

William J. Brunick, Esq. (State Bar No 46289)
Leland P. McElhaney, Esq. (State Bar No. 39257)
BRUNICK, McELHANEY & KENNEDY PLC
1839 Commercenter West
San Bernardino, California 92408-3303

MAILING:
P.O. Box 13130
San Bernardino, California 92423-3130

Telephone: (909) 889-8301
Facsimile: (909) 388-1889

Attorneys for Defendant/Cross-Complainant
MOJAVE WATER AGENCY

NO FEE PER GOV'T. CODE SEC. 6103

FILED
Superior Court of California
County of Riverside

6/29/2020
C. Ortiz
Electronically Filed

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF RIVERSIDE**

CITY OF BARSTOW, et al.,

Plaintiff,

vs.

CITY OF ADELANTO, et al.,

Defendant,

CASE NO. CIV 208568

**WATERMASTER'S RESPONSE TO
ORDER RE POSSIBLE
CORRECTIONS (1) TO JUDGMENT
AFTER TRIAL AND (2) TO
AMENDMENT TO JUDGMENT
AFTER TRIAL**

**Assigned for All Purposes to:
Judge Craig G. Riemer
Dept. 1**

AND RELATED CROSS ACTIONS

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

Mojave Water Agency, acting in its capacity as the Mojave Basin Area Watermaster, submits the following response to the Court Order re possible corrections (1) to Judgment After Trial and (2) Amendment to Judgment After Trial (dated April 21, 2020).

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I.

CORRECTIONS TO THE JUDGMENT AFTER TRIAL

The Watermaster concurs that the missing pages of the Judgment After Trial attached as Exhibit 1 to the Court's Order should be inserted into the original paper version and the electronic version in the Court's archive.

The Watermaster believes that the missing pages should be inserted into the archived paper copy and that the entire document should be rescanned into a complete document. The existing image should then be replaced in the Court's electronic file with the rescanned *complete* document.

II.

OTHER POSSIBLE CLERICAL ERROR IN JUDGMENT AFTER TRIAL

The two pages from Exhibit B, Table B-1 of the Judgment After Trial attached as Exhibit 2 of the Court's Order were amended with footnotes to clarify the Base Annual Production (BAP) for two Parties to the Judgment and both pages were intended to replace the corresponding pages in the Judgment.

Based on Watermaster's files in 1995, the footnotes added to the Table B-1 pages were to clarify the issue described below:

On page 11, the added footnote indicates that a portion of the BAP for Van Burger, Carl was claimed by another Party, Industrial Asphalt. Their litigation was ongoing at the time of trial. The two Parties stipulated to and on May 23, 1995, Judge Kaiser ordered "(1) the first amended cross-complaint filed by Ernest Durston is dismissed without prejudice, (2) Industrial Asphalt and CVB Investments Company, Inc may file their cross-complaints regarding ownership of the Base Annual Production Right attributed to the Durston well in the Stipulation for Entry of Judgment entered in the above captioned case, and (3) The Industrial Asphalt/CVB Investments Company, Inc cross-complaints are severed from the remaining proceedings in the main action for purposes of discovery and all proceedings up to the entry of Judgment. The Industrial Asphalt/CVB cross-complaints will not be permitted to in any way interfere with the ongoing trial regarding the proposed physical solution in the

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II.

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above-captioned case.” This dispute was not resolved until July 24, 1999 when Judge Kaiser made his final ruling on the matter.

* * * *

On page 14, it was noted that the property that was owned by Aztec Farm Development Company (Aztec) was purchased by Virgil Gorman. Aztec stipulated to the Judgment on July 22, 1993 but Virgil Gorman did not stipulate to the Judgment. After the trial it was determined that the property was no longer owned by Aztec and that Virgil Gorman had purchased the property.

The purpose of Exhibit 2 as an attachment of the Judgment After Trial is to properly reflect the correct Base Annual Production of the parties, which was at issue among: Van Burger, Industrial Asphalt, Durston and CVB Investments Company, Inc. and to reflect the then current name of the owner of the BAP in the case of Virgil Gorman.

Watermaster believes that the amended pages were intended to be part of the Judgment by Judge Kaiser and the parties, and that the omission of the amended pages from the Judgment was clerical error and should be corrected.

III.

PROPOSED CORRECTION TO AMENDMENT TO JUDGMENT AFTER TRIAL

The Watermaster concurs that the amendment to the Judgment After Trial was to add paragraphs 19(a) and 19(b) and agrees that the following amendment language should be inserted immediately following paragraph 19 on page 24.

Amendment Language

Paragraph 19(a):

Pursuant to the direction of the California Supreme Court and the Court of Appeal, as set forth in the Stipulation for Settlement entered in the Court of Appeal on August 6, 2002, Neil DeVries, Virgil Gorman, Richard Leyerly, Geneva Leyerly, Jerry Osterkamp, David and Elizabeth Daily, Richard (deceased) and Elaine Fitzwater, Robert T. and Barbara T. Older and Steve Older, collectively referred to as the "Cardozo Appellants" are, except as provided in this

1 paragraph, excluded from this Judgment and they are not bound by any of the provisions of this
2 Judgment. As overlying owners, the Cardozo Appellants have the right to pump water from the
3 ground underneath their respective lands for their current and prospective reasonable and
4 beneficial need for water on their respective properties

5 Therefore, the parties who stipulated to this Judgment are hereby enjoined and
6 restrained from interfering with the Cardozo Appellants' ability to exercise their overlying
7 water rights for their current and prospective reasonable and beneficial need for water on their
8 respective properties.

9 If parties who stipulated to the Judgment are in full compliance with the Judgment,
10 there shall be a rebuttable presumption that the Cardozo Appellants' water rights are not being
11 interfered with.

12 Each individual Cardozo Appellant shall have the right at any time, by written election
13 filed with the Court and served on the Mojave Water Agency to become a stipulating party to
14 the Judgment. If such an election is made, that party shall be accorded Base Annual
15 Production shown on Table B-1 of Exhibit "B", subject to any rampdown then or thereafter in
16 effect, but shall have no liability with respect to any assessments which were made, or which
17 could have been made, before the date of the election.

18 The provisions of this paragraph are binding upon and inure to the benefit of not only
19 the Cardozo Appellants, but as well as to the respective heirs, executors, administrators,
20 successors, assigns, lessees, licensees and to the agents, employees and attorneys-in-fact of any
21 of the Cardozo Appellants.

22 Paragraph 19(b):

23 Jess Ranch Water Company has stipulated to the Judgment of January 10, 1996, as set
24 forth in the Stipulation and Intervention and Entry of Judgment filed in the Riverside County
25 Superior Court on August 23, 2002.

26 *****
27
28

1 The Watermaster concurs with the Court that correcting the Amendment to the Judgment After
2 Trial by deleting lines 18 through 20 on page one, and replacing with the following language is
3 appropriate:

4 “The Judgment After Trial, filed and entered January 10, 1996 in the above captioned
5 matter is hereby corrected nunc pro tunc by inserting the following paragraphs 19(a)
6 and 19(b) immediately following paragraph 19 on page 24.”

7 **IV.**

8 **CONCLUSION**

9 As of the date of this filing, Watermaster has not received any objections to the Court’s Order.¹

10
11 Dated: June 29, 2020

BRUNICK, McELHANEY & KENNEDY PLC

12
13 BY: 
14 WILLIAM J. BRUNICK, ESQ.
15 LELAND P. McELHANEY, ESQ.
16 Attorneys for Defendant/Cross-Complainant,
17 MOJAVE WATER AGENCY
18
19
20
21
22
23
24
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26
27 ¹ At the direction of the Court, the Watermaster has served copies of this Order on the parties
28 on May 26, 2020. A Notice of Serving Court’s Minute Orders was filed via e-submit on May 27,
2020.



eSubmit – Document Submission Portal

Delivery Confirmation

Submission ID		Date Received	
10311606		6/29/2020 1:30:30 PM	
First Name		Middle Name	Last Name
William		J	Brunick
Street Address		City	State Zip
1839 Commercenter West		San Bernardino	CA 92408
Phone Number	Fax Number	Company / Agency	
(909) 889-8301		Brunick, McElhaney & Kennedy	
Email Address			
jquihuis@bmklawplc.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	
Yes	46289	Mojave Water Agency	
Documents			
1 Watermaster's Response To Order RE Possible Corrections (1) To Judgment After Trial and (2) To Amendment To Judgment After Trial			
2 Notice of Filing Draft Stipulation For Intervention and Entry of Judgment and Draft Proposed Order Granting Request To Intervene			
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.

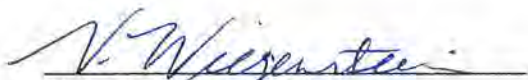
On June 29, 2020, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing 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:

WATERMASTER'S RESPONSE TO ORDER RE POSSIBLE CORRECTIONS (1) TO JUDGMENT AFTER TRIAL AND (2) TO AMENDMENT TO JUDGMENT AFTER TRIAL

 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 29, 2020 at Apple Valley, California.


