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FILED
Superior Court of California
County of Riverside
4/28/2021
L. Mercado-Burni
Electronically Filed

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

12
13 CITY OF BARSTOW, et al.,

14 Plaintiff,

15 vs.

16 CITY OF ADELANTO, et al.,

17 Defendant,

CASE NO. CIV 208568

**NOTICE OF MOTION AND MOTION
TO ADJUST FREE PRODUCTION
ALLOWANCE FOR WATER YEAR
2021-2022; MEMORANDUM OF
POINTS AND AUTHORITIES AND
DECLARATION OF ROBERT C.
WAGNER IN SUPPORT THEREOF**

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

**DATE: June 3, 2021
TIME: 1:30 p.m.
DEPT: 1
RES246665**

22
23 AND RELATED CROSS ACTIONS
24

25 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

26 Please take notice that on June 3, 2021 at 1:30 p.m., or as soon thereafter as counsel may be
27 heard, in Department 1 of the above entitled court located at 4050 Main Street, Riverside, California,

1 Defendant/Cross-Complainant, Mojave Water Agency, acting in its capacity as the Mojave Basin Area
2 Watermaster, will respectfully move, pursuant to paragraph 24(o) and Exhibit H of the Judgment in the
3 above entitled case, for the court's approval of the Watermaster's recommendation in its Twenty-Seventh
4 Annual Report to adjust the Free Production Allowance (FPA) for each of the five (5) Subareas (Alto,
5 Baja, Centro, Este and Oeste) of the Mojave Basin as set forth herein for the 2021-22 Water Year.

6 This motion is based upon this notice, the Memorandum of Points and Authorities, the Twenty-
7 Seventh Annual Report of the Watermaster lodged with the court concurrently with this motion, the
8 Declaration of Robert C. Wagner, the pleadings, papers and records on file and upon such other further
9 evidence, both oral and documentary, that may be presented at the hearing on this motion.

10
11 Dated: April 28, 2021

BRUNICK, McELHANEY & KENNEDY PLC

12
13 BY: 

WILLIAM J. BRUNICK, ESQ.

LELAND P. McELHANEY, ESQ.

Attorneys for Defendant/Cross-Complainant,
MOJAVE WATER AGENCY

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **BACKGROUND**

4 The original complaint was filed by the City of Barstow et al. on May 30, 1990 and alleged that
5 the cumulative water production upstream of the City of Barstow had over drafted the Mojave River
6 System and it requested that the Mojave Water Agency (MWA) be ordered to obtain and provide
7 supplemental water for use within the Mojave Basin Area (Basin). MWA filed its First Amended Cross-
8 Complaint naming substantially all producers of water within the Basin, including parties downstream
9 of the City of Barstow, and requested a determination of all the water production from whatever source
10 within the Basin.

11 After extensive negotiations, parties representing over 80% of the verified water production in
12 the Basin agreed to a stipulated Judgment which established a physical solution to the water supply
13 problems. A trial of the claims of non-stipulating parties was held and the final Judgment after trial
14 adopted the physical solution set forth in the stipulated Judgment.

15 The Cardozo Group of the non-stipulating parties appealed the Judgment that was entered by the
16 Superior Court. Following opinions by the Court of Appeal and Supreme Court, the Judgment as to the
17 stipulating parties was affirmed but reversed as to the Cardozo Group of non-stipulating parties. This
18 essentially excluded the Cardozo Group from the stipulated Judgment, including the assessment
19 provisions. As of August 23, 2002, Jess Ranch Water Co. (JRWC), previously a non-stipulating party,
20 entered into a settlement agreement in which it stipulated to the Judgment. An amendment to the
21 Judgment was filed on December 5, 2002 which incorporated the changes with respect to the Cardozo
22 Group and JRWC.

23 **II.**

24 **THE JUDGMENT'S PHYSICAL SOLUTION**

25 On January 10, 1996 the court entered a Judgment which addressed the overdraft situation
26 existing in the Basin by the creation of a Physical Solution for the Basin's five distinct, but hydrologically
27 interrelated Subareas (Alto, Baja, Centro, Este, and Oeste). The court determined that all five Subareas

1 of the Basin had been in a state of overdraft since at least the 1950's, that the economy and population
2 overlying the Basin had dramatically grown in reliance upon the overdraft, and that all producers had
3 contributed to the overdraft. The court's Physical Solution established a limit on the amount of water
4 each Subarea could produce in one year before having to purchase replacement water. This is known as
5 the Free Production Allowance (FPA). The Judgment also established each producer's Base Annual
6 Production (BAP). A producer's BAP is based upon that producer's highest year of water production
7 during the base period of 1986-1990. A producer's BAP serves as the basis for the producer's Base
8 Annual Production Right (BAPR). BAPR is the right of each producer to a percentage of the FPA within
9 a given Subarea.

10 Although the serious nature of the overdraft warranted an immediate reduction for all water
11 production within the Basin, the Court approved a gradual reduction in production in order to soften the
12 economic impact upon producers. Therefore, the Judgment sets forth the terms for a gradual reduction
13 or Rampdown of the FPA for all parties. After the first five years of the Judgment, the FPA for all parties
14 was set at eighty percent (80%) of their original BAP. The Judgment also provides that the court can
15 review and adjust, as necessary, the FPA for each Subarea on an annual basis.

16 Since entry of Judgment in January of 1996, the Parties to the Adjudication and the Court have
17 attempted to achieve sustainability in the Mojave Basin Area by use of the tools within the Judgment to
18 finance the importation of supplemental water in implementing the Physical Solution. The Physical
19 Solution mandates the definition of the individual rights of all Producers within the Basin Area which
20 will equitably allocate the natural water supplies and will provide sharing of costs for supplemental water
21 in each Subarea.

