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7 Attorneys for Defendant\Cross-Complainant,
8 MOJAVE WATER AGENCY

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

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

11
12 Coordination Proceeding Special Title
13 (Cal. Rules of Court, rule 3.550)

14 MOJAVE BASIN WATER CASES

15 CITY OF BARSTOW,

16 Plaintiff,

17 vs.

18 CITY OF ADELANTO, et al.,

19 Defendant.

20 AND RELATED CROSS ACTIONS

JCCP NO.: 5265

Dept. 1, Riverside Superior Court
Hon. Craig G. Riemer, Judge Presiding

CASE NO.: CIV 208568

**WATERMASTER'S SUPPLEMENTAL
REPORT AS REQUIRED BY THE
COURT'S FEBRUARY 21, 2023 ORDER**

Assigned for All Purposes to:
Hon. Craig G. Riemer, Judge Presiding
Dept.: 1

21 **TO THE COURT, THE PARTIES TO THIS PROCEEDING, AND COUNSEL OF**
22 **RECORD:**

23 The Mojave Water Agency (hereafter, "MWA") responds to the Court's February 21,
24 2023 Order as follows:¹

25 **1. Examination of 2022 Aerial Photography.**
26

27
28 ¹A true and correct copy of the court's February 21, 2023 Order is attached as Exhibit 1
hereto.

1 Only a portion of the 2022 aerial photography has been examined -- primarily to obtain
2 information pertinent to groundwater production by persons who were already Parties to the
3 adjudication/Judgment, and to verify certain additional information gathered from examination
4 and analysis of the 2021 aerial photography. Although aerial photography is examined every
5 year, a complete examination and analysis of all aerial photography covering approximately
6 3,400 square miles of the Mojave Basin Area is not performed every year. To do so would
7 require the continual and full-time efforts of three trained employees - - at great additional cost
8 to MWA and, possibly, to the Parties to the Judgment. Accordingly, a complete and
9 comprehensive review of all aerial photography for a particular year is only performed every 5
10 to 10 years; the examination of aerial photography performed each year focuses primarily upon
11 properties owned by Parties to the Judgment and those persons who are believed to now be
12 producing more than 10 afa or using groundwater for unlawful purposes.

13 As noted, based upon its examination and analysis of aerial photography, MWA has
14 identified additional properties which are believed to be either producing more than 10 acre-feet
15 of Basin groundwater annually or using Basin groundwater for the unlawful cultivation of
16 cannabis. The owners of record of these properties have now been named as additional
17 defendants in the San Bernardino action.

18 **2. Feasibility of directly measuring production.**

19 In paragraph 2 of its supplemental report filed 2-17-2023, MWA explained how and why
20 the Watermaster Engineer employs “Standard Crop Duties” to establish reasonably accurate
21 groundwater production estimates in situations where “direct measurement often is not possible
22 or feasible.” The use of standards for determining water use is common practice. To evaluate
23 domestic uses for example, population information and published per capita “duties” for indoor
24 water use serve as a reasonable proxy to actual measurements. The standards are derived from
25 measured data from water purveyors throughout a region, and then applied to individual lots on
26 a per capita basis. To estimate outdoor water use where measurement isn’t feasible, estimates
27 of evapotranspiration are made from regionally available data collected and maintained by the
28 California Irrigation Management Information System (CIMIS).

1 The supplemental report also notes it would be difficult, if not impossible, and very costly
2 to attempt to enforce a metering requirement for the thousands of Minimal Producers who are
3 not Parties to the Judgment. Even if it were “feasible” to do so, the production data derived from
4 such Minimal Producers (who typically produce less than one (1) afa and collectively account
5 for less than 5% of total groundwater production within the Basin) would not differ significantly
6 from the Watermaster Engineer’s estimates based upon Standard Crop Duty calculations and
7 other scientific methodologies. Therefore, it is believed the substantial sums of money that
8 would be needed to attempt to enforce a metering requirement for persons producing less than
9 10 afa would be better spent purchasing supplemental water to recharge this seriously over-
10 drafted groundwater basin.

11 **3. Persons producing more than 10 afa or using groundwater for the unlawful**
12 **cultivation of cannabis have been identified and named in all five subareas and the**
Alto Transition Zone.

13 In its November 30, 2022 report to the court, MWA noted that property owners located
14 in the **Este and Oeste subareas** have been identified who are believed to be either producing
15 more than 10 acre-feet of groundwater annually, or using groundwater for the unlawful
16 cultivation of cannabis (see page 3, lines 10-14). In paragraphs 4 of its February 17, 2023
17 Supplemental Report To The Court, MWA noted that property owners located in the **Alto, Baja,**
18 **and Centro subareas, and in the Alto Transition Zone** also have been identified who are
19 believed to be either producing more than 10 acre-feet of groundwater annually, or using
20 groundwater for the unlawful cultivation of cannabis.

21 Accordingly, property owners in **all five subareas and the Alto Transition Zone** who
22 are believed to be either producing more than 10 acre-feet of groundwater annually, or using
23 groundwater for the unlawful cultivation of cannabis -- have now been identified; each has
24 either been specifically named as a defendant in the complaint filed in the San Bernardino
25 action, or was subsequently named in place of a Doe defendant (based upon the filing of a Code
26 of Civil Procedure section 474 amendment).

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1 Accordingly, MWA's applications for default judgment, among other things, will
2 seek judgment: that each defaulted party is without any right to produce Basin groundwater
3 and is subject to the provisions of the Judgment entered on January 10, 1996; that each
4 defaulted party is enjoined and prohibited from producing and using Basin groundwater for
5 any unlawful purpose, including without limitation the cultivation of cannabis; that each
6 defaulted party must pay a replacement water assessment for any groundwater produced; and
7 that each defaulted party must pay the same administrative and biological assessments paid
8 by Parties who stipulated to the January 10, 1996 Judgment. Such new Parties also may
9 stipulate to the January 10, 1996 Judgment and then be allowed to acquire by purchase and
10 "transfer" another Party's allocated water right.

11 **5. Whether inspections could be performed pursuant to administrative**
12 **inspection warrants (Code of Civil Procedure section 1822.50).**

13 The unlawful cultivation of cannabis in the Mojave Basin Area is an illegal, but
14 highly profitable business; when performing its own inspections, the San Bernardino County
15 Sheriff's Department has reported instances where properties suspected of such activity have
16 been guarded by heavily armed persons. Members of the Watermaster's staff are not trained
17 to perform policing functions; are not armed; and are not trained to engage with persons who
18 are armed and guarding sites where unlawful cultivation of cannabis is suspected. The risk of
19 injury or death preclude such inspections by Watermaster personnel - unless advance consent
20 to property inspections is obtained from property owners and, if necessary, arrangements are
21 made for County Sheriff's deputies to accompany Watermaster inspectors -- in which event
22 administrative inspection warrants would not be required.

23 **6. The Mojave Water Agency does not require that each producer report its**
24 **groundwater production.**

25 It is important to distinguish between producers who are Parties to the Judgment and
26 producers who are not Parties to the Judgment (because they produce less than 10 afa, i.e.,
27 "Minimal Producers"). The Judgment, relevant provisions of the MWA's enabling Act
28 (Water Code Appendix Section 97-46) ["Implementation of Judgment; authorized actions"],
and Rule 11 ["Quantification of Production"] of the Watermaster's Rules and Regulation, all
WATERMASTER'S SUPPLEMENTAL REPORT AS REQUIRED BY THE COURT'S FEBRUARY 21, 2023 ORDER

1 apply only to producers who are “Parties” to the Judgment. Minimal Producers are not
2 “Parties” to the Judgment; therefore, the Judgment does not require that they report their
3 groundwater production.

4 However, each year, on a form provided by the MWA, persons who are Parties to the
5 Judgment are required to report their groundwater production based upon an approved
6 method for measuring such production. As set forth in Watermaster Rule 11, Watermaster
7 “may approve methods such as the use of flow measuring devices, electrical energy
8 consumption records, time of usage records or other methods having equivalent accuracy.
9 Watermaster may require meters on all production facilities if conditions are warranted.”
10 Subdivision “D” describes “Alternative Measuring Methods.” Subdivision “F” (“Records
11 Provided to Watermaster”) provides that, “Parties must provide copies of all records used to
12 quantify water production as outlined in A through E above, including, electrical
13 consumption records, pump test records, flow meter readings, flow meter calibration tests,
14 fuel consumption records, time of use meter records or any other records used.”

