40 acres of
9 tamarisk (a non-native phreatophyte that consumes large quantities of water) at Camp Cady.
10 Thirty thousand dollars (\$30,000) was requested for fiscal year 2019-2020 to treat areas with
11 heavy weed infestations and heavy fuel loading along the Mojave River in the Mojave Narrows
12 Regional Park as described in MDRCD's Work Plan, Fiscal Year 2019-2020. It is expected that
13 removal of non-native tamarisk and other non-native plants will contribute to the recovery of
14 native riparian habitat and reduce the amount of water consumed by non-native vegetation.

15 20. In early 2015, in an effort to begin looking at potential suitability and sustainability of
16 various native plants for the reintroduction of native vegetation at Camp Cady, the Department
17 authorized the expenditure of \$15,000 from the Trust Fund for the Camp Cady Riparian
18 Restoration Project. The Department is collaborating with Quail Forever on a small 5-acre pilot
19 study and working cooperatively with the Mojave Water Agency, MDRCD and the Natural
20 Resources Conservation Service (NRCS). The project site is situated on five acres of Camp Cady
21 on the south side of the Mojave River. The project entails planting 13 different native riparian
22 species (a total of 312 individual plants) in three transects in remnant Fremont Cottonwood and
23 Goodding's willow overstory habitat and three transects in exposed sandy wash habitat along
24 irrigated drip lines and monitored for survival and productivity. Two interim progress reports
25 titled "Camp Cady Wildlife Management Area Riparian Restoration/Revegetation Demonstration
26 Study" were prepared in May 2017 and spring of 2019 that showed that several species were
27 showing excellent success depending upon soil type. It is anticipated that the results of the study
28 will be used to provide a final report with recommendations on revegetation with native species at

1 Camp Cady and in Baja. In fiscal year 2019-2020, forty-five thousand dollars (\$45,000) was
2 requested to upgrade pipelines that move water starting at the pressure tank to the ponds, fire
3 hydrants and irrigation around the property.

4 21. In addition, the Department purchased, without using money from the Trust Fund, the
5 314-acre Hilarides property on December 12, 2001 at a total cost of \$819,350. The purchase
6 included 900 acre-feet of water rights in addition to the land. The Hilarides property is located in
7 Baja adjacent to Camp Cady and is now part of the designated Camp Cady. Prior to the
8 Department's purchase of the Hilarides property, the pivot well in the lowlands portion of that
9 property pumped approximately 900 acre-feet of water per year. Since the Department's
10 purchase and management of the Hilarides property began, the pivot well has pumped
11 approximately 122 acre-feet per year on average (ranging from 193 acre-feet/year to four acre-
12 feet/year). The Department's current use and management represents a reduction of nearly 90%
13 from historical production. For fiscal year 2019-2020, \$3,000 was granted for annual
14 maintenance of sprinkler nozzles, joints, transmission parts and other minor parts due to age and
15 damage from wind-blown sand so that the system is fully operational without leaks. The total
16 reduced water use remains the same.

17 22. In December 2014, the Department applied jointly with a non-profit conservancy for
18 a \$1.3 million grant from the United States Fish and Wildlife Service to facilitate the purchase of
19 1631.67 acres of private property along the Mojave River to protect riparian habitat and
20 threatened and endangered species (Palisades Ranch). The funds were awarded to the non-profit
21 conservancy in November 2015. The Department has completed a Conceptual Area Protection
22 Plan (CAPP) for the portion of the Mojave River identified in the grant and is working with the
23 California Wildlife Conservation Board, USFWS and the non-profit conservancy to implement
24 the CAPP and the grant. These additional actions were necessary to finalize the acquisition of the
25 property, which includes significant riparian habitat in the Transition Zone of the Mojave River
26 and which acquisition was completed in the summer of 2018. Since the sale of the property only
27 included 10-acre feet of water, the Department made a commitment to purchase additional water
28 rights for the Palisades Ranch property. Subsequently, the Department used \$148,549.25 from the

1 Bio Fund which was approved by the Watermaster Board on January 23, 2019, to purchase 30
2 acre feet of Base Annual Production water rights to be used solely at the Palisades Ranch
3 property for water needs that are specified in the State and Federal grant agreements associated
4 with the Palisades Ranch property.

5 23. Another project utilizing the Trust Fund was the expenditure of \$45,000, approved at
6 the September 26, 2019 MWA Watermaster Board meeting, for Western Pond Turtle surveys
7 along the Mojave River conducted by the United States Geologic Survey. The Department is
8 collaborating with the United States Geological Survey to assess the presence/absence of Western
9 Pond Turtles at Camp Cady and other areas along the Mojave River, assess habitat conditions and
10 provide habitat improvement recommendations and a possible reintroduction strategy if needed.
11 Finally, \$2,500 was used from the Bio Fund to pay for traffic control to allow Mojave Water
12 Agency staff to safely access H1-2 Mojave Narrows Park Wells at the Mojave Narrows Regional
13 Park and collect necessary well data to monitor water depth of the area.

14 24. In 2019 and 2020, Department staff attended meetings related to Alto, Baja and the
15 Basin. The Department participated in the March 15, 2019 Watermaster meeting at MWA; the
16 stakeholder workshops on April 22, May 6 and May 22, 2019; an Alto Subarea Committee
17 meeting on July 4, 2019; the Baja Workshops on May 6 and November 14, 2019; the Court
18 hearing on July 26, 2019; and the February 26, 2020 and April 22, 2020 Watermaster meetings.

19 25. The Department's March 17, 2020 letter to the Watermaster specified that the
20 Department supports supplemental actions in addition to Rampdown to address Baja's declining
21 water table. The Department is continually exploring opportunities for assisting in the
22 sustainability of the Mojave Basin and Baja, including the purchase of existing water rights with
23 the intent to retire those rights in Baja using funds from the Biological Resources Trust Fund in
24 order to additionally address the problem of continued overdraft in Baja.

25 26. Exhibit H of the Judgment requires the Watermaster to recommend to the court a
26 decrease of five percent of the Free Production Allowance for a subarea when that subarea's Free
27 Production Allowance exceeds its estimated Production Safe Yield by five percent or more. In
28 the February 26, 2020 Memorandum, the Watermaster Engineer stated that the Free Production


1 Allowance in the Centro Subarea exceeded the Production Safe Yield by 34.5% of the Base
2 Annual Production, 52.9% in the Este Subarea and 51.7% in the Oeste Subarea (Exh. B). The
3 Department, therefore, supports a 5% rampdown in the Centro, Este and Oeste Subareas.
4 Additionally, the Department supports the rampdown of the Agricultural producers in Alto
5 Subarea in order to better align with the requirements of the Judgment.

6 27. In conclusion, the Department agrees with the Watermaster Engineer's
7 recommendation that the Free Production Allowance in Baja be reduced by an additional 5%. In
8 Baja, Free Production Allowance will be set at 25% of the Base Annual Production. The
9 Department additionally agrees with the Watermaster Engineer's recommendation because,
10 among other things, the continued overdraft in Baja will cause further damage to riparian
11 resources at Camp Cady. This position is based upon an additional analysis conducted by the
12 Department that: 1) shallow groundwater levels have declined 1.46 feet to 16.11 feet at Camp
13 Cady since mid-2011; 2) there has been a long term rate of groundwater decline in intermediate
14 and deep water levels in Baja of 1-2 feet per year; 3) that a full 5% Rampdown pursuant to the
15 Judgment as the operative management strategy should be continued for the Water Year 2020-21;
16 and, 4) that the alternative Rampdown approaches implemented intermittently throughout the
17 history of the implementation of the Judgment at various times have not yet resulted in ensuring a
18 healthy and sustainable groundwater basin. (2020 Custis Decl. pp. 12-14, ¶¶ 14, 26A-E.)