22 The waters derived from the Mojave River constitutes a common source of supply for the five
23 Subareas. Each Party has a declared production right in his or her respective Subarea to produce water
24 for his or her use against other producers located in the Subarea. In addition, Producers within certain
25 Subareas have rights as against those in adjoining upstream Subareas to receive average annual water
26 supplies and in any one year to receive minimum annual water supplies equal to the amounts set forth in
27 Exhibit G of the Judgment in addition to any storm flows. Exhibit G establishes these Subarea rights and

obligations to insure historical flows to each Subarea within the basin area. Producers in the respective Subareas shall have the obligation to provide the following minimum annual subsurface flows and/or base flow per year:

Subsurface Obligations

Este to Alto	200 acre-feet	
Oeste to Alto	800 acre-feet	
Alto to Centro	2,000 acre-feet	(21,000 acre-feet surface obligation)
Centro to Baja	1,462 acre-feet	
Baja to Afton	0 acre-feet	(400 acre-feet obligation was relieved by Court, 2006)

In summary, a Party's existing Production Right would be exercised within the respective Subarea and the Parties guaranteed subsurface flows, are set forth above. Sixty-year average (1931-1990) storm flow is assumed to be available to the Subareas from the Mojave River system. The water supply is episodic and assumed to repeat in the future as in the past. Each respective Subarea is assumed to receive the historic storm flow, as supply, on a long-term average basis, but not in any given year. The Subarea rights and obligations were decreed by the Judgment. A fundamental premise of the Physical Solution is that all Parties will be allowed, subject to the Judgment, to produce sufficient water to meet their reasonable beneficial use requirements. To the extent that production by a Producer in any Subarea exceeds such Producer's share of the Free Production Allowance of that Subarea, Watermaster will provide replacement water to replace such excess production at the current replacement water rate. To the extent that any Subarea incurs a Makeup Obligation, Watermaster will provide supplemental water to satisfy such Makeup Obligation at the current makeup water rate.

III.

NECESSITY FOR ADJUSTMENT

Pursuant to the gradual Rampdown required in the Judgment, by the 1997-98 Water Year, each producer's FPA was set at eighty percent (80%) of that producer's BAP specified by the Judgment. Exhibit H of the Judgment requires Watermaster to recommend a decrease in the FPA for a Subarea when that Subarea's FPA exceeds its estimated Production Safe Yield (PSY) by five percent (5%) or

more. Pursuant to Paragraph 24(o) of the Judgment, the Watermaster is required to make a recommendation to the Court for adjusting the FPA of each Subarea, if necessary.

The Watermaster Engineer has tracked and calculated consumptive use within the five Subareas on an annual basis. The Court in its hearing of July 6, 2018 and Status Conference of October 12, 2018 asked that the Watermaster Engineer complete the update to consumptive use and any other necessary updates to the Production Safe Yield elements. In 2019, the Watermaster Engineer completed an update to Production Safe Yield and Consumptive Use for each Subarea at the court's request (filed May 1, 2019). Previously, PSY was updated in August 2000. The report provided the basis for Watermaster's recommendations for Water Year 2019-20 and for future recommendations.

On June 12, 2020 and August 13, 2020, the court entered its order on Watermaster's Motion to Adjust FPA for Water Year 2020-21 (attached as Exhibit A). As a result, FPA for Water Year 2020-21 was set as follows:

<u>Subarea</u>	<u>2020-21 FPA</u>
Alto - Agricultural	65% of BAP
Alto - Municipal and Industrial	55% of BAP
Baja	25% of BAP
Centro	70% of BAP
Este	70% of BAP
Oeste	65% of BAP

IV.

RECOMMENDED ADJUSTMENTS TO FPA FOR WATER YEAR 2020-21

The Watermaster conducted public hearings on February 24, 2021 and March 24, 2021 and adopted the FPA recommendations for the five Subareas for Water Year 2021-22, as required by the Judgment and consistent with previous direction from the court as follows:

<u>Subarea</u>	<u>2021-22 FPA Recommendation</u>
Alto - Agriculture	60% of BAP
Alto - Municipal & Industrial	55% of BAP

Baja	20% of BAP
Centro	65% of BAP
Este	65% of BAP
Oeste	60% of BAP

The table on page 36, Chapter 5, of the Twenty-Seventh Annual Report of the Mojave Basin Area Watermaster shows the BAP, the FPA for 2020-21, the estimated PSY, the difference between them as a percentage of BAP as well as the 2019-20 Verified Production for each Subarea.

The conditions in each Subarea are described in the declaration of Robert C. Wagner, Watermaster Engineer attached as Exhibit B.

Watermaster received and considered oral comments and correspondence from the Department of Fish and Wildlife and other producers within the Subareas. The written comments received by Watermaster during its public hearings of February and March are attached as Exhibit C. An oral comment by a producer requested that Watermaster consider delaying additional FPA reduction in the Este Subarea due to the reduced production by the Subarea.

V.

QUANTIFYING PRODUCTION NOT UNDER THE JUDGMENT

Starting in 2015, Watermaster began an effort to review, catalog and quantify uses of water that may be over 10 acre-feet per year which are not currently included in the Judgment. Watermaster obtains aerial photographs encompassing the Mojave Basin Area annually and uses them to assist in annual water production verification for parties to the Judgment. In that effort Watermaster also reviews the photographs to identify properties where water might be produced but where the property and owner are not currently subject to the Judgment. Properties are identified and the extent (acreage) of disturbed lands is estimated from the aerial photographs. Identifying these parties requires detailed evaluation of hundreds of photographs throughout the 3,400 square mile area of the basin.

Watermaster maintains a database of the parties identified with information such as current owner, addresses, assessor parcel number, estimates of potential water use, crops and land uses. Potential water use was calculated based on climate data and assumptions about crops and land uses as seen on

1 the aerial photographs. In some cases, physical inspection of the property is performed (on a drive by
2 basis) if warranted from the size of the disturbance shown on the photographs or to fully identify crop
3 types. Watermaster has coordinated with the Subarea Advisory Committees as well as obtained
4 information from local residents and water purveyors to identify subject properties.