15 Subdivision “G” of paragraph 11 of the Watermaster’ Rules and Regulations provides
16 that, “Any party not in compliance with the provisions of this Section 11, as outlined in A
17 through F above, shall be assessed for all applicable assessments based on Watermaster’s
18 estimate of water production, the total annual pumping capacity of the diversion works, of
19 the producer’s Base Annual Production.” Approximately 33% of the Parties to the Judgment
20 do not submit the required annual groundwater production reports; however, the amount of
21 the water produced by such non-reporting parties is relatively small; as a result, on a case-by-
22 case basis, the Watermaster exercises its discretion and judgment as to whether and to what
23 extent such non-reporting Parties are subjected to subdivision “G” assessments.

24 As noted above, producers who are not Parties to the Judgment - - because they have
25 not stipulated to the Judgment or do not produce more than 10 afa - -are not presently
26 required to report their groundwater production to MWA. That is so because they are not
27 required to do so under the MWA’s enabling Act, the Judgment, or the Watermaster’s Rules
28 and Regulations. That also is so because: (a) the great majority of the Groundwater

1 producers within the Mojave Basin Area and MWA's wider service area produce less than
2 one acre foot of groundwater annually; (b) the Watermaster Engineer believes he is able to
3 reasonably estimate the total amount of groundwater produced by the universe of such
4 "minimal" producers; (c) to comply with similar reporting requirement, minimal producers
5 would be required to incur significant costs to purchase and install flowmeters or other
6 approved types of measuring devices; (d) the data reported by such minimal producers would
7 not likely differ significantly from the Watermaster Engineer's estimate of their combined
8 total production and, therefore, would not impact the Watermaster's annual free production
9 allowance recommendations or other recommended steps to bring the Basin into balance; (e)
10 the metering requirement would be difficult, if not impossible, and very costly to enforce as
11 to the estimated three thousand to four thousand Minimal Producers within the Mojave Basin
12 Area; and (f) it is believed the substantial sums of money that would be required in that
13 effort would be better spent purchasing supplemental water to help heal and replenish the
14 overdrafted groundwater basin.

15 Nonetheless, as has been noted, section 97-15.3 of MWA's enabling Act also grants
16 MWA the authority to "undertake any necessary measures with regard to wells . . . to
17 enhance the management of groundwater resources." However, for the multiple reasons
18 stated above, MWA believes that, at present, it is not necessary for effective management of
19 groundwater resources to require that existing Minimal Producers install measuring devices.

20 Additionally, as has been previously reported, pursuant to the terms of the Judgments
21 Physical Solution, more than 95% of the total groundwater production within the Mojave
22 Basin Area already is metered or otherwise measured. This reported data determines whether
23 the Parties to the Judgment have pumped in excess of their free production allowance (in
24 which event they are required to pay replacement water assessments) and, also, whether
25 additional adjustments in free production allowance are warranted.

26 Additionally, the great majority of producers who are, or will be named as defendants
27 in the San Bernardino action will likely be made subject to the provisions of the Judgment
28 and the Watermaster's Rules and Regulations; in which event, they also will be required

(like all other Parties to the Judgment) to measure and report their groundwater production to MWA annually.

7. Does MWA prescribe “particular” flowmeters or methods to measure or estimate groundwater production?

As noted above, Rule 11 of the Watermaster’s Rules and Regulations describes various approved methods for measuring groundwater production, e.g., flowmeters, electrical energy consumption records, time of usage records and other methods having equivalent accuracy. The Watermaster Engineer provides guidance as to the characteristics of acceptable measuring devices and the manufacturer’s who manufacture such devices; however, the Watermaster does not approve or require “specific” flowmeters or other measuring devices.

Parties to the Judgment using one of the approved methods of measurement specified in Rule 11 of the Watermaster’s Rules and Regulation account for more than 95% of the total groundwater production within the Mojave Basin Area.

8. Is MWA willing to require that flowmeters be installed by persons producing more than 10 afa?

As explained above, the Judgment and the Watermaster’s Rules and Regulations already require that all Parties to the Judgment report their groundwater production annually, utilizing approved methods for measuring groundwater production. Other persons determined to be producing more than 10 afa are being joined as additional Parties to these consolidated proceedings; pursuant to the terms of the Judgment, most if not all of these additional parties will likewise be required to: (a) install approved methods for measuring their groundwater production; and (b) report their groundwater production to MWA annually.

The question is not a simple one, however, as to those persons whose groundwater production may be close to, but “not obviously less than 10 afa.” In part, this is so because the Judgment does not require that persons who do not produce more than 10 afa be made parties to the Judgment; nor do MWA’s enabling Act or the Watermaster’s Rules and Regulations.

1 This conundrum also is illustrated by the aerial photographs and report collectively
2 attached as Exhibit 3 hereto (for privacy reasons, identifying information as to the property
3 owner and the specific parcel(s) involved are redacted). This exhibit relates to a property
4 owner who requested that his property be inspected after he was recently served as a
5 defendant in the San Bernardino action. The property owner requested the inspection to
6 confirm, as he claims, that he produces less than 10 afa. The requested inspection was
7 performed and appears to confirm that less than 10 acre feet of groundwater is *currently*
8 being produced annually. However, a comparison of aerial photography during the last 19
9 years demonstrates that, at various times, more than 10 afa likely was produced to irrigate a
10 considerably larger area than the property owner *currently* is irrigating. The same person has
11 owned the property throughout the period depicted in the aerial photographs.

12 The question presented then is whether the property owner should now be dismissed
13 from the action simply because his *current* production is less than 10 afa, or whether the
14 property owner should remain a Party to the litigation and be required to report his
15 groundwater production to MWA annually. MWA recommends that the property owner in
16 question and those similarly situated remain as Parties to the action, and be required to report
17 their groundwater production annually at least until such time it appears structural or other
18 changes have been made which reasonably indicate water usage will be reduced to less than
19 10 afa *on a permanent basis*.

20 **9. County's ability to condition issuance of well permits.**

21 MWA understands that, until recently, the County took the position that issuance of
22 well drilling permits is a "ministerial act" that would not allow the issuance of well permits
23 to be conditioned upon installation of measuring devices. However, the County's legal staff
24 recently noted: "I would like to clarify . . . to acknowledge that . . . well permits cannot
25 categorically be deemed as ministerial," and, accordingly, "there is no blanket ministerial
26 categorization" (see Exhibit 4).

27 In fact, additional extractions of groundwater in this historically overdrafted
28 groundwater basin clearly have the potential for detrimental environmental impacts.

1 Accordingly, MWA believes every application for a new well permit within the Mojave
2 Basin Area should require a “discretionary” determination by the permitting authority that all
3 new water wells should be conditioned upon installation of approved measuring devices and
4 a requirement that the groundwater production be reported to MWA annually.

5 For properties located within MWA’s service area (which encompasses the Mojave
6 Basin Area), the County has not been receptive to MWA’s request to be allowed to be
7 directly involved in the well permitting process. The County has continued to provide to
8 MWA copies of well permits issued by the County, but only after the well permit
9 applications have been approved and the permits have been issued. MWA provided to the
10 County a “New Well Construction Acknowledgment Form” (see Exhibit 5), which the
11 County requires to be completed by each well permit applicant. This Form was adopted by
12 the County Board of Supervisors in August 2023, and MWA now receives from the County
13 this completed Form along with a copy of each well permit issued by the County.

14 For additional historical context regarding interactions between MWA and the County
15 regarding the issuance of well permits, see also: (a) 1996 Memorandum of Understanding,
16 whereby the County was to provide to MWA copies of applications for well permits, and
17 allow MWA to submit information in response thereto which the County would consider to
18 determine whether the applications comply with County Code sections 33.0630 through
19 33.0645 (Exhibit 6 hereto); (b) October 1, 2018 Agenda for meeting between County staff
20 and MWA staff, and related documents (Exhibit 7 hereto); (c) September 2021 e-mail
21 exchange between MWA’s General Manager and the County’s Chief Operating Officer
22 (Exhibit 8); (d) MWA’s January 28, 2022 letter to the County Board of Supervisors (Exhibit
23 9); and (e) the referenced October 4, 2022, e-mail from the County’s Deputy County Counsel
24 “to clarify [the County’s position] . . . to acknowledge that . . . well permits cannot
25 categorically be deemed as ministerial” and “there is no blanket ministerial
26 categorization”(Exhibit 4).