19 28. Therefore, the Department strongly supports the Watermaster Engineer's
20 recommendation to reduce the Free Production Allowance in Baja to 25% of Base Annual
21 Production for the Water Year 2020-21. This reduction of 5% is consistent with paragraph 24 (o)
22 and Exhibit H of the Judgment.

23 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
24 true and correct.

25
26 Dated: May 28, 2020



ALISA ELLSWORTH, Declarant

List of Exhibits

Exhibit A: Resume of Alisa Ellsworth.

Exhibit B: Exhibit H to The Judgment in *City of Barstow, et al., vs. City of Adelanto, et al.*, Riverside County Superior Court Case No. 208568.

Exhibit C: Robert C. Wagner, Watermaster Engineer, February 26, 2020 and April 22, 2020 Memoranda.

Exhibit A

Alisa B. Ellsworth
787 North Main Street, Suite 220, Bishop, CA. 93514
(760) 872-1173

SENIOR ENVIRONMENTAL SCIENTIST

EDUCATION

Master of Arts, Biology – California State University of Fresno, **1995**

Thesis topic: comparing the richness, diversity, frequency, and cover of plant species that occur in artificially created vernal pools versus naturally occurring vernal pools.

Bachelor of Arts, Biology-Botany – California State University of Fresno, **1993**

Over twenty six years professional experience in private, academic and government environments. Expertise in wildlife research, land acquisition through State of California processes, land management, threatened and endangered species research and conservation, and environmental compliance.

PROFESSIONAL ACCOMPLISHMENTS

Senior Environmental Scientist (Supervisory)

California Department of Fish & Game, Bishop, CA

June, 2014 – Present

Supervise the Region's Northern Lands Program staff in a variety of complex activities including land acquisition planning; conservation banking; land stewardship, protection, maintenance, enhancement and monitoring; preparation of land management plans and corresponding CEQA documents; participate on regional and statewide Lands working groups; serve as the lead for the Mojave River Adjudication. Review and approve projects, reports, grants, analysis, and correspondence prepared by lands program staff and make appropriate recommendations to the Director or his designee, as required. Interpret and disseminate policy and procedure issues of the lands and facilities program function; solve problems and negotiate solutions on highly sensitive issues often involving Legal staff, corporate managers, conservation groups, governmental agencies, and other high-level staff in the private and public sector. Provide oversight of water rights associated with the Region's Northern Lands. Develop, monitor and revise program budgets, supervise and manage personnel needs and perform administrative oversight of budgets and office management.

Alisa B. Ellsworth
787 North Main Street, Suite 220, Bishop, CA. 93514
(760) 872-1173

SENIOR ENVIRONMENTAL SCIENTIST

Environmental Scientist

California Department of Fish & Game, Bishop, CA

April, 2008 – June, 2014

Prepare land acquisition documents for approval by the Department and Wildlife Conservation Board (WCB). Work with WCB, local land trusts and other conservation organizations to purchase various properties for conservation purposes. Prepare management plans for Department owned lands and required CEQA documents. Implement projects as outlined in the management plans. Prepare grants for land acquisition to various state and federal entities. Prepare and ensure compliance of lands projects with CEQA, CESA, Streambed Alteration and other pertinent environmental laws. Serve as the lead and direct scientific aides on staff. Work with other lands staff to continue on-going operations and maintenance of existing lands and facilities.

Associate Wildlife Biologist Range C

California Department of Fish & Game, Bishop, CA

June, 2002 – March, 2008

Responsible for the collection and analysis of wildlife population data for upland game birds, mule deer, tule elk and Nelson bighorn sheep. Provided harvest recommendations and direction for population management of game animals including mule deer, tule elk, Nelson bighorn sheep, resident upland game birds, furbearing mammals and other wildlife as needed. Wrote proposals and received grants and other funding to conduct a mule deer radio collar project in the White Mountains to determine migration patterns, seasonal distribution and critical fawning habitat. Effectively developed and maintained large datasets in GIS, Access databases and Excel and prepared reports in association with the analysis of these data. Provided assistance and input as required in support of the Department's responsibilities under the California Environmental Quality Act, California Endangered Species Act, Title 14 and the Fish and Game Code. Maintained and improved activities on private and public lands including habitat enhancement planning and implementation through bitterbrush revegetation projects for mule deer. Provided assistance to the Wildlife Laboratory and Wildlife Protection Division in responding to wildlife incidents, depredation and public safety assistance. Lead for up to two scientific aides.

Environmental Scientist III

California Department of Fish & Game, Bishop, CA

April, 2001 – May 2002

Facilitated the 1600 Streambed Alteration Agreement program in the Bishop Office for Mono and Inyo County projects. Evaluated and reviewed Streambed Alteration applications for technical completeness, accuracy and potential resource issues that fell under Fish and Game Code 1601-1603. Consulted with Lead and/or Responsible agencies and other concerned agencies/groups to determine concerns regarding each project. Coordinated with the applicant and concerned agencies to resolve environmental issues. Prepared draft 1600 agreements and finalized 1600 agreements. Provided comments as a Lead, Responsible and/or Trustee agency on CEQA documents for a variety of proposed projects. Served as the lead person for one employee. Served on the 1600 technical committee and the gravel mining committee.

Alisa B. Ellsworth

787 North Main Street, Suite 220, Bishop, CA. 93514
(760) 872-1173

SENIOR ENVIRONMENTAL SCIENTIST

Associate Environmental Planner (Natural Sciences)

Caltrans, Fresno, CA

November, 2000 – April, 2001

Conducted biological studies to assess environmental impacts from proposed Caltrans road projects in the Central Region. Biological studies included federally and state listed plant and animal surveys, wetland surveys, vegetation mapping, etc. Developed mitigation and restoration plans. Prepared biological assessments, natural environmental studies and other documents necessary for CEQA and NEPA compliance. Coordinated with Caltrans staff, resource agencies, local governments and other interested parties. Worked with Arcview, GIS and GPS systems, Lotus Notes, Word, Excel and Powerpoint computer programs.

Consulting Wildlife and Plant Ecologist

Hartesveldt Ecological Consulting Services, Oakhurst, CA

November, 1997-November, 2000

Conducted botanical and wildlife field work that included resource inventories, mitigation monitoring projects, mapping exercises, and other field investigations to evaluate natural resources related to company projects; prepared habitat maps to identify site conditions and potential habitat for threatened and endangered species; consulted with regulatory agencies (Department of Fish and Game, The U.S. Army Corps of Engineers, and The U. S. Fish and Wildlife Service) regarding natural resource issues and permitting requirements; evaluated environmental impacts in context of environmental laws and regulations to ensure compliance; recommended project alternatives to avoid or reduce environmental impact; provided technical expertise on biological resource issues; prepared biological elements of environmental assessments, environmental impact reports, mitigation monitoring reports and other related reports.