5 In 2016 and 2017 (follow-up in 2018), from the evaluations conducted and at the direction of the
6 Watermaster Board, Watermaster staff and the engineer engaged the parties that were identified through
7 a detailed letter describing the Judgment and potential obligations of producers pumping in excess of 10
8 acre-feet under the Judgment. Subsequently, staff personally met with over half of the identified parties
9 on a voluntary basis. Voluntary stipulations to the Judgment were obtained from 7 of these parties
10 (generally the larger pumpers). Many of those engaged indicated that they were not pumping more than
11 10 acre-feet per year, however, most did not have data to support their level of water production. Many
12 of the small producers that pump less than 10 acre-feet per year have established small orchards with
13 young trees where water demand is small. The demand will increase as the trees age, grow, and produce
14 fruit. Those producers may in time exceed 10 acre-feet per year and will need to be managed in some
15 manner so as not to exacerbate overdraft.

16 Watermaster continues to pursue obtaining voluntary compliance from these pumpers and ask
17 that they consider stipulating to the Judgment. The process of identifying, tracking and public outreach
18 continues as part of Watermaster's annual evaluations of the Basin Area.

19 VI.

20 **RECENT DEVELOPMENT OF CANNABIS WATER USE**

21 In the past year, there has been a significant increase in water being used to support the growth
22 of hemp and cannabis within the adjudicated area. The water supplied to these operations, some of
23 which are permitted, and some are unpermitted, is believed to be a small amount for any given operation.
24 However, there are several operations and collectively these operations could eventually impact the
25 parties to the Judgment. Water is sometimes hauled by trucks, pumped from locally owned wells, or
26 provided by purveyors through water service meters. Water purveyors have reported that there is some
27 theft of water through unauthorized tapping of water mains or connecting to a fire hydrant. Watermaster

1 is currently working to locate and quantify the production for all uses, whether for hemp, cannabis, or
2 other crops by reviewing aerial photographs, and field observations where appropriate.

3 At this time, it is believed that the total minimal producer estimated usage includes all
4 unauthorized uses and therefore does not impact the parties' relative to the Production Safe Yield.
5 However, it is noted, that any unauthorized production whether accounted for or not, eventually will
6 impact the parties. Also, the parties have identified many nuisances associated with these operations,
7 including but not limited to, water hauling (increase in truck traffic), soil destabilization due to land
8 clearing, potential impact to sensitive species, water quality due to pesticides and herbicides, the littering
9 of the landscape with the development of unpermitted operations, and the dismantling of the operations.
10 The effort to investigate is impeded by the speed with which an operation can be developed and
11 dismantled. This is a basin wide problem.

12 San Bernardino County prohibits outdoor cultivation of cannabis. It is believed that the bulk of
13 this type of water production is used for cannabis cultivation. Law enforcement and land use
14 enforcement agencies of the County of San Bernardino have not demonstrated much success in halting
15 the activity in violation of the ordinances and laws of the County and the improper use of groundwater
16 continues to increase. Illicit cannabis is unlicensed, unregulated and operates with relative impunity.

17 Watermaster will update the court with new information as it becomes available. Watermaster
18 is currently working to quantify the cannabis production as well as other uses of water beyond the
19 Judgment.

20 VII.

21 CONCLUSION

22 Any delay in implementation of the Judgment, will jeopardize Mojave Basin Area sustainability.
23 The Judgment continues to provide the mechanism through the Physical Solution and Rampdown to
24 achieve a sustainable water supply in the Mojave Basin Area. Sufficient supplemental water supplies
25 exist to allow Producers to purchase water at a cost so that their current demands and needs are met. A
26 substantial amount of investment by all parties to the Judgment has occurred over the last 28 years. The
27 Mojave Water Agency, in support of the physical solution, constructed water supply facilities for

1 delivering and storing water from the State Water Project to meet needs in every Subarea. These include
2 14 recharge facilities and two major pipelines nearly 150 miles in length. The physical solution will
3 work under the Judgment if implemented to its fullest extent. The only solutions to chronic overdraft
4 and to achieving sustainability is to purchase imported water or to reduce pumping. In order to achieve
5 and maintain balances in each of the Subareas, further Rampdowns in all Subareas will be considered
6 by the Watermaster annually.

7 Based upon the foregoing and the Declaration of Robert C. Wagner, filed concurrently herewith,
8 and the court's prior rulings, Watermaster requests that the Court grant this motion and implement the
9 recommended FPA for each Subarea as follows:

10 (1) **ALTO:** Set FPA in Alto at 55% of BAP for Municipal and Industrial producers and 60% of
11 BAP for Agricultural Producers

12 (2) **BAJA:** Set FPA in Baja at 20% of BAP

13 (3) **CENTRO:** Set FPA in Centro at 65% of BAP

14 (4) **ESTE:** Set FPA in Este at 65% of BAP; and

15 (5) **OESTE:** Set FPA in Oeste at 60% of BAP.
16
17

18 Dated: April 28, 2021

BRUNICK, McELHANEY & KENNEDY PLC

19
20 BY: 

WILLIAM J. BRUNICK, ESQ.

LELAND P. McELHANEY, ESQ.

Attorneys for Defendant/Cross-Complainant,
MOJAVE WATER AGENCY
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EXHIBIT A

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

CASE TITLE: City of Barstow v. City of Adelanto	Department 1	JUN 12 2020 <i>Kimberly Kendt</i>
CASE NO.: CIV208568		
DATE: June 11, 2020		
PROCEEDING: Order Granting Watermaster's Motion to Adjust the Free Production Allowances for Water Year 2020-2021; Order to Show Cause re Vacation of Stay of Rampdown for Municipal and Industrial Producers in the Oeste Sub-Area		

JUN 15 2020
AP

The Mojave Water Agency, appointed as the Watermaster in this action, moved for an annual adjustment of the free production allowance (FPA) within each of the five subareas. After consideration of the moving papers, the submissions by the California Department of Fish and Wildlife supporting the motion, and the opposition of the Newberry Springs Recreational Lake Association, and after a hearing on June 11, 2020, the Court rules as follows:

Alto:

The Watermaster proposed that the FPA for agricultural producers be reduced from 75% to 70%. The Court rejects that proposal, and instead orders that the FPA for agricultural producers is reduced by 10% to 65% of BAP for Water Year 2020-2021. The Court further advises the agricultural producers that the FPA may be reduced by 10% or more in Water Year 2021-2022.