Valerie Wiegstein

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Roberto Munoz
35250 Yermo, LLC
11273 Palms Blvd., Ste. D.
Los Angeles, CA 90066-2122

Attn: John McCallum
Abshire, David V.
P. O. Box # 2059
Lucerne Valley, CA 92356-2059

Attn: Daniel Best
Adelanto, City Of
11600 Air Expressway
Adelanto, CA 92301-1914

(adesdevon@gmail.com)
Ades, John and Devon (via email)

Attn: Kent T. Christensen
(Kchristensen@ducommun.com)
Aerochem, Inc. (via email)
4001 El Mirage Rd.
El Mirage, CA 92301-9489

Attn: Lori Clifton
(lclifton@robarenterprises.com)
Agcon, Inc. (via email)
17671 Bear Valley Road
Hesperia, CA 92345-4902

Attn: Chun Soo and Wha Ja Ahn
(chunsooahn@naver.com)
Ahn Revocable Living Trust (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Attn: Simon Ahn (ssahn58@gmail.com)
Ahn Revocable Trust (via email)
29775 Hunter Road
Murrieta, CA 92563-6710

Attn: David Ahn (davidahnmd@gmail.com,
chunsooahn@naver.com)
Ahn, Chun Soo and David (via email)
19130 San Jacinto Way
Apple Valley, CA 92308-6748

Attn: Chun Soo Ahn (chunsooahn@naver.com)
Ahn, Chun Soo and Wha Ja (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Ake, Charles J. and Marjorie M.
2301 Muriel Drive, Apt. 67
Barstow, CA 92311-6757

Attn: Paul Tsai (paul@ezzlife.com)
America United Development, LLC (via email)
19625 Shelyn Drive
Rowland Heights, CA 91748-3246

Attn: Ana Chavez
American States Water Company
1920 W. Corporate Way
Anaheim, CA 92801-5373

Anderson, Ross C. and Betty J.
13853 Oakmont Dr.
Victorville, CA 92395-4832

Attn: Daniel B. Smith (avfwd@hotmail.com)
Apple Valley Foothill County Water District
(via email)
22545 Del Oro Road
Apple Valley, CA 92308-8206

Attn: Matthew Patterson
Apple Valley Heights County Water District
P. O. Box 938
Apple Valley, CA 92308-0938

Attn: Mathew Schulenberg
Apple Valley Unified School District
12555 Navajo Road
Apple Valley, CA 92308-7256

Attn: Emely and Joe Saltmeris
Apple Valley View Mutual Water Company
P. O. Box 3680
Apple Valley, CA 92307-0072

Attn: Tina Kuhns
Apple Valley, Town Of
14955 Dale Evans Parkway
Apple Valley, CA 92307-3061

Attn: David L. Penrice
(dpenrice@acmwater.com)
Aqua Capital Management, LP (via email)
7914 W. Dodge Rd., Ste. 482
Omaha, NE 68114-3417

Archibek, Eric
41717 Silver Valley Road
Newberry Springs, CA 92365-9517

Attn: Blaine Bilderback
(Blaine.Bilderback@bnsf.com)
Atchison, Topeka, Santa Fe Railway Company
(via email)
2301 Lou Menk Dr. GOB-3W
Fort Worth, TX 76131-2825

Attn: Blaine Bilderback
Atchison, Topeka, Santa Fe Railway Company
2301 Lou Menk Drive, GOB-3W
Fort Worth, TX 76131-2825

Avila, Angel and Evalia
1523 S. Visalia
Compton, CA 90220-3946

Attn: Sheré R. Bailey
(LegalPeopleService@gmail.com)
Bailey 2007 Living Revocable Trust, Sheré R.
(via email)
10428 National Blvd
Los Angeles, CA 90034-4664

Attn: Daniel Shaw (barhwater@gmail.com)
Bar H Mutual Water Company (via email)
P. O. Box 844
Lucerne Valley, CA 92356-0844

Barber, James B.
43774 Cottonwood Road
Newberry Springs, CA 92365

Attn: Casey Slusser
(barlenwater@hotmail.com;
casey.slusser@gmail.com)
Bar-Len Mutual Water Company (via email)
P. O. Box 77
Barstow, CA 92312-0077

Attn: Curtis Palmer
Baron, Susan and Palmer, Curtis
141 Road 2390
Aztec, NM 87410-9322

Attn: Jennifer Riley (hriley@barstowca.org)
Barstow, City of (via email)
220 East Mountain View Street -Suite A
Barstow, CA 92311

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Barbara Davison
Bass Trust, Newton T.
14924 Chamber Lane
Apple Valley, CA 92307-4912

Attn: Remo E. Bastianon
Bastianon Revocable Trust
9484 Iroquois Rd.
Apple Valley, CA 92308-9151

Attn: Mike Beinschroth
(Beinschroth@gmail.com)
Beinschroth Family Trust (via email)
18794 Sentenac
Apple Valley, CA 92307-5342

Beinschroth, Andy Eric
6719 Deep Creek Road
Apple Valley, CA 92308-8711

Attn: Chuck Bell (chuckb@sisp.net)
Bell, Charles H. Trust dated March 7, 2014
(via email)
P. O. Box 193
Lucerne Valley, CA 92356-0193

Best, Byron L.
21461 Camino Trebol
Lake Forest, CA 92630-2011

Borja, Leonil T. and Tital L.
20784 Iris Canyon Road
Riverside, CA 92508-

Box, Geary S. and Laura
P. O. Box 402564
Hesperia, CA 92340-2564

Attn: Alicia Alexander
Bracht, William F. and Alexander, Alicia M.
12439 Addison Street
N. Hollywood, CA 91607

Attn: Marvin and Carroll Brommer
Brommer Family Trust
1604 N. Laurel Ave
Upland, CA 91784-1920

Attn: Paul Johnson
Brown, Bobby G. and Valeria R.
26776 Vista Road
Helendale, CA 92342-9789

Brown, Jennifer
10001 Choiceana Ave.
Hesperia, CA 92345

Bruneau, Karen
19575 Bear Valley Rd.
Apple Valley, CA 92308-5104

(irim@aol.com)
Bryant, Ian (via email)
15434 Sequoia Avenue - Office
Hesperia, CA 92345-1667

(bubierbear@msn.com)
Bubier, Diane Gail (via email)
46263 Bedford Rd.
Newberry Springs, CA 92365-9819

Attn: Noah Furie
Budget Finance Company
1849 Sawtelle Blvd., Ste. 700
Los Angeles, CA 90025-7012

Bunnell, Dick
8589 Volga River Circle
Fountain Valley, CA 92708-5536

(kjbco@yahoo.com)
Bush, Kevin (via email)
7768 Sterling Ave.
San Bernardino, CA 92410-4741

Attn: Shanna Ghale (shanna.ghale@associa.us)
Calico Lakes Homeowners Association (via email)
11860 Pierce Street, Suite 100
Riverside, CA 92505-5178

Attn: Michael P. Naze
(michael.naze@dot.ca.gov)
California Department Of Transportation (via email)
464 W. 4th Street
San Bernardino, CA 92401-1407

Attn: Robert W. Bowcock
CalMat Company
405 N. Indian Hill Blvd.
Claremont, CA 91711-4614

Attn: Jessica Gammett
(jgammett@calportland.com)
CalPortland Company - Agriculture (via email)
19409 National Trails Hwy
Oro Grande, CA 92368-9705

Attn: Jessica Gammett
(jgammett@calportland.com)
CalPortland Company - Oro Grande Plant (via email)
19409 National Trails Hwy
Oro Grande, CA 92368-9705

Attn: Tony Camanga
Camanga, Tony and Marietta
48924 Bedford Rd.
Newberry Springs, CA 92365

Campbell, M. A. and Dianne
12526 Donegal Way
Houston, TX 77047-2810

Carlton, Susan
P.O. Box 193
Yermo, CA 92398-0193

Attn: Kevin Mangold
Casa Colina Foundation
P.O. Box 1760
Lucerne Valley, CA 92356

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Danielle Stewart
(danielle.stewart@wildlife.ca.gov;
Richard.Kim@wildlife.ca.gov;
Alisa.Ellsworth@wildlife.ca.gov)
CDFW - Camp Cady (via email)
4775 Bird Farm Road
Chino Hills, CA 91709-3175

Attn: Alejandra Silva
(darlenemarie.bray@cemex.com;
alejandrav.silva@cemex.com)
Cemex, Inc. (via email)
16888 North E. Street
Victorville, CA 92394-2999

Attn: Mary M Ross
Chamisal Mutual Water Company
1442 El Mirage Road
El Mirage, CA 92301-9500

(joancksp@hotmail.com)
Chong, Joan (via email)
35000 Indian Trail
Helendale, CA 92342-9782