Peace Corps Volunteer

Peace Corps, Ecuador, South America

February, 1998-January 1999

Developed an environmental education program with the Ecuadorian park service to promote conservation and preservation of Podocarpus National Park. Participated in environmental education activities in local schools and assisted with a week long summer camp focused on environmental education.

Interpreter

Grand Canyon National park, Arizona, CA

August, 1997-November, 1997

Led interpretive walks in geology, natural history and human history within the park. Worked at the park visitor center answering questions and provided educational information about the park to large numbers of tourists. Provided bilingual interpretation for Spanish speaking visitors. Assisted with revegetation, native seed collection and herbarium projects.

Alisa B. Ellsworth

787 North Main Street, Suite 220, Bishop, CA. 93514
(760) 872-1173

SENIOR ENVIRONMENTAL SCIENTIST

Scientific Research Assistant

Patagonia Wildlife Research Station, Puerto Natales, Chile

October, 1996-May 1997

Conducted demographic field studies of the guanaco (*Lama guanicoe*) which included guanaco-plant community interactions, guanaco reproductive strategies, spacing strategies and their movements. Work focused on a demographic study using accepted radio telemetry techniques to determine guanaco cause specific mortality through field autopsies, and necropsies, marked animal data surveys, and guanaco population surveys.

Consulting plant Ecologist

H.T. Harvey and Associates, Fresno, CA

November, 1993-September, 1996

Conducted botanical, ornithological, and small mammal field work that included resource inventories, mitigation monitoring projects, revegetation projects, mapping exercises, and other field investigations to evaluate natural resources related to company projects; prepared habitat maps to identify site conditions and potential habitat for threatened and endangered species; consulted with regulatory agencies (Department of Fish and Game, The U.S. Army Corps of Engineers, and The U. S. Fish and Wildlife Service) regarding natural resource issues and permitting requirements; evaluated environmental impacts in context of environmental laws and regulations to ensure compliance; recommended project alternatives to avoid or reduce environmental impact; provided technical expertise on biological resource issues; prepared biological elements of environmental assessments, environmental impact reports, mitigation monitoring reports and other related reports.

Botanist GS-7

Sierra National forest Service

May, 1993-May, 1994

Conducted an intensive mapping project of the Jackass Watershed in the Minarets District of the Sierra National Forest; developed a community classification key using local plant communities; utilized the classification key to identify plant communities using a combination of aerial photo interpretation and ground-truthing; supervised and directed soils and botany crews; trained botany crew; conducted plant surveys for sensitive plants known to occur on the forest; mapped new locations on aerial photos; produced an ecological unit inventory map with G.I.S.

Scientific Aide

California Department of Fish and Game, Fresno, Ca

January, 1993-May, 1994

Reviewed all documents regulated by the California Environmental Quality Act (CEQA) including environmental impact reports, negative declarations and initial studies. Also reviewed mitigation and monitoring plans. Made initial determinations if threatened and endangered species or habitat were to be impacted by a proposed project and provided written recommendations following departmental guidelines.

Alisa B. Ellsworth

787 North Main Street, Suite 220, Bishop, CA. 93514
(760) 872-1173

SENIOR ENVIRONMENTAL SCIENTIST

Consulting Botanist

California State University Fresno, Fresno, CA

January, 1993-January, 1996

Directed a vernal pool creation, revegetation, and restoration project for the California Transportation Department (Caltrans) in Madera County, CA; monitored vernal pools biweekly for two years for hydrologic integrity, plant species richness, diversity, frequency, and cover and animal presence-absence.

Biological Technician GS-4

Pacific Southwest Research Station (PSW), Fresno, CA

May-November, 1992

Estimated density of Spotted Owls (*Strix occidentalis occidentalis*) and occupancy status of owl territories in a designated study area within Sequoia National Park using visual identification of bands; estimated vital rates (reproduction, mortality) by age class; estimated turnover rates (reoccupation of territories vacated during the study period; quantified the distribution of vegetative habitats within the study area; characterized diets of spotted owls from regurgitated pellets, and compared diets of breeding and nonbreeding pairs during the breeding period .

Exhibit B

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EXHIBIT H

BIOLOGICAL RESOURCE MITIGATION

1 Allowance, shall compare the Free Production Allowance with the
2 estimated Production Safe Yield. In the event the Free Production
3 Allowance exceeds the estimated Production Safe Yield by five
4 percent or more, Watermaster shall recommend a reduction of the
5 Free Production Allowance equal to a full five percent of the
6 aggregate Subarea Base Annual Production. In considering whether
7 to increase or decrease the Free Production Allowance in a Subarea,
8 Watermaster shall, among other factors, take into consideration for
9 the areas shown on Figure H-1 the Consumptive Use of water by
10 riparian habitat, the protection of public trust resources,
11 including the species listed in Table H-1 and the riparian habitat
12 areas shown on Figure H-1, and whether an increase would be
13 detrimental to the protection of public trust resources.

14 b. If, pursuant to Paragraph 27, Watermaster buys or
15 leases Free Production Allowance in the Baja Subarea below the
16 Calico-Newberry Fault to satisfy the need for Replacement Water,
17 priority shall be given to purchases or leases that will result in
18 reducing Production in or near the area described in Subparagraph
19 1(c) of this Exhibit.

20 c. Pursuant to Paragraph 2 of Exhibit "G", Watermaster
21 shall purchase Replacement Water to maintain Groundwater levels in
22 the Transition Zone.

23 3. Additional Protection Pursuant to Trust Fund Established
24 by Watermaster Using the Proceeds of Biological Resource
25 Assessments.

26 a. Watermaster shall establish a Biological Resources
27 Trust Fund account for the benefit of the riparian habitat areas
28 shown on Figure H-1 and the species listed on Table H-1. To

1 establish and maintain the Trust Fund Watermaster shall levy
2 against each acre-foot of Production within the Basin Area, other
3 than Production by the California Department of Fish and Game
4 (DFG), a Biological Resource Assessment of fifty cents (\$0.50)
5 (1993 dollars) to be collected at the same time and in the same
6 manner as the Administrative Assessment, except that no Biological
7 Resources Assessment shall be levied whenever the Trust Fund
8 account balance exceeds \$1,000,000 (1993 dollars).

9 b. Watermaster shall make funds held in the Biological
10 Resources Trust Fund available to DFG only in the event that
11 Groundwater levels are not maintained as set forth in Table H-2.
12 Watermaster shall take action to acknowledge any proposed
13 expenditure from the Biological Resources Trust Fund by DFG. Such
14 Watermaster action shall be subject to the review procedures set
15 forth in Paragraph 36 of the Judgment, provided that any motion
16 made pursuant thereto and any Court disapproval of such Watermaster
17 action and proposed DFG expenditure may be based only: 1) on the
18 ground that the Groundwater levels set forth in Table H-2 are being
19 maintained; and/or 2) the ground that the proposed expenditure is
20 not for any of the purposes set forth in Subparagraphs 3.b.(i),
21 (ii), or (iii) below in this Exhibit. The Biological Resources
22 Trust Fund may be used only for the following purposes and only in
23 the three areas identified on Figure H-1:

24 1. not to exceed \$100,000 for the preparation by DFG of
25 a DFG habitat water supply management plan, which plan shall
26 include the water needs of the species listed in Table H-1 and
27 the riparian habitat areas shown on Figure H-1.
28

1 ii. the purchase or lease by DFG of Supplemental Water
2 or the lease or purchase of DFG of Base Annual Production
3 Rights to be used to meet riparian habitat water needs of the
4 species listed in Table H-1 and the riparian habitat areas
5 shown on Figure H-1.