The Watermaster proposed that the FPA for municipal and industrial producers (M&I) remain at 55%. The Court approves that proposal. The FPA for all M&I producers in Alto is 55% of BAP for Water Year 2020-2021.

Baja:

The Watermaster proposed that the FPA be reduced from 30% to 25% of BAP. The Court approves that proposal. The FPA for all producers in Baja is reduced to 25% of BAP for Water Year 2020-2021.

Centro:

The Watermaster proposed that the FPA be reduced from 75% to 70% of BAP. The Court approves that proposal. The FPA for all producers in Centro is reduced to 70% of BAP for Water Year 2020-2021.

Este:

The Watermaster proposed that the FPA be reduced from 75% to 70% of BAP. The Court approves that proposal. The FPA for all producers in Este is reduced to 70% of BAP for Water Year 2020-2021.

Oeste:

The Watermaster proposed that the FPA be reduced from 75% to 70% of BAP. The Court approves that proposal. Until further order of the Court, the FPA for all producers in Oeste is reduced to 70% of BAP for Water Year 2020-2021.

The Court notes, however, that there is another alternative to consider that would result in the FPA approximating the production safe yield (PSY) more quickly.

Beginning in Water Year 2009-2010, Judge Trask of this Court ordered a differential rampdown in Oeste by which Agriculture and M&I were subject to different FPAs. In that year, the FPA for M&I was reduced from 80% to 75%, but the implementation of that rampdown was “stayed for a period of four (4) years,” subject to further orders of the Court. Comparable orders were made in each of the following three years, reducing the FPA for M&I by 5% per year, but ordering that the implementation of the rampdown was stayed for a four-year period starting with 2009-2010.

As a result, the FPA for M&I had been ramped down to 60% by 2012-2013, and the stay was scheduled to expire at the end of that year. Instead, in the 2013 FPA order, the stay was extended through 2013-2014. In the FPA order of July 14, 2014, the rampdown was ordered “held in abeyance . . . until water production in Oeste exceeds 3,921 acre-feet.” The FPA order for 2015-2016 continued to hold implementation in abeyance without any mention of water production. The FPA orders in 2016 and 2017 again condition the stay on production not exceeding 3,921 AF, but exclusive of well No. 14. The 2018 FPA order again holds implementation in abeyance for at least 2018-2019. In the 2019 FPA order, the Court imposed a rampdown of 75% for all producers. The Court noted the existence of but did not otherwise address the stay of the 60% rampdown for M&I.

Since the verified production is still over twice the PSY, and the FPA is over three times the PSY, the Court is considering whether to implement the previously ordered 60% rampdown on M&I by vacating the stay of implementation. While the Court is of the belief that differential rampdowns are not consistent with the judgment, Judge Kaiser and Judge Trask interpreted the judgment differently, and implemented differential rampdowns in several sub-areas, including Oeste, in reliance upon their interpretation. The alternative is waiting two more years, and enduring the additional two years of further overdraft, until a comparable rampdown can be ordered for M&I at the maximum rate of 5% per year.

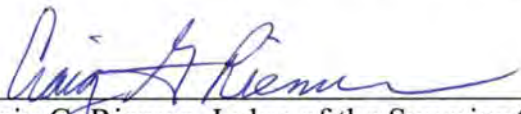
Accordingly, any party opposed to the vacation of the stay of the previously ordered rampdown of the M&I producers in Oeste is ordered to appear in this department on July 9, 2020, at 1:30 P.M, and show cause, if any, why the Court should not vacate the stay of the M&I producers, and order that the FPA for agricultural producers be reduced to 70% of BAP and that the FPA for M&I producers be reduced to 60% of BAP for the 2020-2021 Water Year.

In compliance with Riverside Superior Court Local Rule 3116, any party wishing to oppose the proposal to vacate the stay and to reduce the M&I FPA to 60% of BAP shall file a declaration no later than four court days in advance of the return date.

On the return date of the order to show cause, in-person appearances will not be permitted. Instead, any interested party shall appear by telephone. On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1 (213) 306-3065 or 1 (844) 621-3956 (TOLL FREE)
- Meeting Number: 800-686-489#
- Press # again.

Counsel for the Watermaster shall serve copies of this order on all parties by mail forthwith, and shall file a proof of service within seven days of the date of mailing.


Craig G. Riemer, Judge of the Superior Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CASE TITLE: City of Barstow v. City of Adelanto

Department 1

AUG 13 2020

CASE NO.: CIV208568

J. Castillo

DATE: August 13, 2020

PROCEEDING: Order Terminating Differential Rampdown in Oeste, Vacating Stay of Prior Rampdown for M&I Producers in Oeste, and Setting FPA for All Oeste Producers at 65% of BAP for Water Year 2020-2021.

KKJ

AUG 17 2020

BR

From 2009 to 2019, the Court applied two different rampdowns of free production allowance in the Oeste subarea by distinguishing between agricultural producers on the one hand and municipal and industrial producers on the other. The FPA for agricultural producers was allowed to remain at 80% of BAP until water year 2019-2020 when it was adjusted, or "ramped down," to 75% of BAP. The FPA for municipal and industrial users had been ramped down from 80% to 60%, but the implementation of that rampdown has been stayed.

On June 12, 2020, the Court issued the following order to show cause:

"[A]ny party opposed to the vacation of the stay of the previously ordered rampdown of the M&I producers in Oeste is ordered to appear in this department on July 9, 2020, at 1:30 P.M., and show cause, if any, why the Court should not vacate the stay of the M&I producers, and order that the FPA for agricultural producers be reduced to 70% of BAP and that the FPA for M&I producers be reduced to 60% of BAP for the 2020-2021 Water Year."

Following the hearing on July 9, that matter was continued for a further hearing August 13, 2020, at 1:30 P.M.

On July 9, 2020, the Court issued a second order to show cause as follows:

"Any party who opposes either (a) the termination of the differential rampdown between agricultural producers and M&I producers in Oeste, (b) the vacation of the stay of the previously ordered rampdown of the M&I producers in Oeste, or (c) the rampdown to a uniform FPA for all producers in Oeste to no less than 65% of BAP for the 2020-2021 Water Year is ordered to appear in this department on August 13, 2020, at 1:30 P.M., and show cause, if any, why the Court should not order such a termination, vacation, and rampdown."