27 Perhaps the Court could address this issue directly with the County, which also is a
28 stipulating Party.

1 **10. Should MWA request statutory amendments to its enabling Act to grant it well**
2 **permitting authority?**

3 MWA's legislative representative has reported that, at present, there is a lack of
4 support for an amendment that would authorize MWA to replace the County of San
5 Bernardino as the well permitting authority. Also, MWA would not need such authority if
6 the County were to agree, or be directed, to condition the issuance of new well permits for
7 properties located within the Mojave Basin Area upon installation of approved measuring
8 devices and a requirement to report groundwater production to MWA annually.

9 **11. Should MWA require mandatory metering for all new producers.**

10 It would be premature for MWA to determine whether it should independently and
11 unilaterally impose that requirement by Ordinance until after a determination is first made as
12 to whether the County (at the encouragement or direction of the Court) will agree to impose
13 a metering requirement for all new well permits within the Mojave Basin Area. Moreover,
14 enforcement of that requirement almost certainly would be more difficult, costly, and less
15 effective if not included in conditions imposed by the County for issuance of new well
16 permits.

17 Dated: April 28, 2023

BRUNICK, McELHANEY & KENNEDY PLC

18
19 By: _____

William J. Brunick
Leland P. McElhaney
Attorneys for Defendant/Cross-Complainant,
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

CASE NO.: CIV208568

DATE: February 21, 2023

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

FEB 21 2023

PROCEEDING: Order Directing Watermaster to File Further Report

MA L. Howell

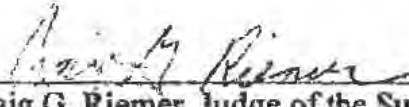
Concurrently with its annual motion to adjust free production allowance, the Mojave Water Agency shall file a response to the following questions. As used hereinbelow, "report" refers to the MWA's supplemental report filed 2-17-23 unless specified otherwise.

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 MWA 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

EXHIBIT 2

FEB 27 2023

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 16 2023

BY Jessica Gancez
JESSICA GANCEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO, JUSTICE CENTER**

THE MOJAVE WATER AGENCY, AS
THE MOJAVE BASIN AREA
WATERMASTER,

Plaintiff,

vs.

All persons who are not presently parties
to the comprehensive groundwater
adjudication in *City of Barstow, et al., v.*
City of Adelanto, et al., Riverside
Superior Court Case No. CIV 208568,
and are either producing more than 10
acre-feet of Basin groundwater annually,
or using Basin groundwater for unlawful
purposes, and Does 1 through 2,000

Defendants.

Case No.: CIVSB 2218461

**ORDER TO ALLOW PLAINTIFF TO
FILE REQUESTS FOR ENTRY OF
DEFAULT, REQUESTS FOR
DISMISSAL, AND PROOFS OF
SERVICE**

Assigned for all purposes to Dept. S-17,
Hon. Joseph T. Ortiz, Judge Presiding

Specific defendants are not named in the caption of the complaint in this proceeding. However, specific defendants are named in the body of the complaint, and additional defendants have been named through Code Civ. Proc. section 474 amendments filed with the court. At the February 8, 2023 Further Case Management Conference, plaintiff requested that the court issue an Order allowing plaintiff to file requests for dismissal and requests for entry of default as to defendants who are either named in the body of the complaint or who have been added through

**ORDER TO ALLOW PLAINTIFF TO FILE REQUESTS FOR ENTRY OF DEFAULT,
REQUESTS FOR DISMISSAL, AND PROOFS OF SERVICE**

1 Code Civ. Proc. section 474 amendments. Following the hearing, plaintiff requested that the
2 court's proposed Order thereon also include a provision allowing plaintiff to serve proofs of
3 service as to defendants who are either named in the body of the complaint or who have been
4 added through Code Civ. Proc. section 474 amendments.

5 Good cause appearing therefor, the court hereby orders that, as to defendants who are
6 either named in the body of the complaint or who have been added through Code Civ. Proc.
7 section 474 amendments, plaintiff may file and serve: (1) proofs of service; (2) requests for
8 dismissal; and (3) requests for entry of default.

9 Dated: February 10, 2023

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11 JOSEPH
12 JUDGE OF THE SUPERIOR COURT
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28 **ORDER TO ALLOW PLAINTIFF TO FILE REQUESTS FOR ENTRY OF DEFAULT,
REQUESTS FOR DISMISSAL, AND PROOFS OF SERVICE**

EXHIBIT 3

Filed Photos March 7, 2023

Alto Subarea

Pictures 6174-6180

We ([redacted] and David Seielstad) met with [redacted]
[redacted] (screens calls, leave a message)

owned property(s) since November 1991

Quantity of pumping unknown but most likely less than 10 AFY.

Irrigates ~2.75 acres of pasture for horses. Supplements with purchased feed. Currently only 6-8 horses on site. Sometimes boards another 10-12 horses (roughly 20 total) Property is in Oro Grande next to the River so landscape trees are not irrigated, they are tapped into the water table. House hasn't had a lawn in years either. Just Bermuda grass/weeds, not irrigated.

6 GPS points taken; 3 active wells, 2 abandoned wells and 1 destroyed well.

Several wells on parcel -08. Only 3 active wells; 1 domestic and 2 small ag wells. All wells on multi-use kWh meters. Most don't have plumbing that can accommodate a flow meter. Suggested hour meters and GPM flow tests. [redacted] He can do the work and certify the flow tests [redacted].

Three pastures, irrigated from April to October. Each planted once every 3 years (rotational). Plants mix of clover, timothy and Bermuda grass. Per [redacted] the clover and timothy dies after year one and only Bermuda left in year 2 and 3, hence reseeds every three years. Pastures are planted in the fall, roots take in winter with some winter early spring rain and grow well when irrigated in Spring/early summer.

GPS Point 1) 1" well, domestic about 30' NE of home. ¾ HP, 5" casing, 210' deep. Water Table ~25' per

GPS Point 2) 2" well, abandoned ag well ~ 30' south of well 1. No pump, no SCE.

GPS point 3) destroyed old domestic well. No longer visible from surface. Drilled prior to ownership in 1991. Properly destroyed.

GPS Point 4) Active Ag well drilled 2009, 210' 8" casing.

GPS Point 5) on Parcel -18, Ag well, only irrigates April to October. 8" casing, depth, date, unknown.

GPS Point 6) abandoned old Ag well.



Well 1, Domestic well with blue pressure tank ¾ HP. Water able ~25'.
well 2, Abandoned Ag well about 30' SE in front of small green leafed tree (Center of Photo)