6 iii. the construction, repair and replacement of wells or
7 other facilities identified in the plan prepared pursuant to
8 Subparagraph (i), above, and/or any other measures necessary
9 to implement the plan.

10 DFG shall not prepare or make any expenditure from the trust fund
11 for the payment of administrative overhead or staff of DFG.

12 4. DFG agrees that absent substantial changed circumstances,
13 DFG shall not seek to modify the provisions of this Judgment in any
14 way to add to or change the above-stated measures to protect the
15 referenced species or habitat. Nothing stated in this Judgment or
16 in this Exhibit "H" is intended nor shall be deemed to relieve any
17 Party hereto from any obligation or obligations not specifically
18 referenced in this Exhibit H. Nothing in this Judgment or in this
19 Exhibit H is intended or shall be construed to be a waiver by the
20 State or any of its departments or agencies, including DFG, of its
21 rights and obligations under the common law, the public trust
22 doctrine, the constitution, statutes and regulations to preserve,
23 protect or enhance the natural resources of the State including
24 rare, threatened or endangered species or species of concern.

TABLE H-1

LIST OF SPECIES

SPECIES	ALTO			CENTRO		BAJA		
	Forks Dam to Upper Narrows	Upper Narrows to Lower Narrows	Lower Narrows to Helendale	Helendale to Hodge	Hodge to Barstow	Barstow to Harvard Road	Harvard Road to Mannix Wash	Afton Canyon
Purple Monkeyflower	6							
Mohave Monkeyflower	6		6	6	6	6		
Mohave Tarweed	5							
Desert Cymopterus	6							
Barstow Woolly Sunflower					6	6		
Victorville Shoulderband	6	6						
Mohave Tui Chub							1, 3	
California Red-legged Frog	6	6	6	6				
Southwestern Pond Turtle	6		6	6		6	6	6
Desert Tortoise	2, 4		2, 4	2, 4	2, 4	2, 4		
San Diego horned Lizard	6							
Cooper's Hawk	8	8						
Ferruginous Hawk	8	8						
Swainson's Hawk	4	4						
Bald Eagle	1, 3	1, 3						
Merlin	6, 8	6, 8						
Prairie Falcon	6, 8	6, 8	6, 8	6, 8	6, 8	6, 8		
Western Yellow-billed Cuckoo	3, 7			3, 7	3, 7			
Southwestern Willow Flycatcher	8							
Brown-crested Flycatcher		8						
Vermillion Flycatcher	8					8	8	8
Le Conte's Thrasher	8							
Least Bell's Vireo	1, 3							1, 3

TABLE H-1

LIST OF SPECIES
(CONT'D)

SPECIES	ALTO			CENTRO		BAJA		
	Forks Dam to Upper Narrows	Upper Narrows to Lower Narrows	Lower Narrows to Helendale	Helendale to Hodge	Hodge to Barstow	Barstow to Harvard Road	Harvard Road to Mannix Wash	Afton Canyon
Yellow Warbler	9							
Yellow-breasted Chat	8	8			8	8		
Summer Tanager	8	8						8
Pale Big Eared Bat	8							
Mohave Ground Squirrel	4, 6		4, 6	4, 6				
Mohave Vole			6	6				
Nelson's Bighorn Sheep					10	10		10
TOTAL NUMBER OF SPECIES = 30								
TOTAL NUMBER OF SPECIES IN EACH AREA:	25	11	7	8	7	8	3	5

- 1 = Federally Endangered
 2 = Federally Threatened
 3 = State Endangered
 4 = State Threatened
 5 = Federal Category: 1
 6 = Federal Category: 2
 7 = Federal Category: 3b
 8 = State: Special Concern
 9 = State: Sensitive
 10 = State: Fully Protected

TABLE H-2

**RIPARIAN HABITAT MONITORING WELL
WATER LEVEL CRITERIA**

ZONE	WELL NUMBER	MAXIMUM DEPTH BELOW GROUND
Victorville/Alto	H1-1	Seven (7) Feet
Victorville/Alto	H1-2	Seven (7) Feet
Lower Narrows/Transition	H2-1	Ten (10) Feet
Harvard/Eastern Baja Riparian Forest Habitat	H3-1	Seven (7) Feet
Harvard/Eastern Baja Surface Water Habitat	H3-2	Plus One (1) Foot (1705 Ft msl)*

- Surface Water Habitat water surface elevation of 1705 ft. msl is approximate pending ground elevation survey.

