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*Exempt from filing fee pursuant to
Gov't. Code Section 6103*

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8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF RIVERSIDE**

11 CITY OF BARSTOW, et al

12 Plaintiff,

13 v.

14 CITY OF ADELANTO, et al

15 Defendant.

16
17 **AND RELATED CROSS ACTIONS**

CASE NO.: CIV 208568

**NOTICE OF COURT'S FEBRUARY 21,
2023 MINUTE ORDER / PROOF OF
SERVICE**

Date: February 21, 2023
Time: 8:30 a.m.
Dept.: 1 (Riverside Superior Court)

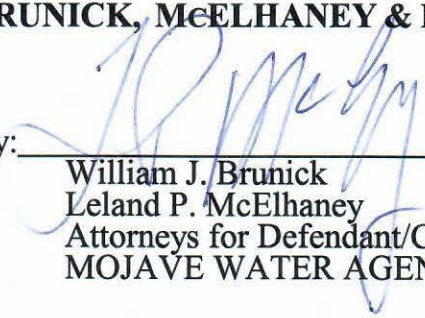
Assigned for All Purposes to:
Hon. Craig G. Riemer, Judge Presiding

18 **TO THE PARTIES ABOVE-NAMED AND THEIR COUNSEL OF RECORD:**

19 **PLEASE TAKE NOTICE THAT** on February 21, 2023, the Court issued its Minute
20 Order in the within action. A true copy of the Minute Order is attached as Exhibit 1 hereto and
21 incorporated herein by this reference.

22 Dated: February 21, 2023

BRUNICK, McELHANEY & KENNEDY PLC

23
24 By: 

25 William J. Brunick
26 Leland P. McElhaney
27 Attorneys for Defendant/Cross-complainant,
28 MOJAVE WATER AGENCY

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

CASE TITLE: City of Barstow v. City of Adelanto

Department 1

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CASE NO.: CIV208568

DATE: February 21, 2023

FEB 21 2023

PROCEEDING: Order Directing Watermaster to File Further Report

ma **L. Howell**

Concurrently with its annual motion to adjust free production allowance, the Mojave Water Agency shall file a response to the following questions. As used hereinbelow, "report" refers to the MWA's supplemental report filed 2-17-23 unless specified otherwise.

1. The report, at paragraph 1, says that the aerial photography for 2022 will be examined as "time and other resources permit . . ."
 - a. When is that examination expected to be completed?
 - b. If it is not expected to be completed more than 12 months after the completion of the examination of the aerial photography taken during 2021, what are the limited resources that restrict the MWA's ability to evaluate those images in a timely fashion?
2. The report, at paragraph 2, refers to production data that is unavailable because direct measurement is not feasible. Under what circumstances would it be unfeasible for a producer to directly measure that producer's production?
3. The report, at paragraph 4, noted that defendants have been identified in the Alto, Baja, and Centro subareas, and In the Alto Transmission Zone. No mention is made of the other two subareas.
 - a. Is that because the aerial photograph for those areas has not been reviewed, because it was reviewed and no suspected 10afa producers or cannabis growers were found, or because of some other explanation?
 - b. If it is because the aerial photography of the other two subareas has not been analyzed, when does the MWA expect to complete its analysis of those subareas?
4. The report, at paragraph 4, noted that the Watermaster had defaulted 14 defendants named in its new complaint. By the time of the next report is filed, the Court presumes that additional defendants may have been served and defaulted.
 - a. When does the Watermaster intend to seek default judgments against those defaulted defendants?
 - b. What relief will the Watermaster seek in its default judgments?

5. The report, at paragraphs 6 and 7, opines that the MWA lacks the authority to conduct inspections of producers' operations to determine whether cannabis is being produced, and imply that its only option was to rely on inspections by the county sheriff, presumably pursuant to a criminal search warrant. Could the authority to conduct such an inspection be obtained through an application for an administrative inspection warrant pursuant to Code of Civil Procedure section 1822.50, et seq.?
6. The report, at paragraph 6, notes that subdivision (g) of section 97-46 of the Water Code Appendix authorizes the MWA to "[r]equire each producer to submit to the agency . . . a report that includes the total production of the producer for each reporting period"
 - a. Does the MWA impose such a requirement?
 - b. If it does impose such a reporting requirement:
 - i. What is the length of the reporting period?
 - ii. If flowmeters are not required and are not installed by producers voluntarily, how do producers calculate their production?
 - iii. What percentage of producers who are required to file reports comply with that requirement?
 - iv. What are the consequences to a producer who fails to comply with that requirement?
 - c. If the MWS does not impose such a reporting requirement, why not?
7. The report, at paragraph 6, notes that the MWA is authorized by Water Code Appendix, section 97-46, subdivision (b)(2), to identify approved devices to measure production and to prescribe methods to estimate production.
 - a. Has the MWA approved particular flowmeters?
 - b. Has the MWA prescribed methods of estimating production?
 - c. Of the total number of producers who are subject to the judgment, what percentage measure their production rather than estimate it?
 - d. Of the total production by producers who are subject to the judgment, what percentage of production is measured rather than estimated?
8. Paragraph 12.a. of the report states that the MWA has the authority to require producers subject to the judgment to install flowmeters. At paragraph 12.b., the MWA states that the Court has the power to order the MWA to impose such a requirement. At paragraph 11 of the report, the MWA concedes that "it may make sense to require installation of flowmeters by those producers whose production is not obviously less than 10 afa."

- a. Is the MWA willing to adopt such a requirement without being ordered to do so by the Court?
 - b. Has the MWA considered the installation of a flowmeter as a condition of any stipulation to dismiss a defendant who claims to be producing less than 10 afa?
9. The report, at paragraph 7, states that San Bernardino County could condition the issuance of a well permit on the requirement that the applicant install a flowmeter on the well.
 - a. Has the County ever done so regarding any well in the adjudicated area?
 - b. If not, has the MWA asked the County to impose such a condition?
10. At paragraph 9, the report states that the MWA is considering whether to request statutory amendments to its enabling act that would specifically grant it authority regarding well permits, inspections, or both.
 - a. Has a decision been made?
 - b. If so, what was the decision?
 - c. If the decision was to seek such statutory authority:
 - i. What specific authority has the MWA decided to seek?
 - ii. What is the status of those efforts?
 - d. If the decision was not to seek such authority, what are the reasons for that decision?
 - e. If no decision has been made, why not?
11. In the report filed 11-30-22, the MWA at paragraph E stated that mandatory metering might be effective for new producers.
 - a. Has the MWA decided whether to impose such a requirement on new producers?
 - b. If so, what is the status of implementing that decision?
 - c. If the MWA has decided not to impose such a requirement, why not?

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

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 February 22, 2023, 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 COURT'S FEBRUARY 21, 2023 MINUTE ORDER/ PROOF OF SERVICE

 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 February 22, 2023 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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Mojave Basin Area Watermaster Service List as of February 22, 2023

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