Clark, Arthur
P. O. Box 4513
Blue Jay, CA 92317-4513

Contratto, Ersula
21814 Hinkley Road
Barstow, CA 92311

Cross, Sharon I.
P. O. Box 922
Lucerne Valley, CA 92356

(dacostadean@gmail.com)
DaCosta, Dean Edward (via email)
32307 Foothill Road
Lucerne Valley, CA 92356-8526

(ron@sc-studios.com;
ron@dadcopowerandlights.com)
Dahlquist, George R. (via email)
8535 Vine Valley Drive
Sun Valley, CA 91352-

Attn: Jared Beyeler
CDFW - Mojave Narrows Regional Park
777 East Rialto Avenue
San Bernardino, CA 92415-0763

Attn: Mary Tarrab
Center Water Company
P. O. Box 616
Lucerne Valley, CA 92356-0616

Attn: Carl Pugh (cpugh3@aol.com)
Cheyenne Lake, Inc. (via email)
44658 Valley Center Rd
Newberry Springs, CA 92365-

Christison, Joel
P. O. Box 9048
Alta Loma, CA 91701-1048

Attn: Manoucher Sarbaz
Club View Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: George Starke
Corbridge, Linda S.
8743 Vivero St
Rancho Cucamonga, CA 91730-

Attn: Jay Hooper (jayho123@gmail.com)
Crown Cambria, LLC (via email)
9860 Gidley St.
El Monte, CA 91731-1110

Attn: Crystal Romero
(daggettcsd@outlook.com;
daggettwater427@gmail.com)
Daggett Community Services District (via
email)
P. O. Box 308
Daggett, CA 92327-0308

Darr, James S.
40716 Highway 395
Boron, CA 93516

Attn: Paco Cabral
(paco.cabral@wildlife.ca.gov;
rebecca.jones@wildlife.ca.gov)
CDFW - Mojave River Fish Hatchery (via
email)
12550 Jacaranda Avenue
Victorville, CA 92395-5183

Attn: Allene Rozell Cherie Krack
Chafa, Larry R. and Delinda C.
P. O. Box 796
Ronan, MT 59864-0796

Choi, Yong Il and Joung Ae
34424 Mountain View Road
Hinkley, CA 92347-9412

Attn: Hwa-Yong Chung
Chung, et al.
11446 Midway Ave.
Lucerne Valley, CA 92356-8792

Conner, William H.
11535 Mint Canyon Rd.
Agua Dulce, CA 91390-4577

Cross, Francis and Beverly
156 W 100 N
Jerome, ID 83385-5256

Attn: Alessia Morris
Crystal Lakes Property Owners Association
P. O. Box 351
Yermo, CA 92398

Attn: Steve and Dana Rivett
Daggett Ranch, LLC
P. O. Box 112
Daggett, CA 92327-0112

Attn: Alan L. De Jong
De Jong Family Trust
46561 Fairview Road
Newberry Springs, CA 92365-9230

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Randy Wagner
Dennison, Quentin D. - Clegg, Frizell and Joke
44579 Temescal Street
Newberry Springs, CA 92365

Attn: Marie McDaniel
Desert Dawn Mutual Water Company
P. O. Box 392
Lucerne Valley, CA 92356-0392

Attn: Denise Courtney
Desert Springs Mutual Water Company
P. O. Box 396
Lucerne Valley, CA 92356-0396

Attn: Debby Wyatt
DLW Revocable Trust
13790 Chateau Court
Apple Valley, CA 92307

Attn: Larry Warren
Dolch, Robert and Judy
15760 Stoddard Wells Road
Victorville, CA 92395-2846

Donaldson, Jerry and Beverly
16736 B Road
Delta, CO 81416-8501

Attn: Jeffery Lidman
Dora Land, Inc.
P. O. Box 1405
Apple Valley, CA 92307-0026

Attn: David Dorrance
Dorrance, David W. and Tamela L.
2027 Valleria Court
Sugar Land, TX 77479-

Dowell, Leonard
345 E Carson St.
Carson, CA 90745-2709

Evenson, Edwin H. and Joycelaine C.
P. O. Box 66
Oro Grande, CA 92368-0066

Attn: Stephanie L. Evert
(severt2166@aol.com)
Evert Family Trust (via email)
19201 Parker Circle
Villa Park, CA 92861-1302

Eygnor, Robert E.
23032 Bryman Road
Oro Grande, CA 92368-9642

Attn: David Dittenmore
(d2dittenmore@bop.gov)
Federal Bureau of Prisons, Victorville (via email)
P. O. Box 5400
Adelanto, CA 92301-5400

Fejfar, Monica Kay
34080 Ord Street
Newberry Springs, CA 92365-9791

(afc30@yahoo.com)
Fernandez, Arturo (via email)
1001 French Street, Apt. 2
Santa Ana, CA 92701-3769

Ferro, Dennis and Norma
1311 1st Ave. N
Jacksonville Beach, FL 32250-3512

(ropingmom3@yahoo.com)
Finch, Jenifer (via email)
9797 Lewis Lane
Apple Valley, CA 92308-8357

Attn: Alex and Jerrica Liu
(alexliu1950@gmail.com;
alexroseanneliu@yahoo.com)
First CPA LLC (via email)
11683 Forest Grove
El Monte, CA 91732-2221

Attn: Carl Fischer (carlsfischer@hotmail.com;
fischer@fischercompanies.com)
Fischer Revocable Living Trust (via email)
1372 West 26th St.
San Bernardino, CA 92405-3029

Attn: Paul Johnson
Fisher Trust, Jerome R.
7603 Hazeltine
Van Nuys, CA 91405

Attn: Allen Yadgari
(Allen@skylinecompany.com)
Foothill Estates MHP, LLC (via email)
9454 Wilshire Blvd. Penthouse
Beverly Hills, CA 90212-2937

(cfrates@renewablegroup.com)
Frates, D. Cole (via email)
113 S La Brea Ave., 3rd Floor
Los Angeles, CA 90036-2998

Attn: Martin Frazier
Frazier, et al.
8707 Deep Creek Rd
Apple Valley, CA 92308-

Attn: Deborah A. Friend
Friend, Joseph and Deborah
P. O. Box 253
Barstow, CA 92312-0253

Attn: Mark Asay (bettybrock@ironwood.org;
waltbrock@ironwood.org)
Fundamental Christian Endeavors, Inc. (via email)
49191 Cherokee Road
Newberry Springs, CA 92365

Gabrych, Eugene
2006 Old Highway 395
Fallbrook, CA 92028-8816

Attn: Mitch Hammack
Gabrych, Eugene
34650 Minneola Rd
Newberry Springs, CA 92365-

Gabrych, Eugene
2006 Old Highway 395
Fallbrook, CA 92028

Gaeta, Miguel and Maria
9366 Joshua Avenue
Lucerne Valley, CA 92356-8273

Attn: Jay Storer
Gaeta, Trinidad
10551 Dallas Avenue
Lucerne Valley, CA 92356

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Bruce Gaines (bgaines4@verizon.net)
Gaines Family Trust, Jack and Mary (via email)
8225 Marina Pacifica Drive N.
Long Beach, CA 90803-7006

Garcia, Daniel
9773 Summerhill Rd.
Alta Loma, CA 91737-1668

Attn: Sang Hwal Kim
Gardena Mission Church, Inc.
P. O. Box 304
Lucerne Valley, CA 92356-0304

Garg, Om P.
178 Follyhatch
Irvine, CA 92618-1050

Attn: Brent Peterson
Gayjikian, Samuel and Hazel
12019 Kalnor Ave
Norwalk, CA 90650-

Attn: Jeffrey Edwards
(jeffrey.edwards@genon.com)
GenOn California South, LP (via email)
P. O. Box 337
Daggett, CA 92327-0337

Attn: Nereida Gonzalez
(ana.chavez@gswater.com,
Nereida.Gonzalez@gswater.com)
Golden State Water Company (via email)
1920 W. Corporate Way
Anaheim, CA 92801-5373

Attn: Denise Johnson
Gordon Acres Water Company
P. O. Box 1035
Lucerne Valley, CA 92356-1035

Gray, George F. and Betty E.
975 Bryant
Calimesa, CA 92320-1301

Attn: Brian E. Bolin
Green Acres Estates
P. O. Box 29
Apple Valley, CA 92307-0001

Attn: Nick Grill (terawatt@juno.com)
Grill, Nicholas P. and Millie D. (via email)
P. O. Box 306
Hinkley, CA 92347-0306

Gubler, Hans
P. O. Box 3100
Landers, CA 92285

Attn: Tamara J Skoglund
(TamaraMcKenzie@aol.com)
Gulbranson, Merlin (via email)
511 Minnesota Ave W
Gilbert, MN 55741-