Both OSCs were served on the interested parties by the Watermaster. The only party to appear in opposition at the hearing on the first OSC was the Phelan Pinon Hills Community Services District. At the second hearing on August 13, 2020, no one appeared in opposition to any of the actions described in the second OSC. In particular, the Phelan Pinon Hills Community Services District did not oppose it. Nor did any party submit a declaration in opposition to those actions, pursuant to RSC Local Rule 3116.

Accordingly, the Court now ORDERS as follows:

1. The differential rampdown previously created in Water Year 2009-2010 between agricultural producers and municipal and industrial producers the Oeste subarea is terminated.

2. The stay on the implementation of the rampdowns of the FPA of the M&I producers in Oeste, first ordered in 2009 and thereafter extended, is vacated.

3. For Water Year 2020-2021, the FPA for all producers in Oeste is set at 65% of BAP.

Counsel for the Watermaster shall serve copies of this order on all parties by mail forthwith, and shall file a proof of service within seven days of the date of mailing.

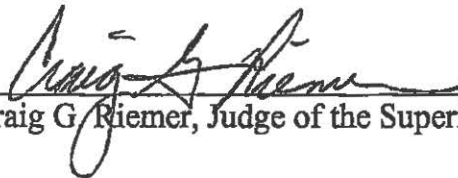

Craig G. Riemer, Judge of the Superior Court

EXHIBIT B

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MOJAVE WATER AGENCY

**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

**DECLARATION OF ROBERT C.
WAGNER, P.E. IN SUPPORT OF
MOTION TO ADJUST FREE
PRODUCTION ALLOWANCE FOR
WATER YEAR 2021-2022**

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

**DATE: June 3, 2021
TIME: 1:30 p.m.
DEPT: 1
RES246665**

AND RELATED CROSS ACTIONS

I, Robert C. Wagner, declare as follows:

I am a licensed Civil Engineer in the State of California and President of the firm of Wagner and Bonsignore, Consulting Civil Engineers in Sacramento, California. A copy of my professional resume is attached as Exhibit 1 and list of sources used in support of this declaration is attached as Exhibit 2. I serve in the capacity of Engineer for the Mojave Basin Area Watermaster in performance of its duties

specified on Exhibit 3. I am providing the following information in support of Watermaster's recommendations regarding Free Production Allowance (FPA) and to address other matters related to water supply use and disposal within the five Subareas. I incorporate by reference, as though fully set forth herein, my declarations and all attachments thereto that were filed with the court in this action in support of prior Motions to Adjust FPA.

In my capacity as Engineer for the Mojave Basin Area Watermaster, I have reviewed the Motion to Adjust FPA for Water Year 2021-22 and the Watermaster's Twenty-Seventh Annual Report. Each of the facts set forth in the Motion to Adjust FPA for Water Year 2021-22 are true and correct to the best of my knowledge and I could competently testify thereto.

I have reviewed the recommended adjustments to FPA for Water Year 2021-22 set forth in the pending motion and each of the recommendations set forth therein for each of the Subareas are consistent with my opinions and recommendations as conveyed to the Watermaster. The recommendation to adjust FPA for each Subarea was presented at the February 24, 2021 and the March 24, 2021 hearings with the Watermaster.

The Production Safe Yield (PSY) estimate includes long-term hydrology as specified in the Judgment, consumptive uses for 2017-18 (updated), phreatophyte use as indicated in the Judgment, Subarea subsurface obligations and surface obligations between Alto and Centro (there are no other surface obligations in the Judgment). Table 5-1 (Annual Report, page 39) shows the current PSY calculation.

The following table shows the current FPA for each Subarea and the estimated PSY.

<u>Subarea</u>	<u>Base Annual Production</u>	<u>2020-21 FPA</u>	<u>Production Safe Yield</u>	<u>Percent Difference¹</u>	<u>2019-20 Verified Production</u>
Alto	116,412	65,924	64,406	1.3%	73,441
Baja	66,157	18,270	12,189	9.2%	18,677
Centro	51,030	36,214	21,088	29.6%	16,756
Este	20,205	14,453	4,728	48.1%	4,227
Oeste	7,095	4,667	1,712	41.6%	3,439

¹This value represents the percent of BAP that PSY departs from FPA.

1 The Judgment's purpose is to balance supply and demand and allocate the cost to parties that
2 over pump FPA.

3 The following is the recommendation for setting FPA for Water Year 2021-22:

<u>Subarea</u>	<u>Proposed 2021-22 Free Production Allowance</u>
Alto – Agriculture	60% of Base Annual Production
Alto – Municipal & Industrial	55% of Base Annual Production
Centro	65% of Base Annual Production
Baja	20% of Base Annual Production
Este	65% of Base Annual Production
Oeste	60% of Base Annual Production

12 **Alto – 55% of BAP for M&I**
13 **60% of BAP for Agriculture**

14 FPA in Alto is within 5% of PSY of BAP (1.3%). Municipal and Industrial (M&I) producers'
15 FPA is within 5% of the indicated PSY at the current level of 55%. It is recommended that Agricultural
16 producers FPA be reduced by 5% to 60% for Water Year 2021-22. M&I FPA will remain at 55% for
17 Water Year 2021-22. As noted above, FPA is within 5% (percentage of BAP) of PSY and thus, Exhibit
18 H does not compel Watermaster to recommend rampdown. While FPA is only 1.3% (percentage of
19 BAP) greater than the estimated PSY, additional rampdown in Alto could be made if conditions
20 warranted. Water levels in some wells show a continuing downward trend in response to locally drier
21 than average water supply during the past 9 years. During 2019-20 inflow measured at Deep Creek and
22 West Fork Mojave River (the forks), was about 68% of base period average, however, the average water
23 supply during the recent 9-year period 2012 to 2020, was only 47% of the base period average. Sustained
24 periods of below average inflow will cause continued water level declines, (Figures 3-11, 3-12 and 3-
25 13, Watermaster Annual Report) potentially resulting in negative impacts to water quality, well
26 performance, environmental protections and downstream water supply. Delivery of imported water is
27 necessary to augment natural supplies during extended dry periods. Continued reduction in FPA would
28 raise money for Watermaster to import water to correct supply deficits and ensure sustainability.