GPS Point 1) Well 1, Domestic well



GPS Point 2) Abandoned Ag Well



GPS Point 4) Ag Well north on parcel -08 View EES



GPS Point 4) Ag Well north on parcel -08 View SSW



GPS Point 4) Ag Well north on parcel -08 View EES



GPS Point 4) Ag Well north on parcel -08 View SSW

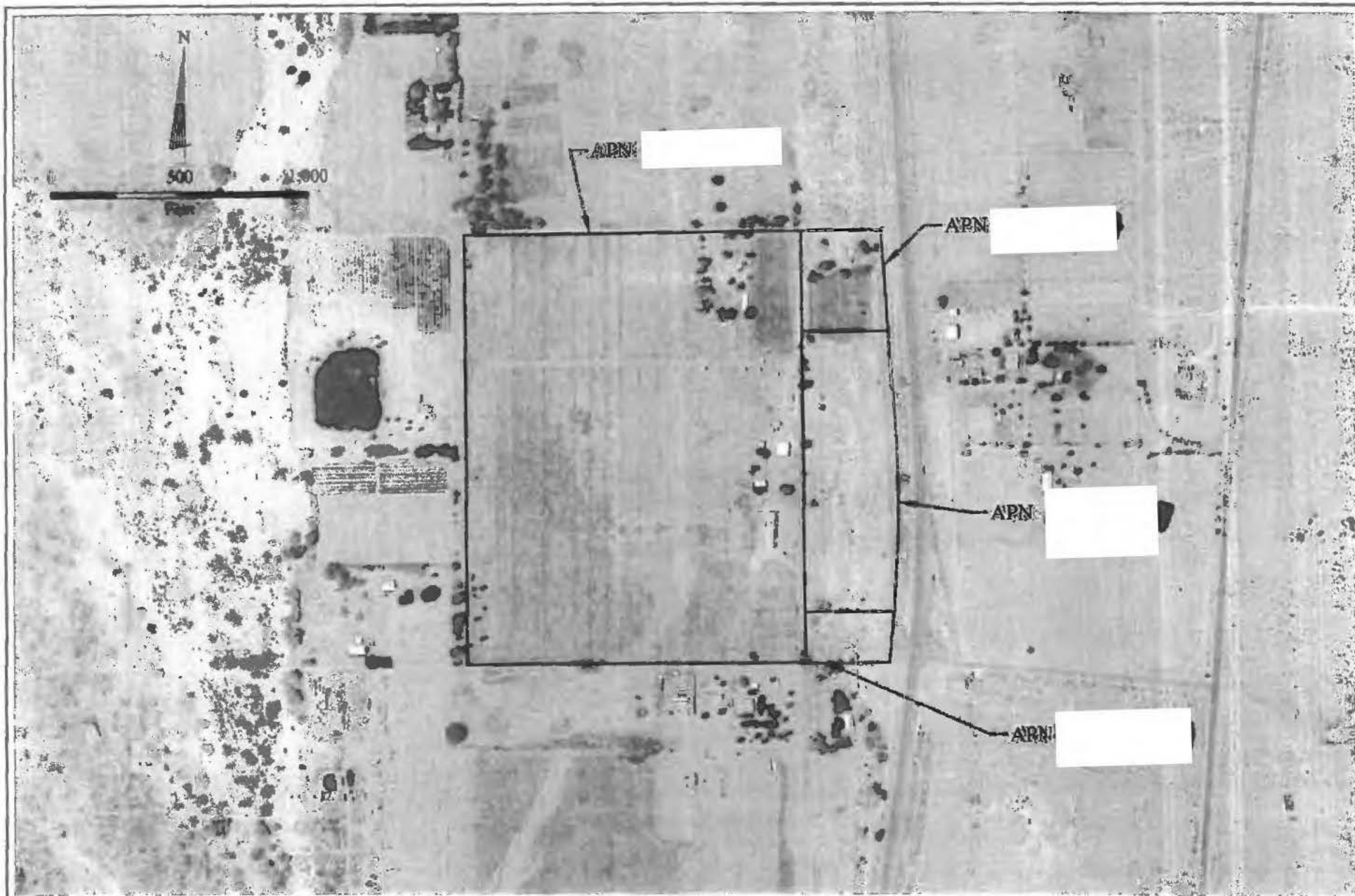


Image Date: May 2022

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner & Bonsignore
Consulting Civil Engineers, A Corporation

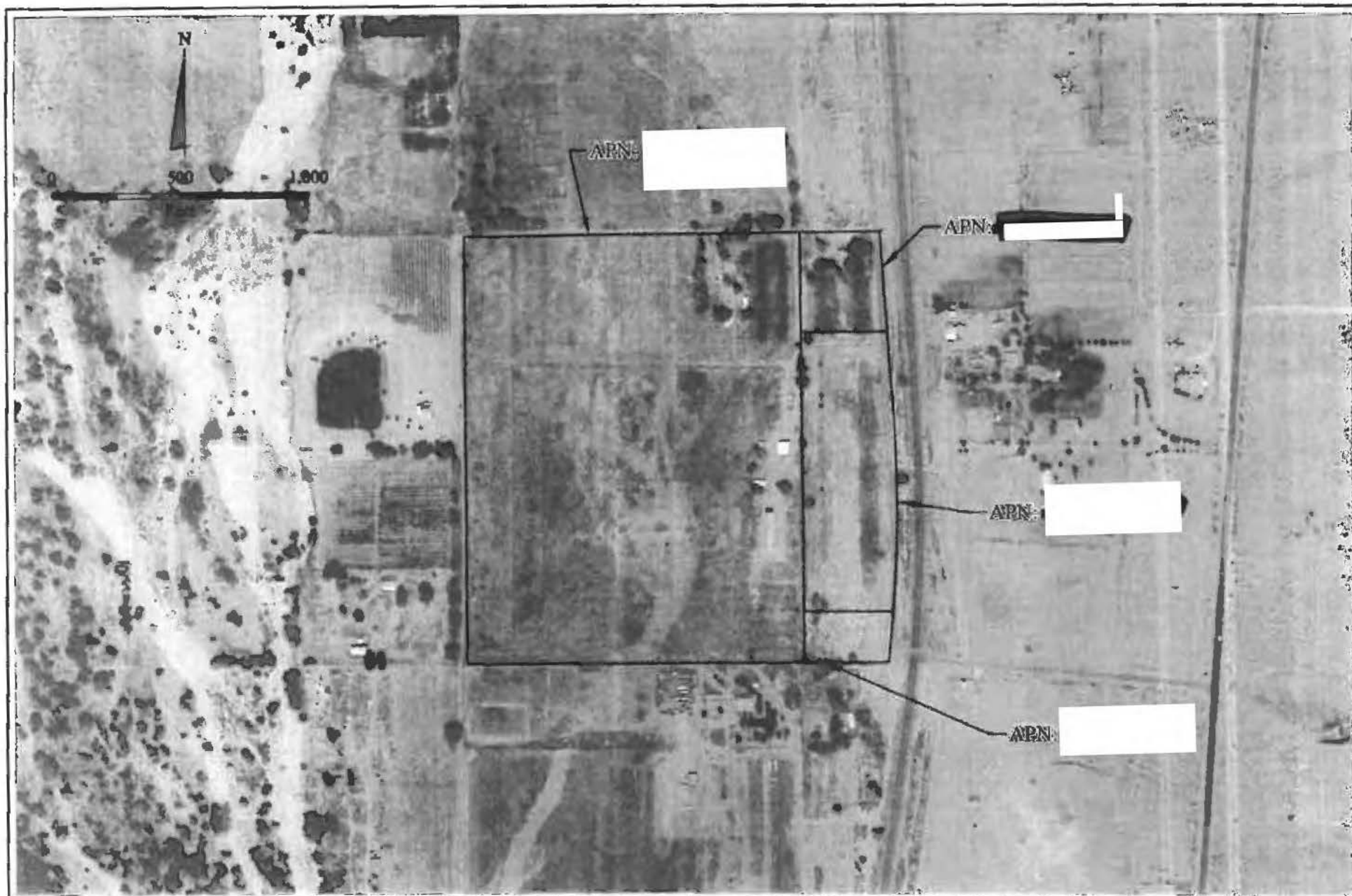


Image Date: September 2019

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner & Bonsignore
Consulting Civil Engineers, A Corporation