Gutierrez, Jose and Gloria
24116 Santa Fe
Hinkley, CA 92347

Attn: Bryan C. Haas and Mary H. Hinkle
(resrv4you@aol.com)
Haas, Bryan C. and Hinkle, Mary H. (via email)
14730 Tigertail Road
Apple Valley, CA 92307-

Attn: Bryan C. Haas and Mary H. Hinkle
(resrv4you@aol.com)
Haas, Bryan C. and Hinkle, Mary H. (via email)
14730 Tigertail Road
Apple Valley, CA 92307-5249

(hackbarthco@sbcglobal.net)
Hackbarth, Edward E. (via email)
293 Winfield Circle
Corona, CA 92880-6943

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
PO BOX 1021
Yermo, CA 92398-1021

Attn: Matt Wood (Matt.Wood@Hanson.com)
Hanson Aggregates WRP, Inc. (via email)
P. O. Box 1115
Corona, CA 92878-1115

Attn: Mary Jane Hareson
Hareson, Nicholas and Mary
1737 Anza Avenue
Vista, CA 92084-3236

Attn: Kenny Harmsen (harmsencow@aol.com)
Harmsen Family Trust (via email)
23920 Community Blvd.
Hinkley, CA 92347-9721

Attn: Neal Davies (jfaubus@terra-gen.com;
NDavies@terra-gen.com)
Harper Lake Company VIII (via email)
43880 Harper Lake Road
Hinkley, CA 92347

Harter, Joe and Sue
34530 Minneola Road
Newberry Springs, CA 92365-9191

(harvey1.92356@gmail.com)
Harvey, Lisa M. (via email)
P. O. Box 1187
Lucerne Valley, CA 92356-

Haskins, James J.
11352 Hesperia Road, #2
Hesperia, CA 92345-2165

Hass, Pauline L.
P. O. Box 273
Newberry Springs, CA 92365-

(DeliaHawkins@yahoo.com)
Hawkins, James B. (via email)
7439 Craner Ave
Sun Valley, CA 91352-4858

Attn: Craig Carlson (kcox@helendalecsd.org;
ccarlson@helendalecsd.org)
Helendale Community Services District (via email)
P. O. Box 359
Helendale, CA 92342-0359

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Deanna Dibble
Helendale School District
P. O. Box 249
Helendale, CA 92342-0249

Attn: Jim Martin
Hendley, Rick and Barbara
P. O. Box 144
Yermo, CA 92398-0144

Hensley, Mark P.
35523 Mountain View Rd
Hinkley, CA 92347-9613

Hert, Scott
P. O. Box 590
Lucerne Valley, CA 92356-0590

Attn: Jeremy McDonald
(jmcDonald@cityofhesperia.us)
Hesperia - Golf Course, City of (via email)
9700 Seventh Avenue
Hesperia, CA 92345-3493

Attn: Janie Martines (Jmartines@tvglc.com)
Hesperia Venture I, LLC (via email)
10 Western Road
Wheatland, WY 82201-8936

Attn: Jeremy McDonald
(jmcDonald@cityofhesperia.us)
Hesperia Water District (via email)
9700 7th Avenue
Hesperia, CA 92345-3493

Attn: Jeremy McDonald
(tsouza@cityofhesperia.us)
Hesperia, City of (via email)
9700 Seventh Avenue
Hesperia, CA 92345-3493

Attn: Patricia Mohr (ghd123@earthlink.net)
Hettinga Revocable Trust (via email)
14651 South Grove Ave.
Ontario, CA 91762-7704

Attn: Ed Knauff
Hi Desert Mutual Water Company
23667 Gazana Street
Barstow, CA 92311

(lechiatt@hotmail.com)
Hiett, Harry L. (via email)
P. O. Box 272
Daggett, CA 92327-0272

Attn: Robert W. Bowcock
High Desert Associates, Inc.
405 North Indian Hill Blvd.
Claremont, CA 91711-4614

Attn: Lori Clifton
(lclifton@robarenterprises.com)
Hi-Grade Materials Company (via email)
17671 Bear Valley Road
Hesperia, CA 92345-4902

Attn: Frank Hilarides
Hilarides 1998 Revocable Family Trust
37404 Harvard Road
Newberry Springs, CA 92365

Attn: Katherine Hill (Khill9@comcast.net)
Hill Family Trust and Hill's Ranch, Inc. (via email)
84 Dewey Street
Ashland, OR 97520-

Attn: Mary Thomas
Hitchin Lucerne, Inc.
P. O. Box 749
Lucerne Valley, CA 92356-0749

Ho, Ting-Seng and Ah-Git
P.O. Box 20001
Bakersfield, CA 93390-0001

Attn: Joan Rohrer
Hollister, Robert H. and Ruth M.
P. O. Box 2
Newberry Springs, CA 92365-0002

Attn: Jeffrey R Holway and Patricia Gage
(patricia.gage@yahoo.com)
Holway Jeffrey R and Patricia Gage (via email)
1401 Wewatta St. #1105
Denver, CO 80202-1348

Holway, Jeffrey R
1401 Wewatta St. #1105
Denver, CO 80202-1348

Attn: Katherine K Hsu
Holy Heavenly Lake, LLC
1261 S. Lincoln Ave.
Monterey Park, CA 91755-5017

Attn: Paul Hong
Hong, Paul B. and May
P. O. Box #1432
Covina, CA 91722-0432

Attn: Sandra D. Hood
Hood Family Trust
2142 W Paseo Del Mar
San Pedro, CA 90732-4557

Attn: Gretchen Horton
Horton, John
47716 Fairview Road
Newberry Springs, CA 92365-9258

Attn: Gretchen Horton
Horton's Children's Trust
47716 Fairview Road
Newberry Springs, CA 92365-9258

Attn: Norman A. Howard
Howard, et al.
P. O. Box 5528
Mt. Carmel, UT 84755-5528

Attn: Ester Hubbard
Hubbard, Ester and Mizuno, Arlean
PO Box 64
Tustin, CA 92781-0064

Attn: John Driscoll
Huerta, Hector
P. O. Box 2190
Temecula, CA 92593-2190

(hunt5089@outlook.com)
Hunt, Connie (via email)
39392 Burnside Loop
Astoria, OR 97103-8248

Attn: Ralph Hunt
Hunt, Ralph M. and Lillian F.
P. O. Box 603
Yermo, CA 92398-0603

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Daniel and Karen Gray
(calivolunteer@verizon.net)
Hyatt, James and Brenda (via email)
31726 Fremont Road
Newberry Springs, CA 92365

Attn: Steve Kim (stevekim1026@gmail.com)
Im, Nicholas Nak-Kyun (via email)
P. O. Box 2926
Victorville, CA 92393-2926

Irvin, Bertrand W.
P. O. Box 467
Newberry Springs, CA 92365-0467

Attn: Sebastian Marzaro (italmood@aol.com)
Italmood Inc., et. al. (via email)
80 Maple Road
Easton, CT 06612-1036

Attn: James Jackson Jr.
Jackson, James N. Jr Revocable Living Trust
1245 S. Arlington Avenue
Los Angeles, CA 90019-3517

Attn: Lawrence Dean
Jackson, Ray Revocable Trust No. 45801
P.O. Box 8250
Redlands, CA 92375-1450

Attn: Audrey Goller
(linda.rainer@newportpacific.com)
Jamboree Housing Corporation (via email)
15940 Stoddard Wells Rd - Office
Victorville, CA 92395-2800

Attn: Gary A. Ledford
Jess Ranch Water Company
906 Old Ranch Road
Florissant, CO 80816-

Johnson, Carlean
8626 Deep Creek Road
Apple Valley, CA 92308

Johnson, Ronald
1156 Clovis Circle
Dammeron Valley, UT 84783-5211

Attn: Lawrence W. Johnston
Johnston, Harriet and Johnston, Lawrence W.
P. O. Box 401472
Hesperia, CA 92340-1472

Attn: Magdalena Jones
(mygoldenbiz9@gmail.com)
Jones Trust dated March 16, 2002 (via email)
35300 Old Woman Springs Road
Lucerne Valley, CA 92356-7706

Jones, Joette
81352 Fuchsia Ave.
Indio, CA 92201-5329

Attn: Paul Jordan
Jordan Family Trust
1650 Silver Saddle Drive
Barstow, CA 92311-2057

Attn: Ray Gagne
Jubilee Mutual Water Company
P. O. Box 1016
Lucerne Valley, CA 92356

Attn: Lee Logsdon
Juniper Riviera County Water District
P. O. Box 386
Apple Valley, CA 92307

Attn: Ash Karimi
Karimi, Hooshang
1254 Holmby Ave
Los Angeles, CA 90024-

Attn: Robert R. Kasner
(Robertkasner@aol.com)
Kasner Family Limited Partnership (via email)
11584 East End Avenue
Chino, CA 91710-

(Robertkasner@aol.com)
Kasner, Robert (via email)
11584 East End Avenue
Chino, CA 91710-1555