FIGURE H-1 VICTORVILLE -
ALTO RIPARIAN ZONE

LEGEND



Water Table Monitoring well

HI-2



Riparian Forest Habitat Area

SCALE



FIGURE H-1: LOWER NARROWS - TRANSITION RIPARIAN ZONE

LEGEND



Water Table Monitoring well
H1-1



Riparian Forest Habitat Area

SCALE

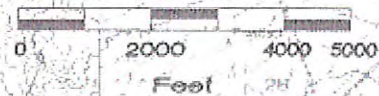


FIGURE H-1: LOWER
NARROWS-TRANSITION
RIPARIAN ZONE

LEGEND



Water Table Monitoring well

H2-1

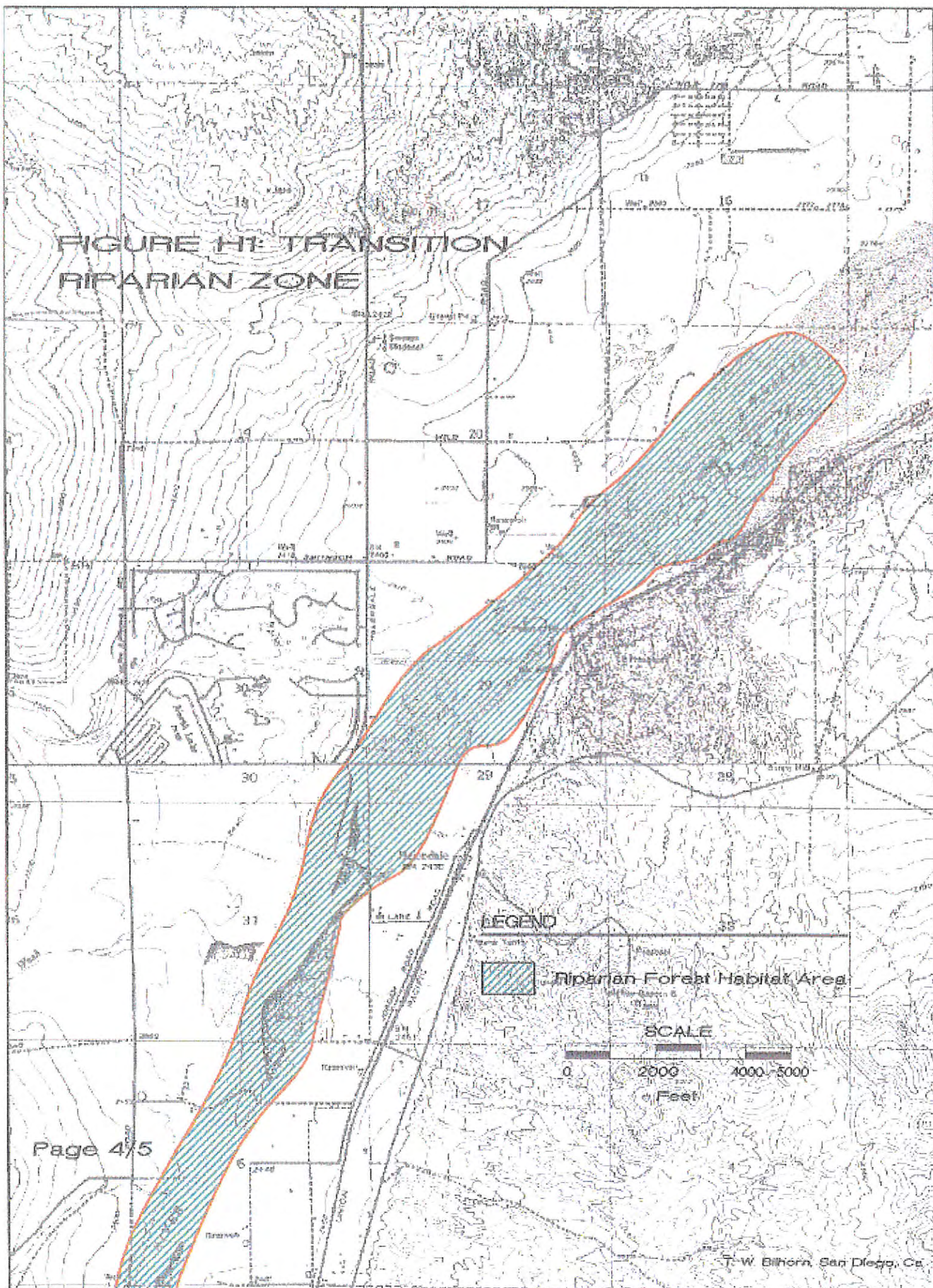


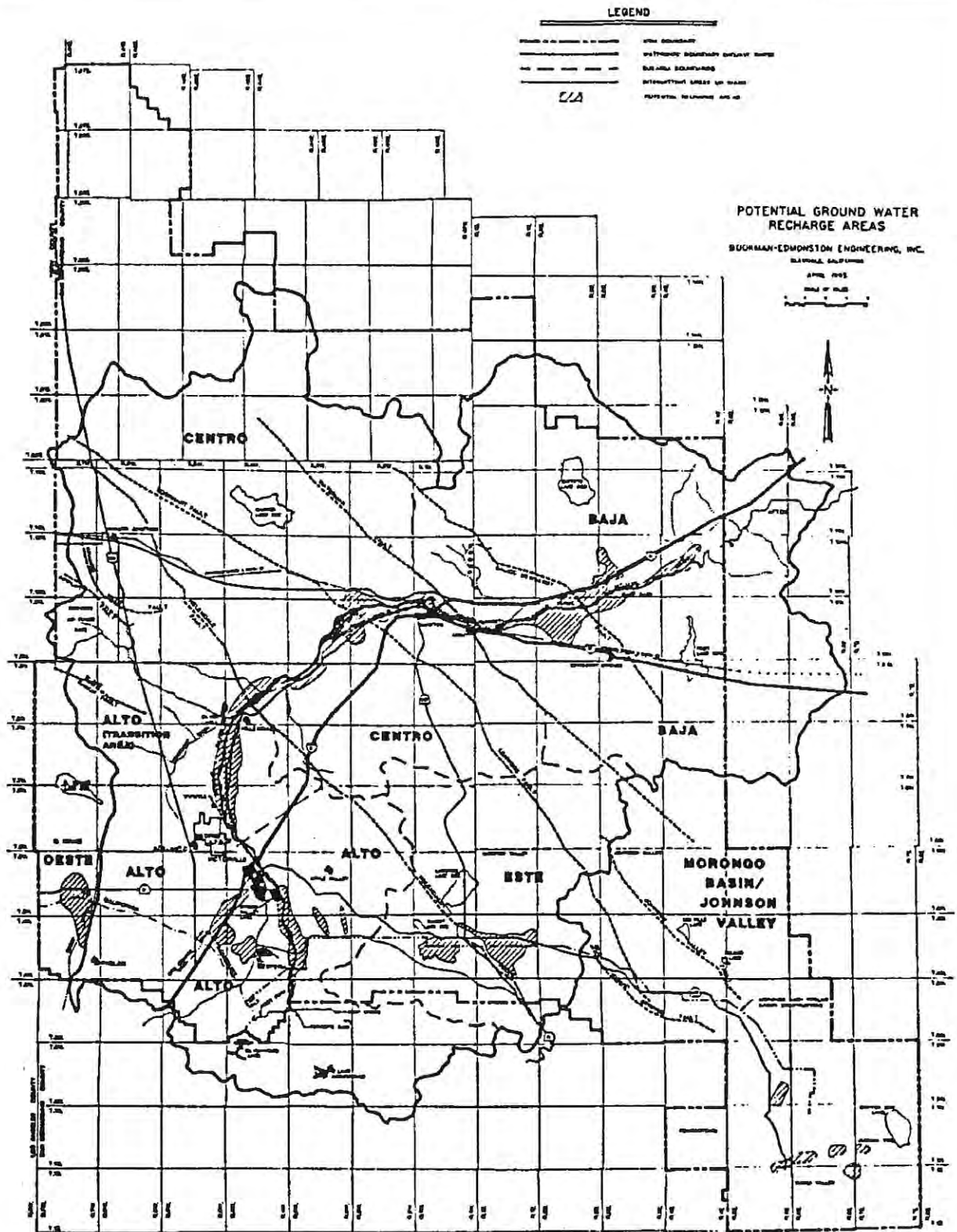
Riparian Forest Habitat Area

SCALE



FIGURE H1: TRANSITION RIPARIAN ZONE





MOJAVE WATER AGENCY

REGIONAL WATER MANAGEMENT PLAN

Exhibit C

MOJAVE BASIN AREA WATERMASTER

FOR
CITY OF BARSTOW, ET AL, VS. CITY OF ADELANTO, ET AL,
CASE NO. 208568 - RIVERSIDE COUNTY SUPERIOR COURT

MEMORANDUM

Date: April 22, 2020

To: Watermaster

From: Kathy Cortner, Interim Executive Officer

By: Robert C. Wagner, Watermaster Engineer

Re: Public hearing to receive comments and adopt the proposed recommendation for Free Production Allowance for Water Year 2020-21

Pursuant to paragraph 24 (o) of the Judgment After Trial dated January 10, 1996 the Watermaster is required to make a recommendation to the Court for adjustments to Free Production Allowance (FPA) in each Subarea as necessary.

The Court in its order for Water Year 2019-20 indicated that rampdown of FPA consistent with the Judgment be implemented for each Subarea.

Exhibit H of the Judgment provides that "In the event that the Free Production Allowance exceeds the estimated Production Safe Yield (PSY) by five percent or more, Watermaster shall recommend a reduction of the Free Production Allowance equal to a full five percent of the aggregate Subarea Base Annual Production." In 2018 an update to the Production Safe Yield and Consumptive Use for each subarea was completed at the court's request.