Centro – 65% of BAP

FPA in Centro exceeds PSY by more than 5% of BAP (29.6%). Water levels (Figure 3-15, Watermaster Annual Report) 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 65% for Water Year 2021-22.

Baja – 20% of BAP

FPA in Baja exceeds PSY by more than 5% of BAP (9.2%). Overdraft continues as water levels continue to fall (Figure 3-14, Watermaster Annual Report). Continuous declines result from pumping in excess of supply. The Baja Subarea experiences long periods of below average water supply. During these long dry periods water is depleted from storage to satisfy demands. Since entry of Judgment the Baja Subarea has lost over 478,000 acre-feet to continuous overdraft (Figure 3-20, Watermaster Annual Report). The depletion of water in storage has resulted in loss of habitat and has impacted small individual homeowners (minimal producers) dependent on a declining water supply. The long term solution for the Baja Subarea is the purchase and recharge of supplemental water to support the existing beneficial uses in Baja. It is recommended that FPA be reduced by 5% to 20% for Water Year 2021-22. We note that at 20% of BAP and under current water use conditions, FPA is expected to be within 5% of BAP.

Este – 65% of BAP

FPA in Este exceeds PSY by more than 5% of BAP (48.1%). Water levels in Este have been relatively stable as water production has declined significantly in the past 30 years from 15,700 acre-feet in 1990 to 4,227 acre-feet in 2020. In order to balance FPA with PSY under the Judgment additional Rampdown is required. The decline in water production in Este is most likely the reason that water levels have been relatively stable for more than 20 years (Figure 3-16, Watermaster Annual Report). Comments received by Watermaster at its public hearings asked that Watermaster consider delaying additional FPA reduction due to the reduced production in Este. Reducing FPA is intended to remove the excess FPA from the subarea, not necessarily to reduce pumping. In the short term, there isn't a

1 significant impact if FPA remains unchanged. However, in order to balance FPA with PSY under the
2 Judgment additional Rampdown is required. It is recommended that Este FPA be reduced by 5% to 65%
3 for Water Year 2021-22.

4 **Oeste – 60% of BAP**

5 FPA in Oeste exceeds PSY by more than 5% of BAP (41.6%). Some water levels in Oeste exhibit
6 steady decline and others are stable, although variable, over the past 15 years. Water levels in Oeste
7 wells will decline as population growth increases water demands (Figure 3-17, Watermaster Annual
8 Report). In order to balance FPA with PSY under the Judgment additional Rampdown is required. It is
9 recommended that Oeste FPA be reduced by 5% to 60% for Water Year 2021-22.

10 Water production occurring outside the Judgment is being investigated by Watermaster as part
11 of an ongoing program to identify and quantify this production. Watermaster continues to track minimal
12 producers and identify those producers pumping more than 10 acre feet. In general the amount of
13 pumping outside of the judgment is small relative to total pumping. Recently a significant number of
14 hemp and cannabis grows have located within the adjudicated area. This production is being
15 investigated. It is believed that a single operation may not use more than 10 acre feet of water, however
16 there is concern that large operations that have been identified might use more than 10 acre feet. The
17 number of “grows” has accelerated making identification difficult with the tools available to
18 Watermaster and Mojave Water Agency (aerial images, drive by investigations, etc). The collective
19 water use by these operations may result in added stress to the basin water supply. Watermaster is
20 currently working to quantify this production as well as other uses of water beyond the Judgment.

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

23 Dated: April 28, 2021

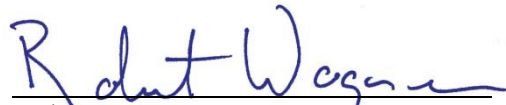
24 
25 Robert C. Wagner, P.E.

EXHIBIT 1

Wagner & Bonsignore

Consulting Civil Engineers, A Corporation

Nicholas F. Bonsignore, P.E.
Robert C. Wagner, P.E.
Paula J. Whealen

David H. Peterson, CEG, CHG
David P. Lounsbury, P.E.
David Houston, P.E.
Vincent Maples, P.E.
Patrick W. Ervin, P.E.
Martin Berber, P.E.
Ryan E. Stolfus

James C. Hanson, P.E.
Henry S. Matsunaga

ROBERT C. WAGNER PROFESSIONAL RESUME

REGISTRATION:

Civil Engineer, California (License No. 52903)

EDUCATION:

B.S. Civil Engineering – California State University, Sacramento, CA - 1988

EXPERIENCE:

Mr. Wagner is the president of Wagner & Bonsignore Engineers and is a Registered Civil Engineer in California, with 25 years experience in water resources management, water right analysis, surface and groundwater water hydrology and land use evaluations for municipal and agricultural projects. Mr. Wagner has been the court appointed engineer for the Mojave Watermaster for over 20 years and has provided expert witness testimony on various matters related to water resources and water rights in court and before the State Water Resources Control Board. Mr. Wagner has demonstrated expertise in areas of consumptive use analysis, watershed hydrology, facility design for storm water capture and analysis of return flow to support water transfers, administration of court ordered judgments and water supply sustainability.

Mr. Wagner serves a wide variety of private and public clients throughout California, managing projects from concept to implementation. Mr. Wagner's work includes pre-1914 appropriative water right investigation, analysis of riparian and overlying water rights and appropriative rights administered by the State Water Resources Control Board.

Mr. Wagner has demonstrated communication skills to work with a wide range of legal and technical professional and stakeholder groups. He has strong organizational and analytical skills and a recognized ability to provide cost effective solutions to difficult water resource problems.

RECENT EXPERIENCE INCLUDES THE FOLLOWING:

District Engineer for Reclamation District 38 Staten Island, San Joaquin County

District Engineer for Reclamation District 341 Sherman Island, Sacramento County

District Engineer for Reclamation District 348 New Hope Tract, San Joaquin County

District Engineer for Reclamation District 800 Cosumnes River, Sacramento County

Provide engineering consulting services on behalf of Antelope Valley East Kern Water Agency in connection with quantification of return flow from water used for irrigation and other uses.