Katcher, August M. and Marceline
47887 Palo Verde Lane
Newberry Springs, CA 92365

Kemp, Robert and Rose
48441 National Trails Highway
Newberry Springs, CA 92365

Attn: Peggy Shaughnessy
Kemper Campbell Ranch
10 Kemper Campbell Ranch Road
Victorville, CA 92395-3357

Kim, Jin S. and Hyun H.
53 Bluecoat
Irvine, CA 92620

Attn: Alan and Annette De Jong
Kim, Joon Ho and Mal Boon Revocable Trust
46561 Fairview Road
Newberry Springs, CA 92365-9230

(juskim67@yahoo.com)
Kim, Ju Sang (via email)
1225 Crestview Dr
Fullerton, CA 92833-2206

Kim, Seon Ja
34981 Piute Road
Newberry Springs, CA 92365-9548

(carolynko@cox.net)
Koegler, Ronald R. and Carolyn V. (via email)
1001 Tremonto Road
Santa Barbara, CA 93103-1740

Attn: Richard Koering and Donna Koering
Koering, Richard and Koering, Donna
40909 Mt. View
Newberry Springs, CA 92365-9414

Kosharek, John and Joann
P. O. Box 357
Newberry Springs, CA 92365-0357

Attn: Catherine Cerri
(ccerri@lakearrowheadcsd.com)
Lake Arrowhead Community Services District
(via email)
P. O. Box 700
Lake Arrowhead, CA 92352-0700

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Daniel Lindenman
(happytiredwaterdog@yahoo.com)
Lake Jodie Property Owners Association (via email)
909 Armory Road, #126
Barstow, CA 92311-5460

(PhillipLam99@Yahoo.com)
Lam, Phillip (via email)
864 Sapphire Court
Pomona, CA 91766-5171

Attn: Vanessa Laosy
Lavanh, et al.
18203 Yucca St.
Hesperia, CA 92345-

Attn: Anna K. Lee (aklee219@gmail.com)
Lee, Anna K. and Eshban K. (via email)
11140 Mesquite Ave.
Loma Linda, CA 92354-6556

Attn: Eric Archibek
Lee, Vin Jang T.
41717 Silver Valley Road
Newberry Springs, CA 92365

Attn: Billy Liang
Liang, Yuan - I and Tzu - Mei Chen
4192 Biscayne St
Chino, CA 91710-3196

Attn: Mei Li
Lo, et al.
2826 Sycamore Lane
Arcadia, CA 91006-6352

Lua, Michael T. and Donna S.
18838 Aldridge Place
Rowland Heights, CA 91748-4890

Attn: Marian Walent
(LVVMC677@gmail.com)
Lucerne Vista Mutual Water Company (via email)
P. O. Box 677
Lucerne Valley, CA 92356-0677

Attn: Nancy Lan
Lake Waikiki
230 Hillcrest Drive
La Puente, CA 91744-4816

(jlangley@kurschgroup.com)
Langley, James (via email)
12277 Apple Valley Road, Ste. #120
Apple Valley, CA 92308-1701

Attn: Robert Lawrence Jr.
Lawrence, William W.
P. O. Box 98
Newberry Springs, CA 92365

Lee, Doo Hwan
P. O. Box 556
Lucerne Valley, CA 92356-0556

Lenhart, Ronald and Toni
10083 Deep Creek Rd.
Apple Valley, CA 92308-8322

Attn: Eric Larsen
(eric.larsen@libertyutilities.com;
tony.pena@libertyutilities.com)
Liberty Utilities (Apple Valley Ranchos Water) Corp. (via email)
P. O. Box 7005
Apple Valley, CA 92307

Attn: Patricia Miranda
Lopez, Baltazar
12318 Post Office Rd
Lucerne Valley, CA 92356-

Attn: Gwen L. Bedies
Lucerne Valley Mutual Water Company
P. O. Box 1311
Lucerne Valley, CA 92356

Attn: Carolyn J. Luckey
Luckey 2010 Revocable Trust
10967 Kelvington Ln
Apple Valley, CA 92308-3647

Attn: Timothy M. Rohm
(timrohmbuildings@gmail.com)
Lake Wainani Owners Association (via email)
22295 Mission Hills Lane
Yorba Linda, CA 92887-9288

Langley, Michael R. and Sharon
P. O. Box 524
Yermo, CA 92398-0524

Lawson, Ernest and Barbara
20277 Rock Springs Road
Apple Valley, CA 92308-8740

Attn: Sepoong & Woo Poong Lee
Lee, et al., Sepoong and Woo Poong
#6 Ensueno East
Irvine, CA 92620-

Attn: Brad Francke
LHC Alligator, LLC
P. O. Box 670
Upland, CA 91785-0670

Attn: James Lin
Lin, Kuan Jung and Chung, Der-Bing
2026 Turnball Canyon
Hacienda Heights, CA 91745-

Low, Dean
P. O. Box 1267
Monrovia, CA 91017-1267

Attn: Manoucher Sarbaz
Lucerne Valley Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Eugene R. & Vickie R. Bird
M Bird Construction
1613 State Street, Ste. 10
Barstow, CA 92311-4162

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Maria Martinez
M.B. Landscaping and Nursery, Inc.
20300 Figueroa Street
Carson, CA 90745-1212

Attn: Robert Saidi
Mahjoubi, Afsar S.
46622 Fairview Road
Newberry Springs, CA 92365

Maloney, Janice
42525 Silver Valley Road
Newberry Springs, CA 92365

Attn: Jimmy Berry
Manning, Sharon S.
19332 Balan Road
Rowland Heights, CA 91748-4017

Attn: Allen Marcroft
Marcroft, James A. and Joan
P. O. Box 519
Newberry Springs, CA 92365

Attn: James M. Hansen, Jr.
(gmmrcwd@gmail.com; gm@mrcwd.org)
Mariana Ranchos County Water District (via email)
9600 Manzanita Street
Apple Valley, CA 92308-8605

Marshall, Charles
32455 Lakeview Road
Newberry Springs, CA 92365-9482

Martin, Michael D. and Arlene D.
32942 Paseo Mira Flores
San Juan Capistrano, CA 92675

Attn: Rod Sexton
McCollum, Charles L.
15074 Spruce St
Hesperia, CA 92345-2950

McKinney, Paula
144 East 72nd
Tacoma, WA 98404-1060

Attn: Olivia L. Mead
Mead Family Trust
31314 Clay River Road
Barstow, CA 92311-2057

Attn: David I. Milbrat
Milbrat, Irving H.
P. O. Box 487
Newberry Springs, CA 92365-0487

Attn: Donna Miller
Miller Living Trust
7588 San Remo Trail
Yucca Valley, CA 92284-9228

Attn: David Rib (drib@mitsubishicement.com)
Mitsubishi Cement Corporation (via email)
5808 State Highway 18
Lucerne Valley, CA 92356-8179

Attn: Philip Mizrahie
Mizrahie, et al.
4105 W. Jefferson Blvd.
Los Angeles, CA 90048-

Attn: Thomas A. Hrubik (tahgolf@aol.com)
MLH, LLC (via email)
P. O. Box 2611
Apple Valley, CA 92307-0049

Attn: Peter Satin (peter@mdlt.org)
Mojave Desert Land Trust (via email)
P. O. Box 1544
Joshua Tree, CA 92252-0849

Attn: Jose Manuel Bravo
(jmanuel.bravo@atlanticayield.com)
Mojave Solar, LLC (via email)
42134 Harper Lake Road
Hinkley, CA 92347-9305

Attn: Doug Kerns
(tmccarthy@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307-4377

Attn: Manoucher Sarbaz
Monaco Investment Company
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Billie Elliot (Billie@ElliotPlace.com)
Morris Trust, Julia V. (via email)
7649 Cypress Dr.
Lanexa, VA 23089-9320

Moss, Lawrence W. and Helen J.
38338 Old Woman Springs Road Spc# 72
Lucerne Valley, CA 92356-8116

Attn: Jennie Most
Most Family Trust
23780 Cuyama Road
Apple Valley, CA 92307-6723

Attn: Dennis Hills
Mulligan, Robert and Inez
P. O. Box 1507
St. Helena, OR 97051-1507

Murphy, Jean
46126 Old National Trails Highway
Newberry Springs, CA 92365-9025

Music, Zajo
43830 Cottonwood Rd
Newberry Springs, CA 92365-8510

Attn: James Hansen
(gm@marianaranchoscwd.org)
Navajo Mutual Water Company (via email)
21724 Hercules St.
Apple Valley, CA 92308-8490

Attn: Billy Liang (flossdaily@hotmail.com;
asaliking@yahoo.com)
New Springs Limited Partnership (via email)
4192 Biscayne St.
Chino, CA 91710-3196

Attn: Le Hayes
Newberry Community Services District
P. O. Box 206
Newberry Springs, CA 92365-0206