Watermaster notified all parties of its proposed recommendation for FPA on February 27, 2020 and March 26, 2020 and of the public hearing to receive comments and adopt the proposed FPA on April 22, 2020.

Watermaster is recommending FPA be set as follows for Water Year 2020-21:

<u>Subarea</u>	<u>Proposed 2020-21 Free Production Allowance</u>
Alto – Agriculture	70% of Base Annual Production
Alto – Municipal & Industrial	55% of Base Annual Production
Centro	70% of Base Annual Production
Baja	25% of Base Annual Production
Este	70% of Base Annual Production
Oeste	70% of Base Annual Production

The Judgment's purpose is to balance supply and demand and allocate the cost to parties that over pump FPA. The purpose of Rampdown is not to cause a reduction in pumping but a reduction in FPA to cause imported water supply to be purchased to offset deficits.

**Alto – 55% of BAP for M&I
70% of BAP for Agriculture**

FPA in Alto is within 5% of PSY of BAP (2.1%). Municipal and Industrial (M&I) producers' FPA is within 5% of the indicated PSY at the current level of 55%. It is recommended that Agricultural producers' FPA be reduced by 5% to 70% for Water Year 2020-21. M&I FPA will remain at 55% for Water Year 2020-21. During 2018-19, inflow measured at Deep Creek and West Fork Mojave River (the forks), was about 139% of base period average however the average water supply during the recent 8-year period 2012 to 2019, was only 44.9% of the long-term average. Sustained periods of below average inflow will cause continued water level declines. Rampdown for M&I producers is not recommended at this time in Alto based on the requirements of Exhibit H of the Judgment, however, future reductions in FPA might be necessary to offset deficits, reverse declining water levels and mitigate other possible negative effects if dry climate conditions persist.

Centro – 70% of BAP

FPA in Centro exceeds PSY by more than 5% of BAP (34.5%). Water levels in Centro are stable in most of Centro, and generally respond to storm flow when available in sufficient amounts to partially recharge the aquifer. However, in some areas, localized pumping causes water levels to be depressed. In order to balance FPA with PSY under the Judgment additional Rampdown is required. It is recommended that Centro FPA be reduced by 5% to 70% for Water Year 2020-21.

Baja – 25% of BAP

FPA in Baja exceeds PSY by more than 5% of BAP (14.0%). Overdraft continues as water levels continue to fall. Continuous declines result from pumping in excess of supply. It is recommended that FPA be reduced by 5% to 25% for Water Year 2020-21.

Este – 70% of BAP

FPA in Este exceeds PSY by more than 5% of BAP (52.9%). Water levels in Este have been stable as water production has declined. Water production has declined in Este from 15,700 acre-feet in 1990 to 4,029 acre-feet in 2019. In order to balance FPA with PSY under the Judgment additional Rampdown is required. It is recommended that Este FPA be reduced by 5% to 70% for Water Year 2020-21.

Oeste – 70% of BAP

FPA in Oeste exceeds PSY by more than 5% of BAP (51.7%). Some water levels in Oeste exhibit steady decline and others are stable, although variable, over the past 15 years. Water levels in Oeste wells will decline as population growth increases water demands. In order to balance FPA with PSY under the Judgment additional Rampdown is required. It is recommended that Oeste FPA be reduced by 5% to 70% for Water Year 2020-21.

Action:

Staff recommends that the Watermaster conduct a public hearing to receive comments, adopt the proposed Free Production Allowances for the Este, Oeste, Alto, Centro and Baja Subareas and direct legal counsel to request a hearing with the Court to consider the proposed Free Production Allowances for Water Year 2020-21.

Watermaster Action: _____
Conditions: _____
Date: _____
Executive Officer: _____

MOJAVE BASIN AREA WATERMASTER

FOR
CITY OF BARSTOW, ET AL, VS. CITY OF ADELANTO, ET AL,
CASE NO. 208568 - RIVERSIDE COUNTY SUPERIOR COURT

NOTICE

MEMORANDUM

Date: February 27, 2020

To: **Mojave Basin Area Water Producers**

From: Valerie Wiegenstein
Watermaster Services Manager

Re: Proposed Administrative Budget for Fiscal Year 2020-21
Assessment Rates for Water Year 2020-21
Draft Watermaster Annual Report for Water Year 2018-19, including Appendix B
Proposed Free Production Allowance for Water Year 2020-21

Enclosed is a copy of the proposed Administrative Budget for Fiscal Year 2020-21 and Assessment Rates for Water Year 2020-21 and a draft of Appendix B showing verified water production and Replacement and Makeup Water Obligations and Assessments for Water Year 2018-19. Appendix B is preliminary and may change. A final draft of Appendix B will be included in the final draft of the Watermaster Annual Report that will be presented to the Watermaster on March 25, 2020.

In addition, the Watermaster's Draft Annual Report is now available for review at the offices of the Mojave Water Agency (MWA). The draft report may also be viewed and/or downloaded from the MWA website at: <http://www.mojavewater.org/files/26DraftAR1819.pdf>.

The Watermaster is required by the Judgment to recommend the Free Production Allowance (FPA) that will be in effect in each Subarea for Water Year 2020-21. The Watermaster is currently proposing the following FPA in each Subarea. Further orders from the Court may change the final FPA for Water Year 2020-21.

<u>Subarea</u>	<u>FPA Recommendation</u>
Este	70% of Base Annual Production
Oeste	70% of Base Annual Production
Alto – Agriculture	70% of Base Annual Production
Alto – Municipal & Industrial	55% of Base Annual Production
Centro	70% of Base Annual Production
Baja	25% of Base Annual Production

The Watermaster will hold a public hearing on March 25, 2020 at 4:30 p.m. to receive comments and adopt the following:

- Proposed Administrative Budget for Fiscal Year 2020-21
- Assessment Rates for Water Year 2020-21
- Draft Watermaster Annual Report for Water Year 2018-19, including Appendix B
- Proposed Free Production Allowance for Water Year 2020-21

Enclosures: 1. Proposed Administrative Budget for Fiscal Year 2020-21 and Assessment Rates for Water Year 2020-21
2. Draft Appendix B for Water Year 2018-19

MOJAVE BASIN AREA WATERMASTER

FOR
CITY OF BARSTOW, ET AL, VS. CITY OF ADELANTO, ET AL,
CASE NO. 208568 - RIVERSIDE COUNTY SUPERIOR COURT

NOTICE

MEMORANDUM

Date: March 26, 2020

To: **Mojave Basin Area Water Producers**

From: Valerie Wiegenstein
Watermaster Services Manager

Re: Proposed Administrative Budget for Fiscal Year 2020-21
Assessment Rates for Water Year 2020-21
Draft Watermaster Annual Report for Water Year 2018-19
→ Proposed Free Production Allowance for Water Year 2020-21

The Watermaster meeting and public hearings scheduled for March 25, 2020 at 4:30 p.m. were cancelled due to a lack of quorum of the Board due to teleconferencing technical difficulties. The Public Hearings will now be held at the Watermaster meeting of April 22, 2020 at 4:30 p.m.

On the back of this notice is the proposed Administrative Budget for Fiscal Year 2020-21 and Assessment Rates for Water Year 2020-21. The Watermaster's Draft Annual Report dated February 26, 2020 is available for review and may be viewed and/or downloaded from the MWA website at: <http://www.mojavewater.org/files/26DraftAR1819.pdf>.