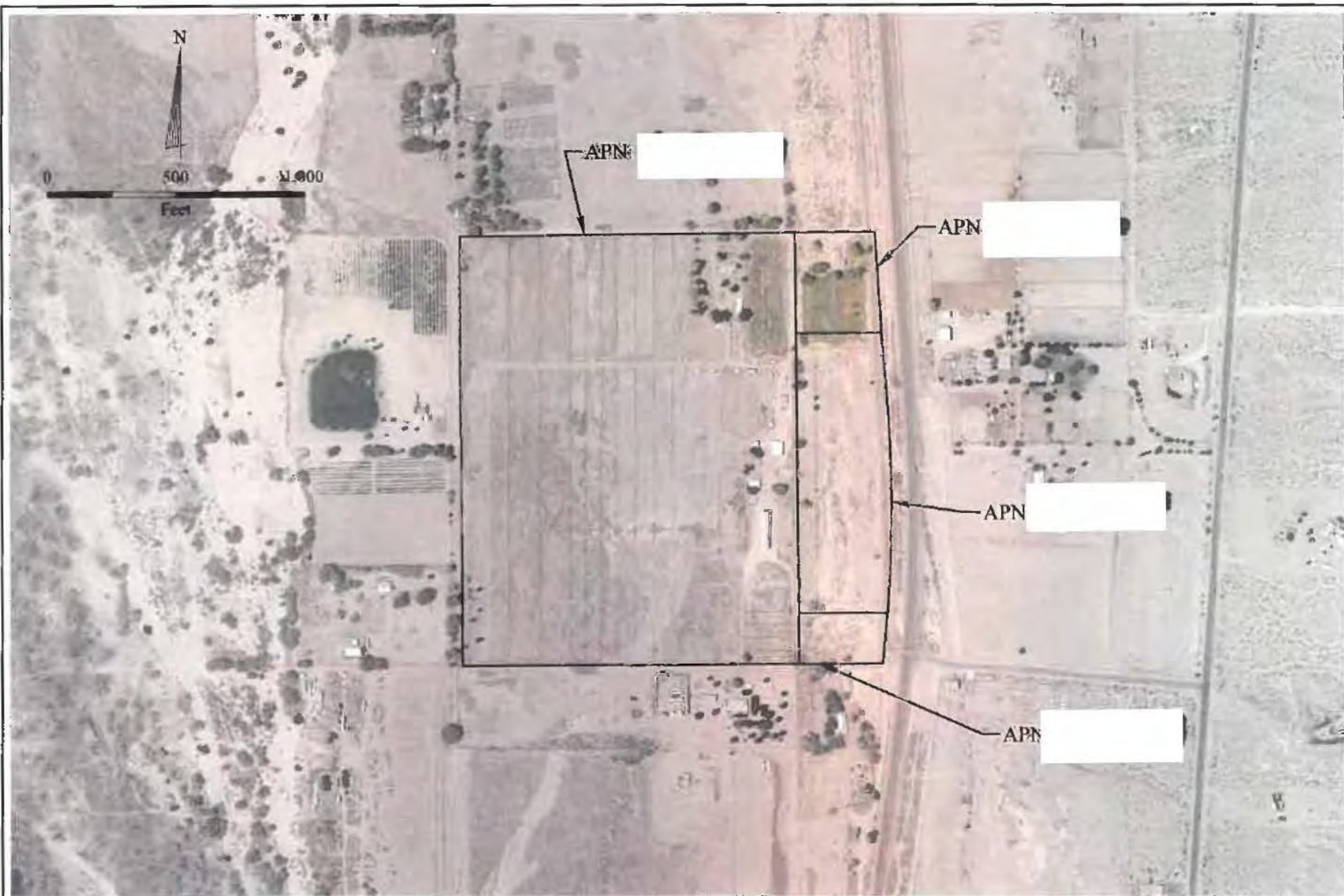


Image Date: May 2022

Historical Aerial Imagery Exhibit
 San Bernardino County, California

Wagner Bonsignore
 Consulting Civil Engineers, A Corporation

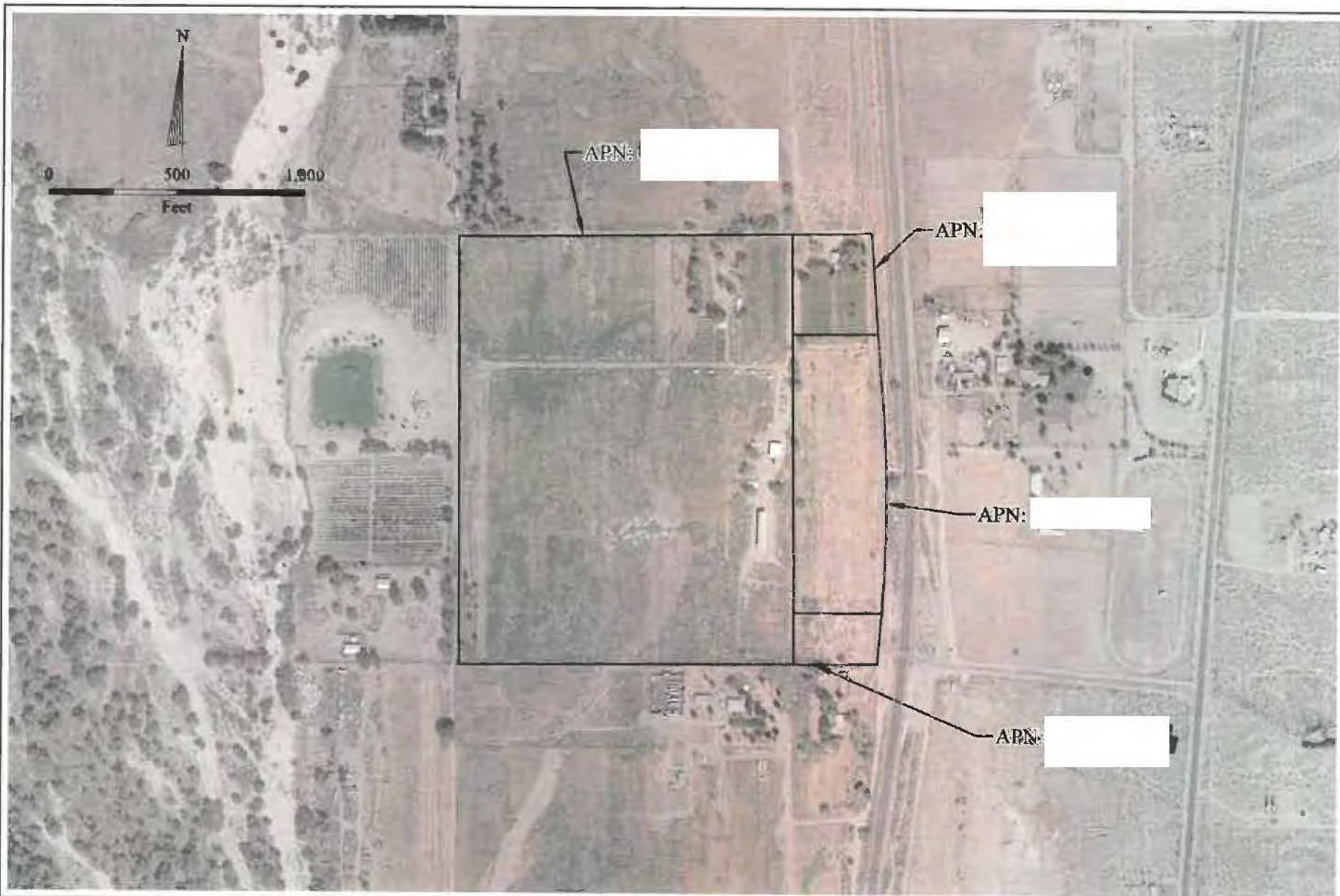


Image Date: October 2020

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers - A Corporation

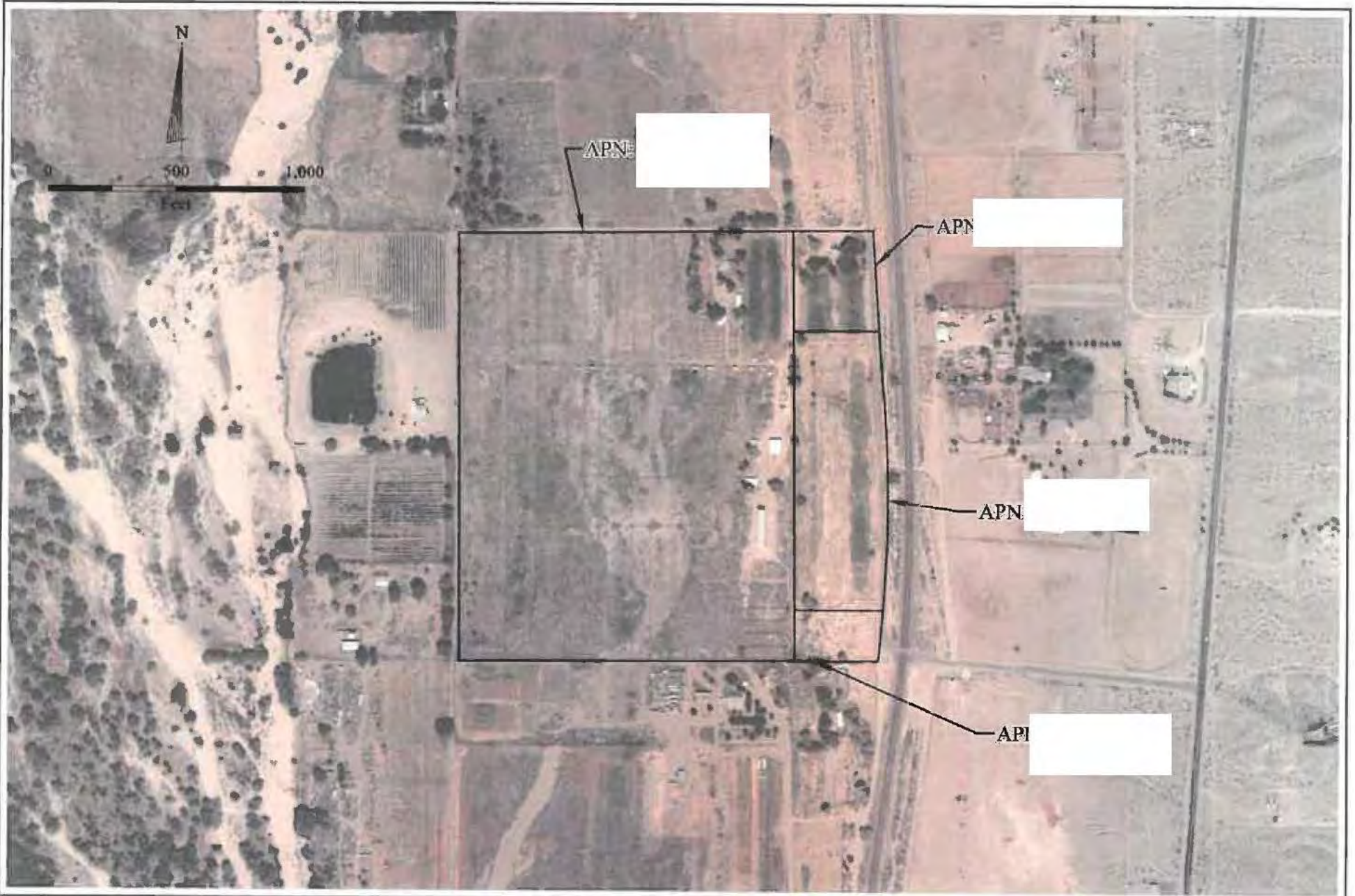


Image Date: September 2019