Attn: Jeff Gaastra (jeff@weaponsedge.com)
Newberry Springs Recreational Lakes
Association (via email)
32935 Dune Road, Space 10
Newberry Springs, CA 92365-

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Mary Ann Norris
Norris Trust, Mary Ann
29611 Exeter Street
Lucerne Valley, CA 92356-8261

Attn: Kenton Eatherton
(keatherton@verizon.net)
NSSLIC, Inc. (via email)
9876 Moon River Circle
Fountain Valley, CA 92708-7312

Núñez, Luis Segundo
9154 Golden Seal Court
Hesperia, CA 92345-0197

Attn: Pearl or Gail Nunn
Nunn Family Trust
P. O. Box 545
Apple Valley, CA 92307-0010

Attn: Jeff Gaastra (jeffgaastra@gmail.com;
andy@seesmachine.com;
bbswift4044@cox.net)
O. F. D. L., Inc. (via email)
32935 Dune Road, #10
Newberry Springs, CA 92365-9175

Attn: Chun Soo Ahn (chunsooahn@naver.com)
Oasis World Mission (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Attn: Curt Mitchell
Odessa Water District
220 E. Mountain View Street, Suite A
Barstow, CA 92311-2888

Attn: Dorothy Ohai
Ohai, Reynolds and Dorothy
13450 Monte Vista
Chino, CA 91710-5149

Attn: Ralph McCullers
(ralph.mccullers@omya.com)
Omya California, Inc. (via email)
7225 Crystal Creek Rd
Lucerne Valley, CA 92356-8646

Attn: Nick Higgs
Oro Grande School District
P. O. Box 386
Oro Grande, CA 92368-0386

Attn: M. T. Shoraka
P and H Engineering and Development
Corporation
1423 South Beverly Glen Blvd. Apt. A
Los Angeles, CA 90024-6171

Attn: Jessica Bails (J4Dx@pge.com)
Pacific Gas and Electric Company (via email)
22999 Community Blvd.
Hinkley, CA 92347-9592

Pak, Kae Soo and Myong Hui Kang
P. O. Box 1835
Lucerne Valley, CA 92356-1835

Patino, José
3914 W. 105th Street
Inglewood, CA 90303-1815

(wndrvr@aol.com)
Paustell, Joan Beinschroth (via email)
10275 Mockingbird Ave.
Apple Valley, CA 92308-8303

Pearce, Craig L.
3559 Riviere Du Chien Rd
Mobile, AL 36693-5449

Perko, Bert K.
P. O. Box 762
Yermo, CA 92398-0762

Attn: Thomas Perry
Perry Revocable Living Trust, Thomas and
Patricia
14807 Kinai Road
Apple Valley, CA 92307-5135

Pettigrew, Dan
285 N Old Hill Road
Fallbrook, CA 92028-2571

Attn: Sean Wright (swright@pphcsd.org;
dbartz@pphcsd.org; llowrance@pphcsd.org)
Phelan Piñon Hills Community Services
District (via email)
4176 Warbler Road
Phelan, CA 92371-8819

Attn: Diana W. Pittman
Pittman, Leroy W.
P. O. Box 127
Oro Grande, CA 92368-0127

Attn: John Poland
Poland, John R. and Kathleen A.
5511 Tenderfoot Drive
Fontana, CA 92336-1156

Polich, Donna
75 3rd Avenue #4
Chula Vista, CA 91910-1714

Porter, Timothy M.
34673 Little Dirt Road
Newberry Springs, CA 92365-9646

Attn: Carin McKay
Precision Investments Services, LLC
791 Price Street, #160
Pismo Beach, CA 93449-2529

Price, Donald and Ruth
933 E. Virginia Way
Barstow, CA 92311-4027

Pruett, Andrea
P. O. Box 37
Newberry Springs, CA 92365

(s_quakenbush@yahoo.com)
Quakenbush, Samuel R. (via email)
48788 Silver Valley Road
Newberry Springs, CA 92365-9214

Attn: Ron Herrmann
Quiros, Fransisco J. and Herrmann, Ronald
35969 Newberry Rd
Newberry Springs, CA 92365-9438

Attn: Elizabeth Murena
(waterboy7F8@msn.com; etminav@aol.com)
Rancharitos Mutual Water Company (via
email)
P. O. Box 348
Apple Valley, CA 92307

Mojave Basin Area Watermaster Service List as of June 29, 2020

Reed, Mike
9864 Donaldson Road
Lucerne Valley, CA 92356-8105

(LucerneJujubeFarm@hotmail.com)
Rhee, Andrew N. (via email)
P. O. Box 989
Lucerne Valley, CA 92356-0989

Attn: Kelly Rice
Rice, Henry C. and Diana
31823 Fort Cady Rd.
Newberry Springs, CA 92365-

Attn: Ian Bryant
Rim Properties, A General Partnership
15434 Sequoia Road
Hesperia, CA 92345-1667

Attn: Josie Rios
Rios, Mariano V.
P. O. Box 1864
Barstow, CA 92312-1864

Rivero, Fidel V.
2600 W Woodlawn Ave
San Antonio, TX 78228-5122

(RayRizvi@Yahoo.com)
Rizvi, S.R Ali (via email)
10917 Admirals Bay St.
Victorville, CA 92392-4819

Attn: Jackie McEvoy
Robertson's Ready Mix
P.O. Box 3600
Corona, CA 92878-3600

Attn: Mitch Hammack
Rossi, James L. and Naomi I.
34650 Minneola Rd
Newberry Springs, CA 92365-9146

Attn: John D. Zemanek (jz@zmlawpc.com)
Royal Way (via email)
11845 Olympic Boulevard, Suite 625
Los Angeles, CA 90064-

Attn: Sam Marich
Rue Ranch, Inc.
P. O. Box 133109
Big Bear Lake, CA 92315-8915

Attn: Dale W. Ruisch
Ruisch Trust, Dale W. and Nellie H.
10807 Green Valley Road
Apple Valley, CA 92308-3690

Attn: Sherwin Shoraka
S and B Brothers, LLC
1423 S. Beverly Glen Blvd., Ste. A
Los Angeles, CA 90024-6171

Attn: Jafar Rashid
(jrl23realestate@gmail.com)
S and E 786 Enterprises, LLC (via email)
3300 S. La Cienega Blvd.
Los Angeles, CA 90016-3115

Saba, Saba A. and Shirley L.
41309 Avenida Biona
Temecula, CA 92591-5014

Attn: Kanoe Barker (kanoebarker@yahoo.com)
Sagabea-Barker, Kanoeolokelani L. (via email)
42224 Valley Center Rd
Newberry Springs, CA 92365

Samples, Bernard D. and Janice E.
33979 Fremont Road
Newberry Springs, CA 92365-9136

(BILLU711@Yahoo.com)
Samra, Jagtar S. (via email)
10415 Edgebrook Way
Northridge, CA 91326-3952

Attn: Tina Abarca
San Bernardino Co Barstow - Daggett Airport
777 E. Rialto Ave
San Bernardino, CA 92415-1005

Attn: Jared Beyeler
(waterquality@sdd.sbcounty.gov)
San Bernardino County - High Desert
Detention Center (via email)
PO Box 5004
Victorville, CA 92393-5004

Attn: Trevor Leja
(trevor.leja@sdd.sbcounty.gov)
San Bernardino County Service Area 29 (via email)
222 W. Hospitality Lane, 2nd Floor (Spec
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 42 (via email)
P. O. Box 5004
Victorville, CA 92393-5004

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 64 (via email)
P. O. Box 5004
Victorville, CA 92393-5004

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 70J (via email)
P. O. Box 5004
Victorville, CA 92393-5004

Attn: Michelle Scray (mcsgray@aol.com)
Scray, Michelle A. Trust (via email)
16869 State Highway 173
Hesperia, CA 92345-9381

Attn: Jackie McEvoy (jackiem@rmca.com)
Service Rock Products Corporation (via email)
P. O. Box 3600
Corona, CA 92878-3600

Attn: Rod Sexton
Sexton, Rodney A. and Sexton, Derek R.
P.O. Box 155
Rim Forest, CA 92378-

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Chris Cummings
Sheep Creek Water Company
P. O. Box 291820
Phelan, CA 92329-1820

Sheng, Jen
5349 S Sir Richard Dr
Las Vegas, NV 89110-0100

(gloriasheppard14@gmail.com)
Sheppard, Thomas and Gloria (via email)
33571 Fremont Road
Newberry Springs, CA 92365-9520

Short, Jerome E.
P. O. Box 495
Newberry Springs, CA 92365-0495

Attn: Westly Campbell
Silver Lakes Association
P. O. Box 179
Helendale, CA 92342-0179

Attn: Nepal Singh (NepalSingh@yahoo.com)
Singh, et al. (via email)
4972 Yearling Avenue
Irvine, CA 92604-2956