The Watermaster is required by the Judgment to recommend the Free Production Allowance (FPA) that will be in effect in each Subarea for Water Year 2020-21. The Watermaster is currently proposing the following FPA in each Subarea. Further orders from the Court may change the final FPA for Water Year 2020-21.

<u>Subarea</u>	<u>FPA Recommendation</u>
Este	70% of Base Annual Production
Oeste	70% of Base Annual Production
Alto – Agriculture	70% of Base Annual Production
Alto – Municipal & Industrial	55% of Base Annual Production
Centro	70% of Base Annual Production
Baja	25% of Base Annual Production

The Watermaster will hold a public hearing on April 22, 2020 at 4:30 p.m. to receive comments and adopt the following:

- **Proposed Administrative Budget for Fiscal Year 2020-21**
- **Assessment Rates for Water Year 2020-21**
- **Draft Watermaster Annual Report for Water Year 2018-19, including Appendix B**
- **Proposed Free Production Allowance for Water Year 2020-21**

Attachment: Proposed Administrative Budget for Fiscal Year 2020-21 and Assessment Rates for Water Year 2020-21 (on back)



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
787 North Main Street, Suite 220
Bishop, CA 93514
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 17, 2020

Mojave Basin Area Watermaster
Mojave Water Agency
13846 Conference Center Drive
Apple Valley, CA 92307-4377

Subject: Watermaster Proposed Recommendation for Free Production Allowance
for Water Year 2020-2021

Dear Watermaster Board Members,

The California Department of Fish and Wildlife (Department) has reviewed the memorandum entitled "Proposed Recommendation for Free Production Allowance for Water Year 2020-2021" prepared by Robert C. Wagner, Watermaster Engineer, dated February 26, 2020 and the two Watermaster Engineer slideshow presentations at the February 26, 2020 Watermaster Board meeting entitled "FPA Recommendation for Water Year 2020-21" and "Updated Consumptive Use and proposed Production Safe Yield for each Subarea."

The Department is the state trustee agency for the fish and wildlife resources of the state and is a party to the Judgment After Trial, dated January 10, 1996 (Judgment). In addition, the Department is a landowner in two of the five subareas as shown in Exhibit A of the Judgment, the Baja and Alto Subareas, and is an ex-officio member of both Subarea Advisory Committees. In the Baja Subarea, the Department owns the Camp Cady Wildlife Area (Camp Cady) and in the Alto Subarea the Department owns the Mojave Narrows Regional Park and Mojave River Fish Hatchery.

The Department initially purchased Camp Cady in 1979 and then expanded its ownership through the purchase of the Hilarides parcel in 2001. Camp Cady consists of 1,866 acres for the public and was purchased for a total cost of \$2,046,481 in state bonds. The original 1979 acquisition had extensive surface water and riparian habitat when it was acquired. The continued decline in water levels in the Baja Subarea since 1979 has had a significant negative effect on the biological resources at Camp Cady and in the Baja Subarea more generally.

The Department purchased the Mojave Narrows Regional Park in 1968 in large part for the extensive riparian habitat existing along the Mojave River which flows through the park. The Department entered into a cooperative agreement for the Operation and Maintenance of the Mojave Narrows Regional Park (also known as the Mojave River Wildlife Area) with the County of San Bernardino in August of

Conserving California's Wildlife Since 1870

1969. Further, the Mojave River Fish Hatchery was purchased in December of 1969 and is currently managed by the Department as a fish hatchery.

The Department has been actively involved every year since the entry of the Judgment in 1996 in seeking to protect the Mojave Basin Area, protecting publicly owned lands and key habitat and species in the Mojave Basin Area, working to match production in the Baja Subarea and other Subareas to available natural inflows and return flows, implementing water conservation measures and urging compliance with the Judgment. The annual rampdown hearing was held on June 26, 2019. After careful review, Judge Riemer signed an Order on July 23, 2019 to continue the Judgment's required rampdown in the Baja Subarea, recognizing the continued decline in groundwater levels in the Baja Subarea.

WATERMASTER RECOMMENDATION

The Department has reviewed the Watermaster Engineer's analysis and conclusions, as well as his recommendations for production levels in the 2020-2021 Water Year. At this time, the Department agrees with the Watermaster Engineer's conclusions that pursuant to the Judgment and based upon the continuing declining water levels in the Baja Subarea, the continuing overdraft and the unsustainable conditions, additional Rampdown in the Baja Subarea is warranted. The Watermaster Engineer has concluded that the Free Production Allowance (FPA) exceeds the Production Safe Yield (PSY) by 14% of Base Annual Production (BAP) and current water production and consumptive use exceed the average net long-term supply in the Baja Subarea.

Pursuant to paragraph 24(o) and Exhibit H of the Judgment, "[i]n the event that the Free Production Allowance exceeds the estimated Production Safe Yield by five percent or more, Watermaster shall recommend a reduction of the Free Production Allowance equal to a full five percent of the aggregate Subarea Base Annual Production." The Judgment therefore requires a rampdown of 5% in the Baja Subarea to 25% for Water Year 2020-21 and Watermaster Engineer recommends that the rampdown continue in 5% increments as required by the Judgment until the FPA is within 5% of the PSY.

The Department agrees with the Watermaster Engineer's recommendation that FPA in the Baja Subarea be set at 25% for the Water Year 2020-21 because, among other things, the continued overdraft in the Baja Subarea will cause continued depletion of the groundwater in the Baja Subarea and will further damage riparian resources at Camp Cady. This position is also based upon an additional analysis conducted by the Department that 1) water levels have declined in and around Camp Cady during the past nine years; 2) the five year alternative 2 ½% Rampdown pursuant to this Court's 2010 Order and the other alternative approaches to

implementation of the Judgment, have not resulted in a healthy and sustainable groundwater basin.

The Department also believes that the 2015 Court Order to return to the Judgment and implement the full 5% Rampdown in Baja is again supported this year by the Watermaster Engineer's evidence. A full 5% rampdown would be consistent with the Court's own conclusion reached in 2008 when it lifted a 10-year moratorium and stated: "Baja shall return to the Judgment and its provisions as the operative management strategy."

Additionally, the Watermaster has proposed rampdown in Alto (Ag only), Centro, Este, and Oeste. The Department supports rampdown in these basins until the FPA is within 5% of the PSY as required by the Judgment.

ADDITIONAL ACTIVITIES

The Department has also been engaged in numerous activities during the past year to achieve water conservation within the Mojave Basin Area. The Department requested funding for six projects utilizing the Biological Resources Trust Fund. The first project was the allocation of \$45,000, approved at the September 25, 2019 Mojave Water Agency (MWA) Watermaster Board meeting, for continuation of the Camp Cady Riparian Restoration Project. Quail Forever is the lead entity for a 5 acre pilot study working cooperatively with the Department, MWA, Mojave Desert Resource Conservation District (MDRCD) and the Natural Resources Conservation Service. The project site is situated in the Camp Cady Wildlife Area on the south side of the Mojave River. The project entails planting 11 different native riparian species in 20 replicated transects placed along irrigated drip lines and monitored for survival and productivity. An interim progress report was prepared in Spring 2019 summarizing the fourth year's results.