Provide engineering consulting services on behalf of Los Angeles World Airports in connection with quantifying water use from various sources for irrigation.

Provide engineering consulting services on behalf of San Joaquin County in connection with water right applications and water resources management within San Joaquin County.

Provide engineering services for Chino Basin Water Conservation District, San Bernardino County in connection with storm water recharge in Chino Basin.

Watermaster Engineer for Orange County Water District; perform analysis of hydrologic and water quality data for the Santa Ana River Watershed for Water Year 2009-10; distinguish storm flow and base flow at Prado Dam and at Riverside Narrows, preparation of portions of the Watermaster's annual report to the Court.

Provide engineering services for Lake Alpine Water Company / Alpine County in connection with the State Water Resources Control Board water right hearing and hydrology of South Fork Stanislaus River for State Filed Application 5648.

Provide Engineering services for Natomas Mutual Water Company, in connection with the water rights. Evaluation of water rights for 51,000 acres of agricultural operation, water right analysis and water transfers.

Provide engineering services on behalf of City of Sacramento in connection with the Water Resources of the American River.

Provide engineering services on behalf of City of Ukiah in connection with water rights and hydrology of the Russian River, Mendocino County.

Provide engineering services on behalf of Sonoma County Water Agency in connection with development of agricultural reuse project for use of treated wastewater for vineyard irrigation.

Provide engineering services in connection with analysis of water production and hydrologic data for development of water use agreements for over 100 growers in the Dry Creek Valley in Sonoma County.

Provide engineering services for City of Santa Maria in connection with the hydrologic resources of the Santa Maria Groundwater Basin.

Engineering expert in the matter of Bonadiman v. Evans in San Bernardino Superior Court on behalf of prevailing party Evans. Research and documentation of water development and water right acquisition dating to 1883.

Provide engineering services for The Wildlands Conservancy in connection with water resource matters for extensive land holdings in San Bernardino and Kern Counties.

Provide engineering services for Wells Fargo Bank in connection with the analysis of water rights and water availability on the Kern River.

Watermaster Engineer for the Mojave Basin Area Watermaster in the matter of the Mojave River Adjudication, City of Barstow, et al, vs. City of Adelanto, et al. Collection and analysis of data for preparation of Annual Watermaster Report, including groundwater production and hydrology studies of the Mojave River System and groundwater basin in connection with storm flow base flow separation determination and the analysis of water transfers and land use changes. Preparation of Annual Watermaster report.

Provide engineering services on behalf of the Mojave Water Agency in connection with Mojave Basin Area Adjudication. Coordinate activities for professional and sub-professional staff for collection, analysis and verification of water production records for approximately 7,000 wells in the Mojave River Basin. Participate in meetings of the Joint Engineer-Attorney Drafting Committee formed to negotiate and draft the Stipulated Judgment. Participation in the drafting and ongoing revisions of the Watermaster Rules and Regulations.

Provide engineering services in connection with for the Warren Valley Basin Watermaster, San Bernardino County. Analysis of groundwater production records and basin hydrology for preparation of Annual Watermaster Report.

Provide engineering services in connection with work for East Valley Water District, San Bernardino County, regarding the analysis of surface and subsurface hydrology of the Santa Ana River and the availability of water for the Seven Oaks Dam Project and fully appropriated listing of the Santa Ana River.

Provide engineering services on behalf of Kirkwood Associates before the State Water Resources Control Board in the matter of South Fork American River Hearings, October 1995. Analysis of the South Fork American River and Caples Creek hydrology in connection with same.

Provide engineering services in connection with work for High Desert Water District, San Bernardino County, regarding the analysis of water quality and ground water elevation data for monitoring the potential impacts of ground water extractions from the Ames Valley Basin.

Provide engineering services in connection with work for Hidden Valley Lake Community Services District, Lake County, regarding the hydrologic analysis of Upper Putah Creek Watershed and the Coyote Valley groundwater basin in support of amendments to fully appropriated stream status and applications to appropriate surface and subsurface water from Putah Creek; continued monitoring of the Coyote Valley groundwater basin in connection with administration of water rights.

CONTINUING EDUCATION

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“Understanding Wetlands and 404 Permitting”, ASCE July 1997

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EXHIBIT 2

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EXHIBIT 3

Duties of the Watermaster and Engineer as outlined in the Judgment

MWA was appointed as the initial Watermaster and has duties separate from the Court Appointed Watermaster. MWA Obligations under the Judgment are specified in paragraph 9.0 as follows:

“The Physical Solution is intended to provide delivery and equitable distribution to the respective Subareas by MWA of the best quality of Supplemental Water reasonably available. MWA shall develop conveyance or other facilities to deliver this Supplemental Water to the areas depicted in Exhibit “I” unless prevented by forces outside its reasonable control such as the inability to secure financing consistent with the sound municipal financing practices and standards. “

MWA’s obligations under the Judgment relate to purchasing, importing and recharging the groundwater basin with supplemental water. MWA has engaged in various activities since implementation of the Judgment to meet this obligation including acquisition of additional State Water Project Entitlement and development of conveyance, recharge and extraction facilities, and the financing of those facilities.

Watermaster’s powers and duties are specified in Paragraph 24 (a) through (x) and include all of the data collection and analyses and functions reported to Court in the Watermaster Annual Reports. The engineer is responsible to Watermaster and the Court to ensure that requirements as set forth in 24 (a) through (x) are carried out as intended and consistent with the Physical Solution embodied in the Judgment. The activities described in this declaration are a result of Watermaster exercising its obligations under the Judgment. The Watermaster staff and the engineer’s duties on behalf of Watermaster include some or all of the following annually:

- Interpret and enforce the Rules and Regulations
- Calculate Subarea Make Up Obligations, and Producer Replacement Water Obligations
- Evaluate various methods of monitoring and measuring and work with producers to ensure production data is reliable
- Collect and evaluate Hydrologic, and Climate data, and monitor and evaluate phreatophyte consumptive use
- Prepare detailed producer consumptive use analyses for estimating supply to the basin from return flows of production
- Evaluate crop water requirements and various categories of water use
- Evaluate and process transfers for producers
- Maintain a database of individual producers water use, property location, wells, water production, etc.
- Calculate individual assessments as required by the Judgment
- Hold public hearings as required
- Calculate Free Production Allowance and make recommendations for adjustments
- Prepare annual report the Court on the above and all matters as delineated in Paragraph 24 (a) through (x) of Judgment.