Smith, Porter and Anita
8443 Torrell Way
San Diego, CA 92126-1254

Attn: Steve Kim (stevekim1026@gmail.com)
Snowball Development, Inc. (via email)
P. O. Box 2926
Victorville, CA 92393-2926

Attn: Chan Kyun Son
Son's Ranch
P. O. Box 1767
Lucerne Valley, CA 92356

Attn: Jason Lamoreaux
(JL@LamorGroup.com)
Soppeland Revocable Trust (via email)
15500 W. Sand Street, 2nd Floor
Victorville, CA 92392-2931

Attn: Erika Clement
(Shannon.Oldenburg@SCE.com;
erika.clement@sce.com)
Southern California Edison Company (via
email)
2 Innovation Way, 2nd Floor
Pomona, CA 91768-2560

Attn: Del Curtis
(Del.Curtis@mineralstech.com)
Specialty Minerals, Inc. (via email)
6565 Meridian Road
Lucerne Valley, CA 92356-8602

Sperry, Wesley
P. O. Box 303
Newberry Springs, CA 92365-0303

Spillman, James R. and Nancy J.
12132 Wilshire
Lucerne Valley, CA 92356-8834

Attn: Eric Miller (emiller@svla.com;
alogan@svla.com;)
Spring Valley Lake Association (via email)
SVL Box 7001
Victorville, CA 92395-5107

Attn: Mitchell Brown
Spring Valley Lake Country Club
7070 SVL Box
Victorville, CA 92395-5152

Attn: Father Joseph
St. Antony Coptic Orthodox Monastery
P. O. Box 100
Barstow, CA 92311-0100

(chiefgs@verizon.net)
Starke, George A. and Jayne E. (via email)
8743 Vivero Street
Rancho Cucamonga, CA 91730-1152

Storm, Randall
51432 130th Street
Byars, OK 74831-7357

Sudmeier, Glenn W.
14253 Highway 138
Hesperia, CA 92345-9422

Attn: Jimmy and Dotti Summers
(JimSummersInvestments@yahoo.com)
Summers Family Trust (via email)
50 Stephens Estates
North Augusta, SC 29680-

Attn: Alexandra Lioanag
(sandra@halannagroup.com)
Summit Valley Ranch, LLC (via email)
220 Montgomery Street, Suite PH-10
San Francisco, CA 94104-3433

Attn: Mark Richardson
(mark@richardsonsrv.com)
Sundown Lakes, Inc. (via email)
2141 Chelsea Road
Palos Verdes, CA 90274-

Attn: Tom Treinen (tom.treinen@clenera.com;
cre.notices@clenera.com)
Sunray Land Company, LLC (via email)
P. O. Box 2576
Boise, ID 83701-2576

Attn: Venny Vasquez (lbaroldi@synagro.com)
Synagro-WWT, Inc. (dba Nursury Products,
LLC) (via email)
P. O. Box 1439
Helendale, CA 92342-

Attn: Russell Szykowski
Szykowski, Ruth J.
46750 Riverside Rd.
Newberry Springs, CA 92365-9738

Attn: Bill and Elizabeth Tallakson
(billtallakson@sbcglobal.net)
Tallakson Family Revocable Trust (via email)
11100 Alto Drive
Oak View, CA 93022-9535

Tapie, Raymond L.
48919 Valley Center Road
Newberry Springs, CA 92365-9726

(jerryteisan@gmail.com)
Teisan, Jerry (via email)
P. O. Box 2089
Befair, WA 98528-2089

Thayer, Sharon
35924 Harvard Drive
Newberry Springs, CA 92365-9637

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Del Curtis
(Del.Curtis@mineralstech.com)
The Cushenbury Trust, c/o Specialty Minerals,
Inc. (via email)
6565 Meridian Road
Lucerne Valley, CA 92356-8602

Attn: Stephen Thomas
Thomas, Stephen and Lori
4890 Topanga Canyon Bl.
Woodland Hills, CA 91364-4229

Attn: Lynnette L. Thompson
Thompson Living Trust, James A. and Sula B.
22815 Del Oro Road
Apple Valley, CA 92308

Attn: Rodger Thompson
Thompson Living Trust, R.L. and R.A.
9141 Deep Creek Road
Apple Valley, CA 92308-8351

Thrasher, Gary
14024 Sunflower Lane
Oro Grande, CA 92368-9617

Attn: Caren Patterson
Thunderbird County Water District
P. O. Box 1105
Apple Valley, CA 92307-1105

Attn: Jim Hoover
Triple H Partnership
33700 Wildwood Canyon Road
Yucaipa, CA 92399-2368

Attn: Mike Troeger (mjtroeger@yahoo.com)
Troeger Family Trust, Richard H. (via email)
P. O. Box 882
Wrightwood, CA 92397

Turner, Terry
48550 Riverside Drive
Newberry Springs, CA 92365-9017

Attn: Aurelio Ibarra
Union Pacific Railroad Company
HC1 Box 33
Kelso, CA 92309-

Vaca, Andy and Teresita S.
5550 Avenue Juan Bautista
Riverside, CA 92509-5613

Valenti, Vito
P. O. Box 1222
Barstow, CA 92312-1222

Attn: Dean Van Bastelaar
Van Bastelaar, Alphonse
45475 Martin Road
Newberry Springs, CA 92365-9625

Attn: Glen and Jennifer Van Dam
(gvandam@verizon.net)
Van Dam Family Trust, Glen and Jennifer (via email)
3190 Cottonwood Avenue
San Jacinto, CA 92582-4741

Attn: Eldert and Susan Van Dam
Van Dam Revocable Trust, E and S
26599 Community Blvd.
Barstow, CA 92311-9779

Van Leeuwen, John
1950 S. Mountain Ave., Unit #229
Ontario, CA 91762-6157

Van Leeuwen, John
1950 S. Mountain Ave. Unit #229
Ontario, CA 91762-6157

Attn: Traci Hoops
Vanhooops Holdings, LP
8328 Valmont Road
Boulder, CO 80301-4813

Attn: John Driscoll
Vernola Trust, Pat and Mary Ann
P. O. Box 2190
Temecula, CA 92593-2190

Attn: Stephen Garcia (steve.garcia@vvc.edu)
Victor Valley Community College District
(via email)
18422 Bear Valley Road
Victorville, CA 92395-5850

Attn: Deidra Hitt
Victor Valley Memorial Park
17150 C Street
Victorville, CA 92395-3330

Attn: Arnold Villarreal
(sborrowman@victorvilleca.gov;
avillarreal@victorvilleca.gov)
Victorville Water District, ID#1 (via email)
P. O. Box 5001
Victorville, CA 92393-5001

Attn: Steve Ashton
(sashton@victorvilleca.gov;
avillarreal@victorvilleca.gov;
kmetzler@victorvilleca.gov)
Victorville Water District, ID#1 (via email)
P. O. Box 5001
Victorville, CA 92393-5001

Attn: Steve Ashton
(sborrowman@victorvilleca.gov;
avillarreal@victorvilleca.gov;
dmatthews@victorvilleca.gov)
Victorville Water District, ID#2 (via email)
P. O. Box 5001
Victorville, CA 92393-5001

Vogler, Albert H.
17612 Danbury Ave.
Hesperia, CA 92345-7073

Attn: Joan Wagner
Wagner Living Trust
22530 Calvert Street
Woodland Hills, CA 91367-1704

Attn: Christian Joseph Wakula
Wakula Family Trust
11741 Ardis Drive
Garden Grove, CA 92841-2423

Mojave Basin Area Watermaster Service List as of June 29, 2020

(Jlow3367@gmail.com)
Wang, Steven (via email)
2551 Paljay Avenue
Rosemead, CA 91770-3204

Attn: Barbara Allard-Ward
(kenbombero@aol.com; allardward@aol.com)
Ward, Ken and Barbara (via email)
14141 Highway 138
Hesperia, CA 92345

Ward, Raymond
P. O. Box 358
Newberry Springs, CA 92365-0358

Weems, Lizzie
15940 Stoddard Wells Rd
Victorville, CA 92395-2800

Weeraisinghe, Maithri N.
P. O. Box 487
Barstow, CA 92312-0487

(andrewwerner11@gmail.com)
Werner, Andrew J. (via email)
1718 N Sierra Bonita Ave
Los Angeles, CA 90046-2231

Attn: James Woody
West End Mutual Water Company
P. O. Box 1732
Lucerne Valley, CA 92356

West, Howard and Suzy
9185 Loma Vista Road
Apple Valley, CA 92308-0557

West, Jimmie E.
P. O. Box 98
Oro Grande, CA 92368-0098

Attn: Andrew Werner
(andrewwerner@westerndev.com)
Western Development and Storage, LLC (via email)
113 S. La Brea Ave, Floor 3
Los Angeles, CA 90036-2998

Attn: Chung Cho Gong
Western Horizon Associates, Inc.
P. O. Box 397
Five Points, CA 93624-0397