The second project utilizing the Biological Resources Trust Fund was the allocation of \$30,000, approved at the September 25, 2019 MWA Watermaster Board meeting, for the Mojave River Fuels Reduction and Weed Eradication project. Work is being anticipated this coming spring using California Department of Forestry and Fire Protection crews and a contractor to remove weeds and break down excessive fuel loading along the perimeter of the Mojave River to reduce fuel loading in case of a fire. All work will take place within the area outlined in Exhibit H of the Judgment.

The third project utilizing the Biological Resources Trust Fund was the allocation of \$45,000, approved at the September 25, 2019 MWA Watermaster Board meeting, for Western Pond Turtle surveys at the newly acquired Palisades Ranch and to continue monitoring of radio collared pond turtles. The Department is collaborating with the United States Geological Survey to assess the presence/absence of

Western Pond Turtles at Camp Cady Wildlife Area and other areas along the Mojave River, assess habitat conditions and provide habitat improvement recommendations and a possible reintroduction strategy if needed.

The fourth project utilizing the Biological Resources Trust Fund was the allocation of \$3,000, approved at the September 25, 2019 MWA Watermaster Board meeting, for repairs as needed of a leaking pivot sprinkler system that is operated by a well at the Bluff Unit of the Camp Cady Wildlife Area. The project will maintain the pivot in good condition and prevent the waste of water.

The fifth project utilizing the Biological Resources Trust Fund was the allocation of \$148,549.25, approved at the January 23, 2019 MWA Watermaster Board meeting, for the purchase of BAP to be used by the Mojave Desert Land Trust for the Palisades Ranch property. This transaction was completed in June of 2019.

The sixth project utilizing the Biological Resources Trust Fund was the allocation of up to \$2,500 to provide funding for Mojave Water Agency to obtain an encroachment permit and perform traffic control for worker safety in order to access the H1-2 Mojave Narrows Park Wells at the Mojave Narrows Regional Park. Mojave Water Agency is in the process of implementing this project.

In addition to the projects described above, Department staff attended either in person or on the phone one Watermaster meeting on March 15, 2019 at the MWA, an Alto Subarea Committee meeting on July 24, 2019, Baja Workshops on May 6 and November 14, 2019, the Court hearing on July 26, 2019 and a status conference on October 17, 2019.

The Department is continually exploring opportunities for assisting in the sustainability of the Mojave Basin and the Baja Subarea. In addition to supporting rampdown of Baja at this time, the Department continues to evaluate with the Watermaster and other Parties all approaches, both short term and long term, to bring the entire Basin into balance and to help stop the decline in water levels each year from existing pumping in the Baja Subarea, and other Subareas.

Thank you for this opportunity to initially communicate the Department's support of the Watermaster Engineer's conclusion that a five per cent (5%) rampdown of FPA in the Baja, Alto (Ag only), Centro, Este, and Oeste Subareas is warranted by the terms of the Judgment. The Department will be attending the March 2020 Watermaster meeting as this matter is formally discussed and considered by the Watermaster Board.

Sincerely,



Alisa Ellsworth
Senior Environmental Scientist
Inland Deserts Region

cc:

CDFW

Chris Hayes
Nancee Murray
Ashley Rosales

Department of Justice

Marilyn H. Levin
Noah GoldenKrasner

DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **City of Barstow, et al. v. City of Adelanto, et al., and All Related Cross Actions**

Case No.: **CIV 208568**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On May 29, 2020, I served the attached **DECLARATION OF ALISA ELLSWORTH IN SUPPORT OF THE DEPARTMENT OF FISH AND WILDLIFE'S RESPONSE TO WATERMASTER'S MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR THE 2020-2021 WATER YEAR** by placing a true copy thereof enclosed in a sealed envelope with the **Federal Express overnight courier service**, addressed as follows:

William J. Brunick, Esq.
Brunick, McElhaney & Beckett
1839 Commercenter West
San Bernardino, CA 92412

Valerie Wiegenstein
Watermaster Services Manager
Mojave Water Agency
13846 Conference Center Drive
Apple Valley, CA 92307

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 29, 2020, at Los Angeles, California.

Beatriz Davalos

Declarant



Signature



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Delivery Confirmation

Submission ID		Date Received		
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3631 10th Street		Riverside	CA	92501
Phone Number	Fax Number	Company / Agency		
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Email Address				
RIV@ACELEGAL.COM				
New Case	Case Number	Case Type	Court Location	
No	CIV208568	Civil	Riverside	
Fee Waiver or Other Exemption				
Exempt Pursuant to G.C. §6103				
Filing as an Attorney	Bar Number	Attorney for		
No				
Documents				
1 Memorandum of Points and Authorities				
2 Declaration of Alisa Ellsworth				
3 Declaration of Kit Custis				
Notes / Special Instructions				
IMPORTANT: This document serves as a confirmation of delivery only and the submitted documents have not yet been processed and/or filed by the Superior Court of California, County of Riverside.				

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 June 1, 2020, 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:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE'S MEMORANDUM OF POINTS AND AUTHORITIES IN RESPONSE TO WATERMASTER'S MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR WATER YEAR 2020-2021

DECLARATION OF ALISA ELLSWORTH IN SUPPORT OF THE DEPARTMENT OF FISH AND WILDLIFE'S RESPONSE TO WATERMASTER'S MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR THE 2020-2021 WATER YEAR

DECLARATION OF KIT CUSTIS IN SUPPORT OF THE DEPARTMENT OF FISH AND WILDLIFE'S RESPONSE TO WATERMASTER'S MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR THE 2020-2021 WATER YEAR

 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 June 1, 2020 at Apple Valley, California.



Valerie Wiegstein

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Attn: Doug and Cheryl Hamilton
Hamilton Family Trust
19945 Round Up Way
Apple Valley, CA 92308-8338

Attn: William Handrinos
Handrinos, Nicole A.
1140 Parkdale Rd.
Adelanto, CA 92301-9308

Attn: Donald F. Hanify
Hanify, Michael D., dba - White Bear Ranch
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Yermo, CA 92398-1021

Attn: Matt Wood (Matt.Wood@Hanson.com)
Hanson Aggregates WRP, Inc. (via email)
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23920 Community Blvd.
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Attn: Neal Davies (jfaubus@terra-gen.com;
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Mojave Basin Area Watermaster Service List as of June 01, 2020

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Hert, Scott
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Attn: Jeremy McDonald
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Hesperia - Golf Course, City of (via email)
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Hesperia, CA 92345-3493

Attn: Janie Martines (Jmartines@tvglc.com)
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Attn: Jeremy McDonald
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Attn: Jeremy McDonald
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Attn: Gretchen Horton
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Mojave Basin Area Watermaster Service List as of June 01, 2020

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Mojave Basin Area Watermaster Service List as of June 01, 2020

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Attn: Billy Liang
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Attn: Sepoong & Woo Poong Lee
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Irvine, CA 92620-

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Mojave Basin Area Watermaster Service List as of June 01, 2020

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Maloney, Janice
42525 Silver Valley Road
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Manning, Sharon S.
19332 Balan Road
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Mojave Basin Area Watermaster Service List as of June 01, 2020

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Núñez, Luis Segundo
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Mojave Basin Area Watermaster Service List as of June 01, 2020

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