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers - A Corporation

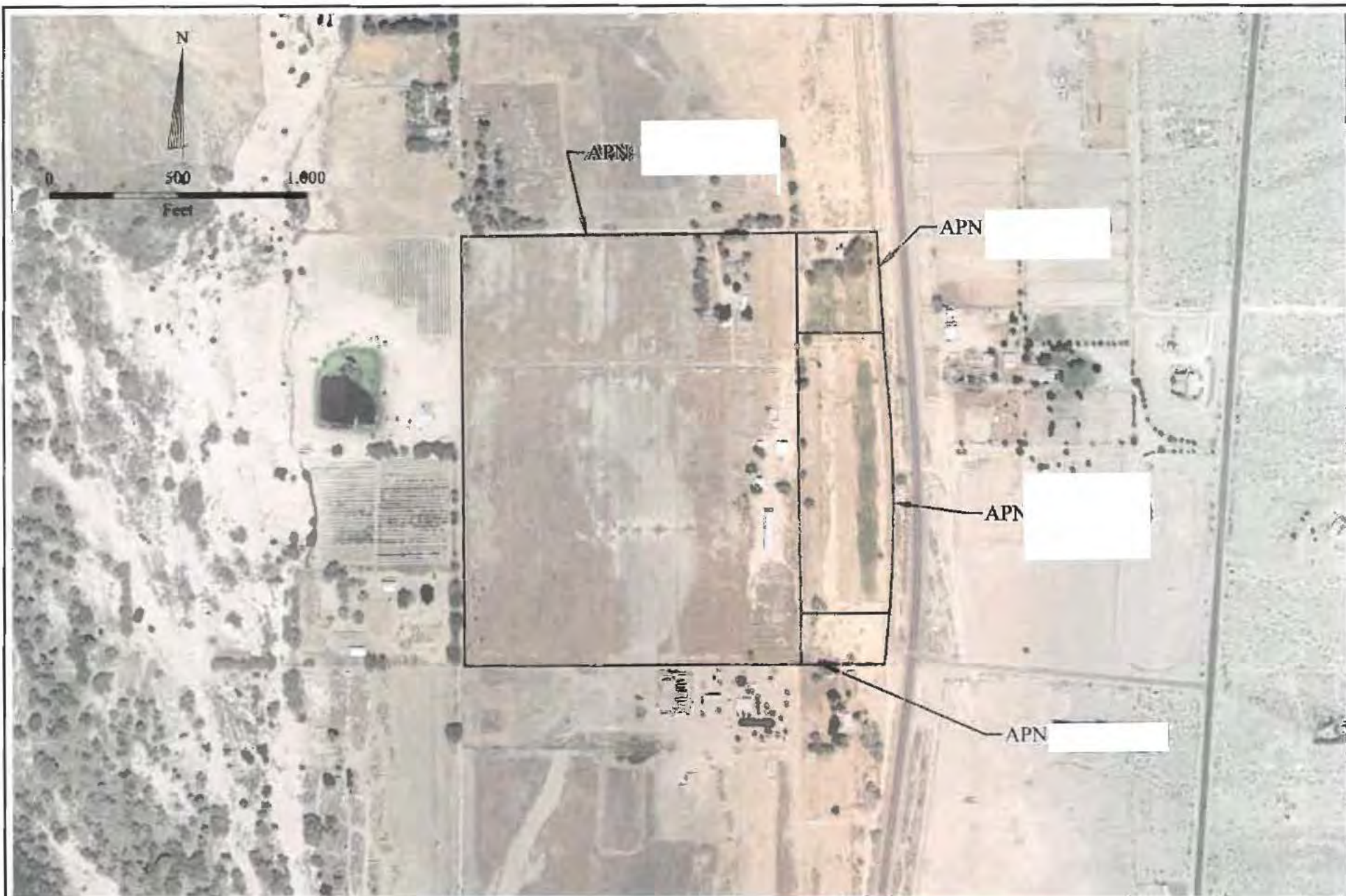


Image Date: August 2018

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers, A Corporation



Image Date: June 2017

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers - A Corporation

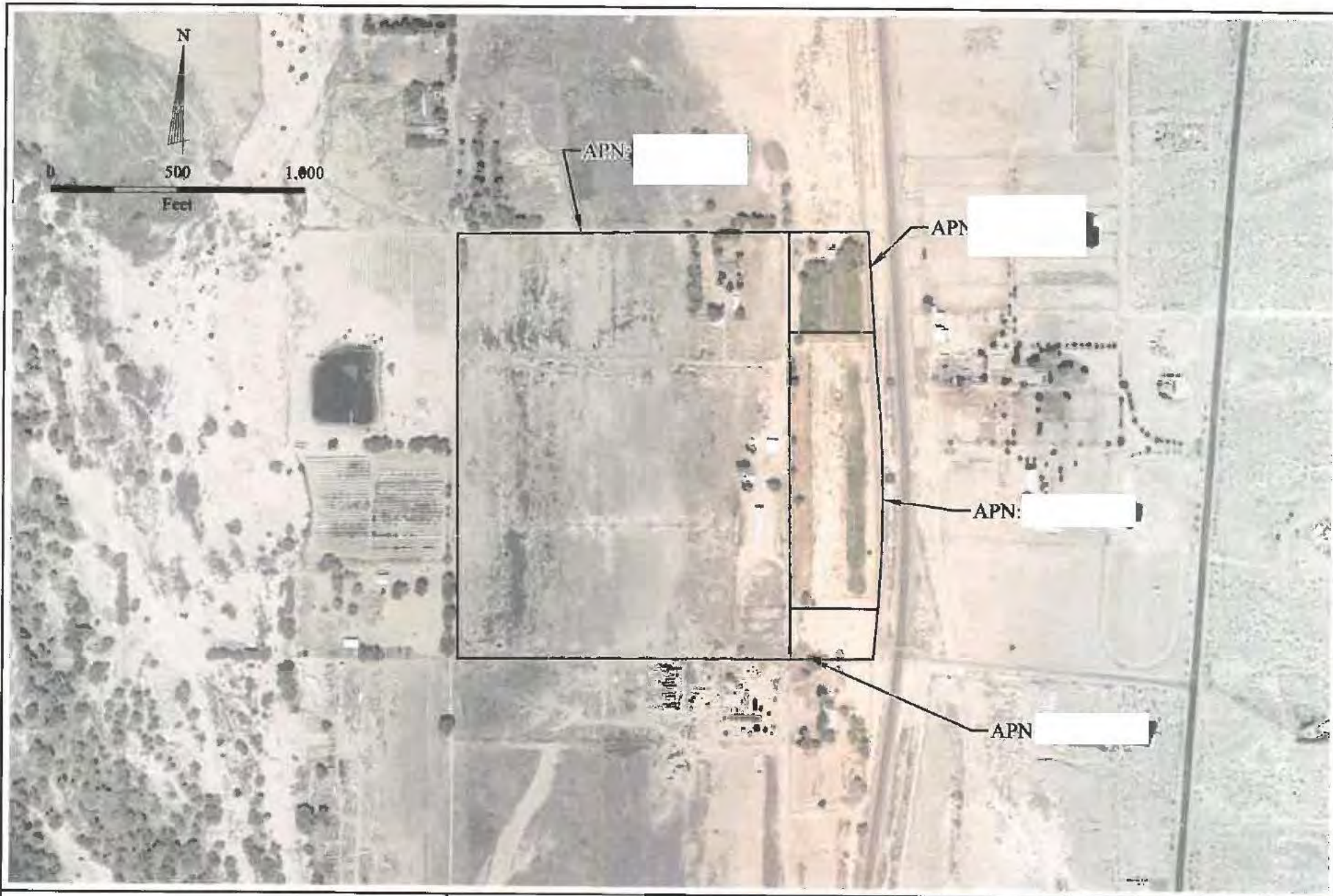


Image Date: September 2016