EXHIBIT C



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 11, 2021

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 2021-2022

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 2021-2022" prepared by Robert C. Wagner, Watermaster Engineer, dated February 24, 2021 and the Watermaster Engineer slideshow presentation at the February 24, 2021 Watermaster Board meeting entitled "FPA Recommendation for Water Year 2021-22".

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

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 11, 2020. After careful review, Judge Riemer signed an Order on June 12, 2020 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 2021-2022 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 9.2% 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 20% for Water Year 2021-22 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 20% for the Water Year 2021-22 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 four projects utilizing the Biological Resources Trust Fund. The first project was the allocation of \$10,000, approved at the September 23, 2020 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 \$40,000, approved at the September 23, 2020 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 \$32,000, approved at the September 23, 2020 MWA Watermaster Board meeting, for Mojave River Vole surveys at the newly acquired and conserved Palisades Ranch.

The fourth project utilizing the Biological Resources Trust Fund was the allocation of \$5,000, approved at the September 23, 2020 MWA Watermaster Board meeting, for maintenance of a 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.

In addition to the projects described above, Department staff attended several meetings via online meeting platforms due to Covid-19 restrictions including two Watermaster meetings on March 25, 2020 and April 22, 2020 and the Court hearing via telephone on June 11, 2020.

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 2021 Watermaster meeting as this matter is formally discussed and considered by the Watermaster Board.

Sincerely,

DocuSigned by:

Alisa Ellsworth

84FBB8273E4C480...

Alisa Ellsworth
Senior Environmental Scientist
Inland Deserts Region

cc:

CDFW
Chris Hayes
Nancee Murray
Ashley Rosales

Mojave Basin Area Watermaster
March 11, 2021
Page 5

Department of Justice

Marilyn H. Levin

Noah GoldenKrasner

Silver Valley Realty

RECEIVED
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21 MAR 15 AM 8:19

(760) 257-3560

March 12, 2021

Watermaster Board of Directors
Mojave Water Agency
13846 Conference Center Drive
Apple Valley, CA 92307

SUBJECT: MARCH 24, 2021 WATERMASTER AGENDA ITEM RE RAMPDOWNS OF FREE
PUMPING ALLOWANCES

To the Watermaster Board of Directors:

This letter is to endorse your staff's recommendation of a 5% rampdown of the free pumping allowance in the Baja waterbasin for the 2021-2022 water year. And also to endorse staff's recommendation for a 5% rampdown in all other Mojave River system water basins.

In 2020 I had to drop the pump in my well to the bottom of the 117' well casing from about 99 feet, which is where the water table had dropped to, from 40 feet when the well was drilled in about 1987.

Some people are still hauling water here, due to inoperable water wells. I saw a pickup truck going east past my office today with a white plastic water container in the truckbed, probably holding about 100 to 200 gallons of water, being delivered to some residence without a working water well, one would presume.

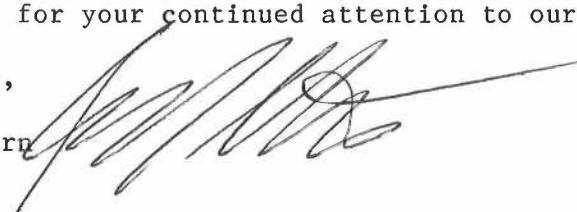
Also there are probably over a hundred illegal marijuana grow sites in Newberry Springs, some as large as one or two acres and more are being established. Some are inside greenhouses, but most are outside behind earthen berms or black plastic lined fences. There does not seem to be any recent local law enforcement against the local grow sites. I wonder if some locations are using more than 10 acre feet of water per year, to grow an illegal crop.

All of the marijuana grow sites, with one possible exception, are in clear violation of San Bernardino County Ordinance #4309 as adopted in 2016.

Thank you for your continued attention to our local groundwater supply issues.

Sincerely,

Fred Stearn





eSubmit – Document Submission Portal

Delivery Confirmation

Submission ID		Date Received	
10723485		4/28/2021 1:45:30 PM	
First Name	Middle Name	Last Name	
William	J	Brunick	
Street Address	City	State	Zip
1839 Commercenter West, P.O. Box 13130	San Bernardino	CA	92423
Phone Number	Fax Number	Company / Agency	
(909) 889-8301	(909) 388-1889	Brunick McElhaney & Kennedy	
Email Address			
jquihuis@bmkclawplc.com			
New Case	Case Number	Case Type	Court Location
No	208568	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 Notice of Motion and Motion To Adjust Free Production Allowance for Water Year 2021-2022			
2 Notice of Lodging of the Twenty-Seventh Annual Report			
Notes / Special Instructions			
PLEASE NOTE THAT JUDGE RIEMER HAS REQUESTED A HEARING DATE OF JUNE 3, 2021 AT 1:30 P.M. THIS WAS COMMUNICATED TO OUR OFFICE BY SUPERVISOR FELICIA JONES. MS. JONES INDICATED TO PICK THE FIRST AVAILABLE DATE IN THE RESERVATION SYSTEM AND THEN TO ADD THIS NOTE TO THE FILING AND SHOULD THERE BE ANY QUESTIONS YOU SHOULD SPEAK TO HER DIRECTLY. THANK YOU.			
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 April 28, 2021, 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:

NOTICE OF MOTION AND MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR WATER YEAR 2021-2022; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF ROBERT C. WAGNER IN SUPPORT THEREOF.

 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 April 28, 2021 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of April 28, 2021

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Attn: William Handrinos
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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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Mojave Basin Area Watermaster Service List as of April 28, 2021

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