Attn: Genaro Zapata
Westland Industries, Inc.
520 W. Willow St.
Long Beach, CA 90806-2800

Attn: Thomas G. Ferruzzo
(tferruzzo@ferruzzo.com)
Wet Set, Inc. (via email)
3737 Birch Street, Suite 400
Newport Beach, CA 92660-2671

Wiener, Melvin and Mariam S.
1626 N. Wilcox Avenue
Los Angeles, CA 90028-6234

Attn: Manoucher Sarbaz
Wilshire Road Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Connie Tapie
(praisethelord77777@yahoo.com)
Withey, Connie (via email)
P. O. Box 3513
Victorville, CA 92393-3513

Witte, E. Daniel and Marcia
31911 Martino Drive
Daggett, CA 92327-9752

Attn: Mark J. Cluff
WLSR, Inc.
620 Du Fort Ave.
Henderson, NV 89002-9263

(mdwood50@gmail.com)
Wood, Michael and Denise (via email)
P. O. Box 2716
Apple Valley, CA 92307-2716

Attn: David A. Worsey
Worsey, Joseph A. and Revae
P. O. Box 422
Newberry Springs, CA 92365-0422

Attn: Christine M. Carson, Esq.
(ccarson@awattorneys.com)
Aleshire & Wynder, LLP (via email)
2361 Rosecrans Avenue
Suite 475
El Segundo, CA 90245-4916

Attn: Eric L. Dunn, Esq.
(edunn@awattorneys.com)
Aleshire & Wynder, LLP (via email)
2361 Rosecrans Avenue
Suite 475
El Segundo, CA 90245-4916

Attn: Thierry R. Montoya
(tmontoya@alvaradosmith.com)
AlvaradoSmith, APC (via email)
1 MacArthur Place
Suite 200
Santa Ana, CA 92707-5941

Attn: Alison Paap (apaap@agloan.com)
American AgCredit (via email)
42429 Winchester Road
Temecula, CA 92590-2504

Attn: W.W. Miller, Esq.
Atkinson, Andelson, Loya-Ruud & Romo
3612 Mission Inn Avenue, Upper Level
Riverside, CA 92501

Attn: Christopher L. Campbell, Esq.
Baker, Manock & Jensen
5260 N. Palm Avenue, 4th Floor
Fresno, CA 93704-2209

Attn: Eric L. Garner, Esq.
(eric.garner@bbklaw.com)
Best, Best & Krieger (via email)
3750 University Avenue
3rd Floor
Riverside, CA 92502-1028

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Piero C. Dallarda, Esq.
(piero.dallarda@bbklaw.com)
Best, Best & Krieger LLP (via email)
P.O. Box 1028
Riverside, CA 92502-

Attn: Stephanie Osler Hastings, Esq.
(SHastings@bhfs.com)
Brownstein Hyatt Farber Schreck, LLP (via email)
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2102

Attn: William J. Brunick, Esq.
(bbrunick@bmklawplc.com)
Brunick, McElhaney & Kennedy PLC (via email)
1839 Commercenter West
P.O. Box 13130
San Bernardino, CA 92423-3130

Attn: Terry Caldwell, Esq.
Caldwell & Kennedy
15476 West Sand Street
Victorville, CA 92392

Attn: Alexander Devorkin, Esq.
California Department of Transportation
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702

Attn: Nancy McDonough
California Farm Bureau Federation
2300 River Plaza Drive
Sacramento, CA 95833

Attn: Jeffery L. Caufield, Esq.
(Jeff@caufieldjames.com)
Caufield & James, LLP (via email)
2851 Camino Del Rio South, Suite 410
San Diego, CA 92108-

Attn: Michael G. Colantuono, Esq.
Colantuono, Highsmith & Whatley, PC
300 South Grand Avenue, Ste 2700
Los Angeles, CA 90071-3137

Attn: Dawn Martin
(Dawn.Martin@cc.sbcounty.gov)
County of San Bernardino, County Counsel
(via email)
385 N. Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140

Attn: Robert E. Dougherty, Esq.
Covington & Crowe
1131 West 6th Street
Suite 300
Ontario, CA 91762

Attn: Ed Dygert, Esq.
Cox, Castle & Nicholson
2049 Century Park East, 28th Floor
Los Angeles, CA 90067

Attn: Noah GoldenKrasner, Dep
(Noah.GoldenKrasner@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1700
Los Angeles, CA 90013

Attn: Marilyn Levin, Dep
(Marilyn.Levin@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013

Attn: James S. Heiser, Esq.
Ducommun, Inc.
23301 S. Wilmington Avenue
Carson, CA 90745

Attn: Thomas G. Ferruzzo, Esq.
(tferruzzo@ferruzzo.com)
Ferruzzo & Ferruzzo, LLP (via email)
3737 Birch Street, Suite 400
Newport Beach, CA 92660

Attn: Michelle McCarron
(mmccarron@gdblawoffices.com;
andre@gdblawoffices.com)
Green de Bortnowsky, LLP (via email)
30077 Agoura Court, Suite 210
Agoura Hills, CA 91301-2713

Attn: Michael D. Davis, Esq.
Gresham, Savage, Nolan & Tilden, LLP
550 E Hospitality Ln, Ste. 300
San Bernardino, CA 92408-4205

Attn: Calvin R. House, Esq.
Gutierrez, Preciado & House
3020 E. Colorado BLVD
Pasadena, CA 91107-3840

Attn: Curtis Ballantyne, Esq.
Hill, Farrer & Burrill
300 S. Grand Avenue, 37th Floor
1 California Plaza
Los Angeles, CA 90071

Attn: Michael Turner, Esq.
(mturner@kasdandclaw.com)
Kasdan, LippSmith Weber Turner, LLP (via email)
19900 MacArthur Blvd., Suite 850
Irvine, CA 92612-

Attn: Thomas S. Bunn, Esq.
(TomBunn@lagerlof.com)
Lagerlof, Senecal, Gosney & Kruse, LLP (via email)
301 N. Lake Avenue, 10th Floor
Pasadena, CA 91101-5123

Attn: Fred J. Knez, Esq.
Law Offices of Fred J. Knez
6780 Indiana Ave, Ste 150
Riverside, CA 92506-4253

Attn: Robert C. Hawkins, Esq.
(rhawkins@earthlink.net)
Law Offices of Robert C. Hawkins (via email)
14 Corporate Plaza, Suite 120
Newport, CA 92660

Attn: Arthur G. Kidman, Esq.
McCormick, Kidman & Behrens
695 Town Center Drive, Suite 400
Costa Mesa, CA 92626-7187

Attn: Valerie L. Wiegstein
(watermaster@mojavewater.org)
Mojave Basin Area Watermaster (via email)
13846 Conference Center Drive
Apple Valley, CA 92307

Attn: Kathy Cortner
(kcortner@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307

Attn: Frederic A. Fudacz, Esq.
(ffudacz@nossaman.com)
Nossaman LLP (via email)
777 South Figueroa Street, 34th Floor
Los Angeles, CA 90017-

Mojave Basin Area Watermaster Service List as of June 29, 2020

Attn: Betsy Brunswick (bmb7@pge.com)
Pacific Gas and Electric Company (via email)
77 Beale Street, B28P
San Francisco, CA 94105-1814

Attn: Steven B. Abbott, Esq.
(sabbott@redwineandsherrill.com;
fluna@redwineandsherrill.com)
Redwine and Sherrill (via email)
3890 Eleventh Street
Suite 207
Riverside, CA 92501-

Attn: James L. Markman, Esq.
Richards, Watson & Gershon
1 Civic Center Circle
P.O. Box 1059
Brea, CA 92822-1059

Attn: Elizabeth Hanna, Esq.
Rutan & Tucker
P.O. Box 1950
Costa Mesa, CA 92626

Attn: Randall R. Morrow, Esq.
(rmorrow@sempira.com)
Sempira Energy Law Department (via email)
Office of the General Counsel
555 West Fifth Street, Suite 1400
Los Angeles, CA 90013-1011

Attn: Nino Moscolo, Esq.
Southern California Edison Company
Legal Department
P.O. Box 800
Rosemead, CA 91770

Attn: Mary Howard
Southern California Gas Company
Transmission Environmental Consultant
P. O. Box 2300, ML9314
Los Angeles, CA 91313-2300

Attn: Rick Ewaniszyk, Esq.
The Hegner Law Firm
14350 Civic Drive
Suite 270
Victorville, CA 92392

Attn: Agnes Vander Dussen Koetsier
(beppeauk@aol.com)
Vander Dussen Trust, Agnes & Edward (via
email)
P.O. Box 5338
Blue Jay, CA 92317-

Attn: Robert C. Wagner, P.E.
(rcwagner@wbecorp.com)
Wagner & Bonsignore
Consulting Civil Engineers (via email)
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833-4133