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers, A Corporation

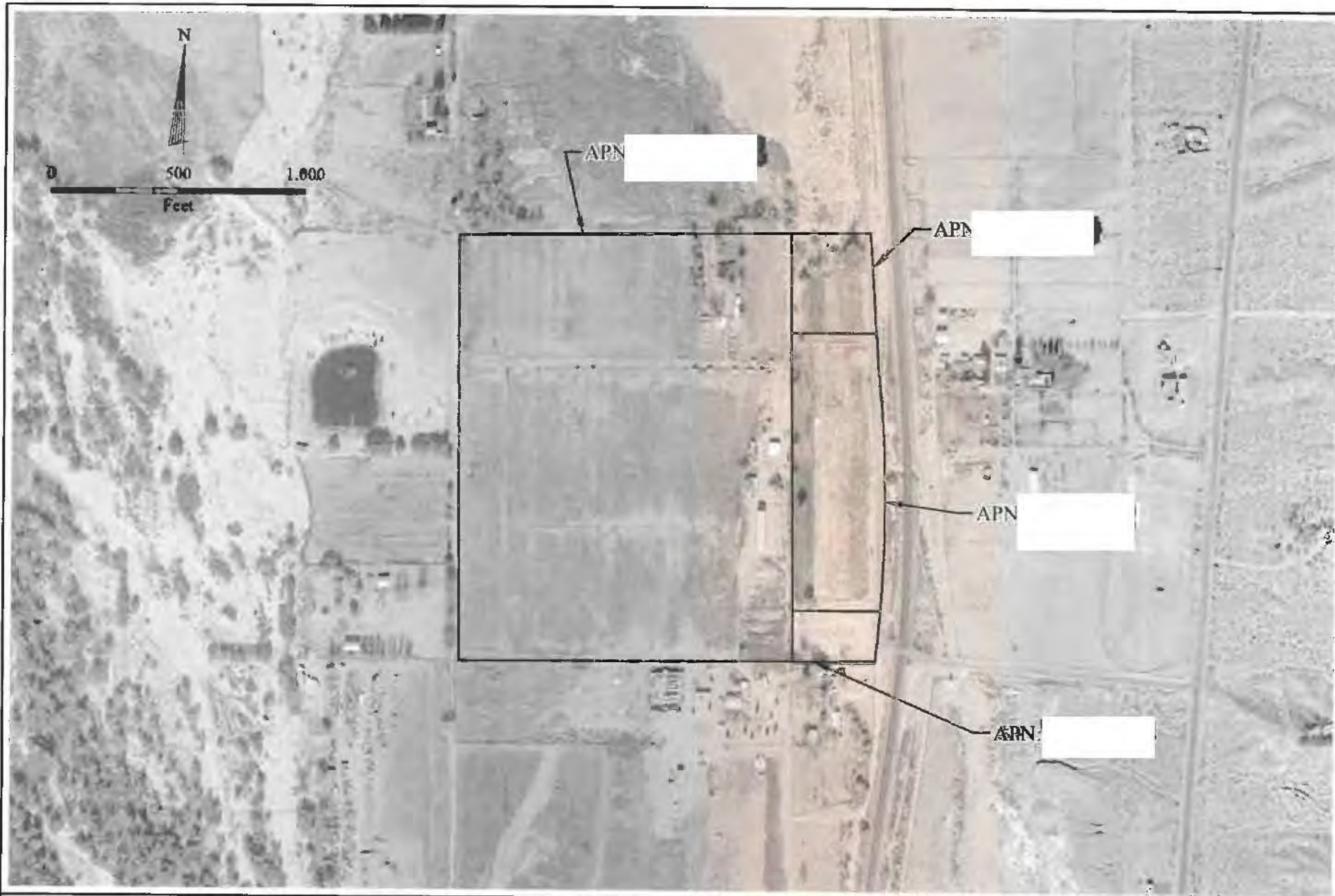


Image Date: January 2015

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner Bonsignore
Consulting Civil Engineers, A Corporation

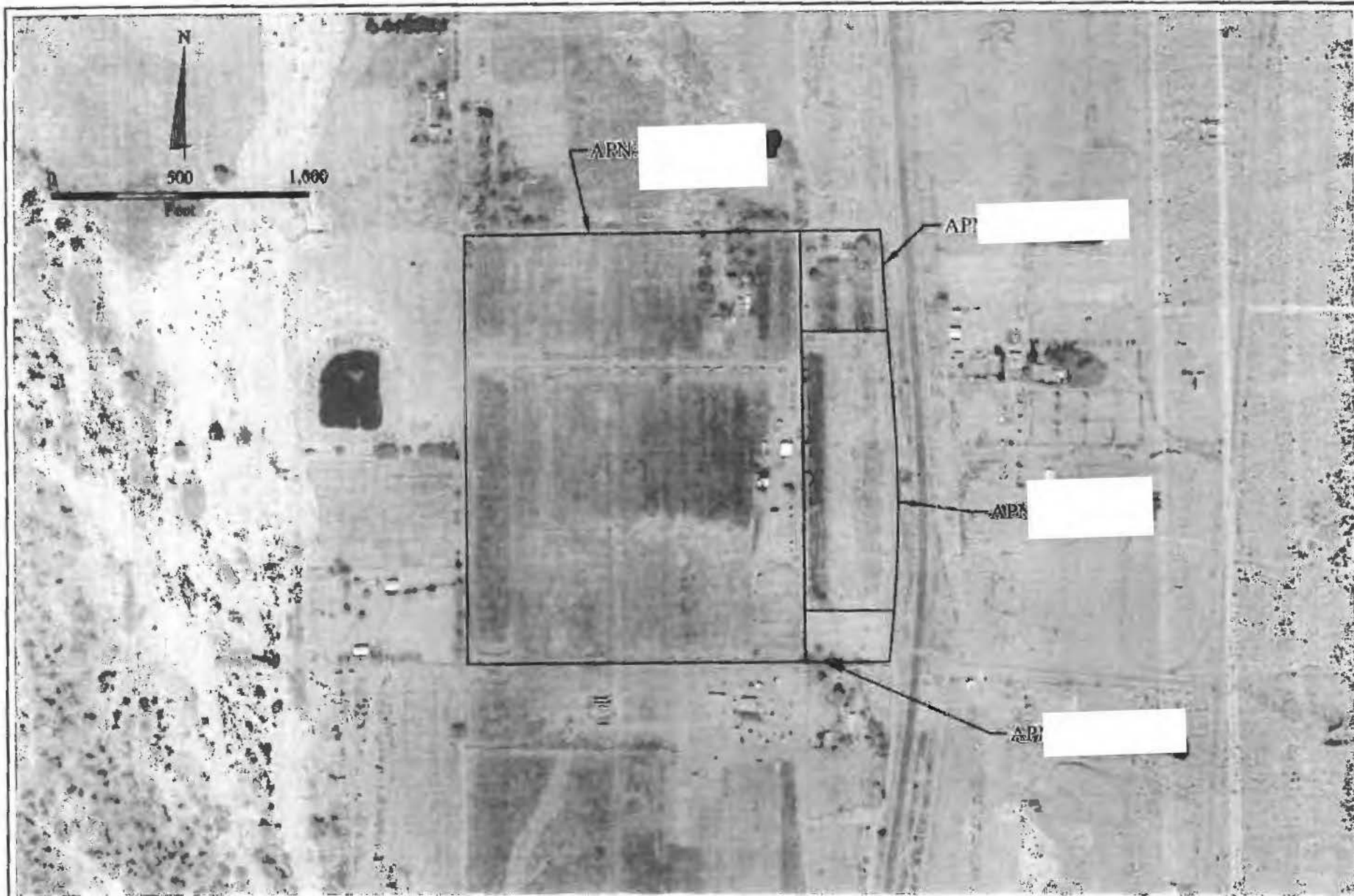


Image Date: March 2013

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner & Bonsignore
Consulting Civil Engineers, A Corporation

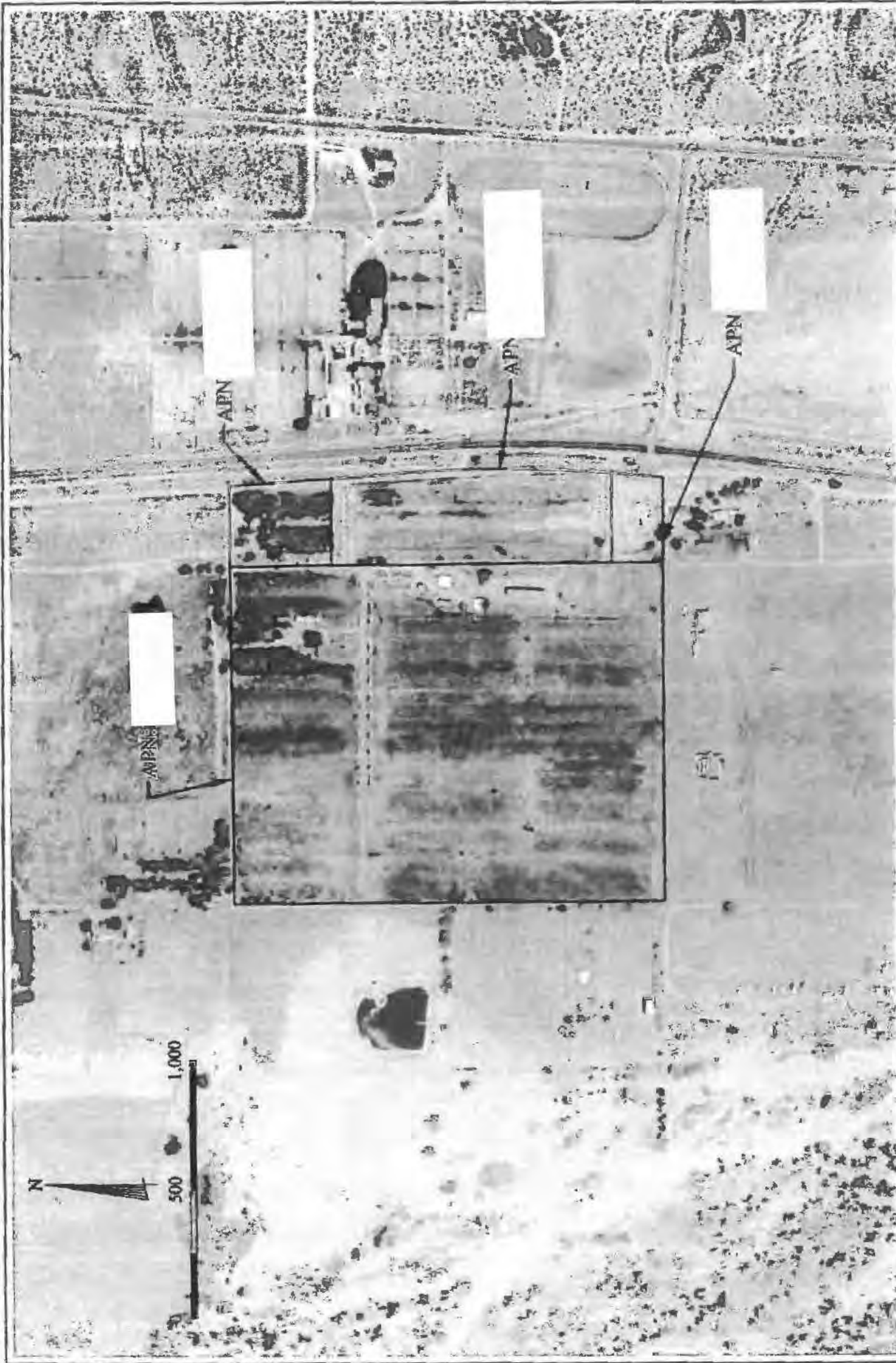


Image Date: June 2009

Historical Aerial Imagery Exhibit
San Bernardino County, California

Wagner & Bonsignore
Consulting Civil Engineers, A Corporation

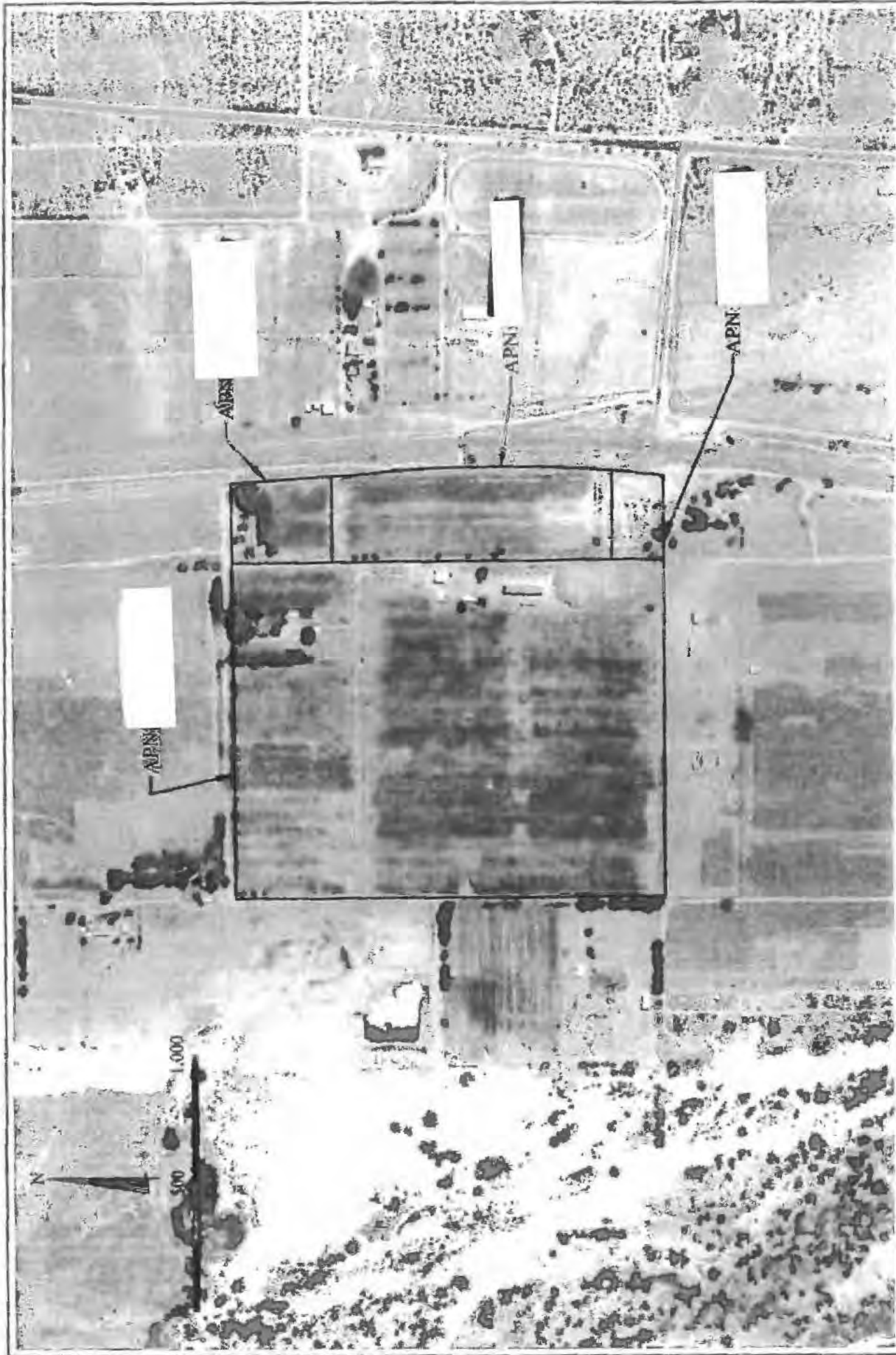
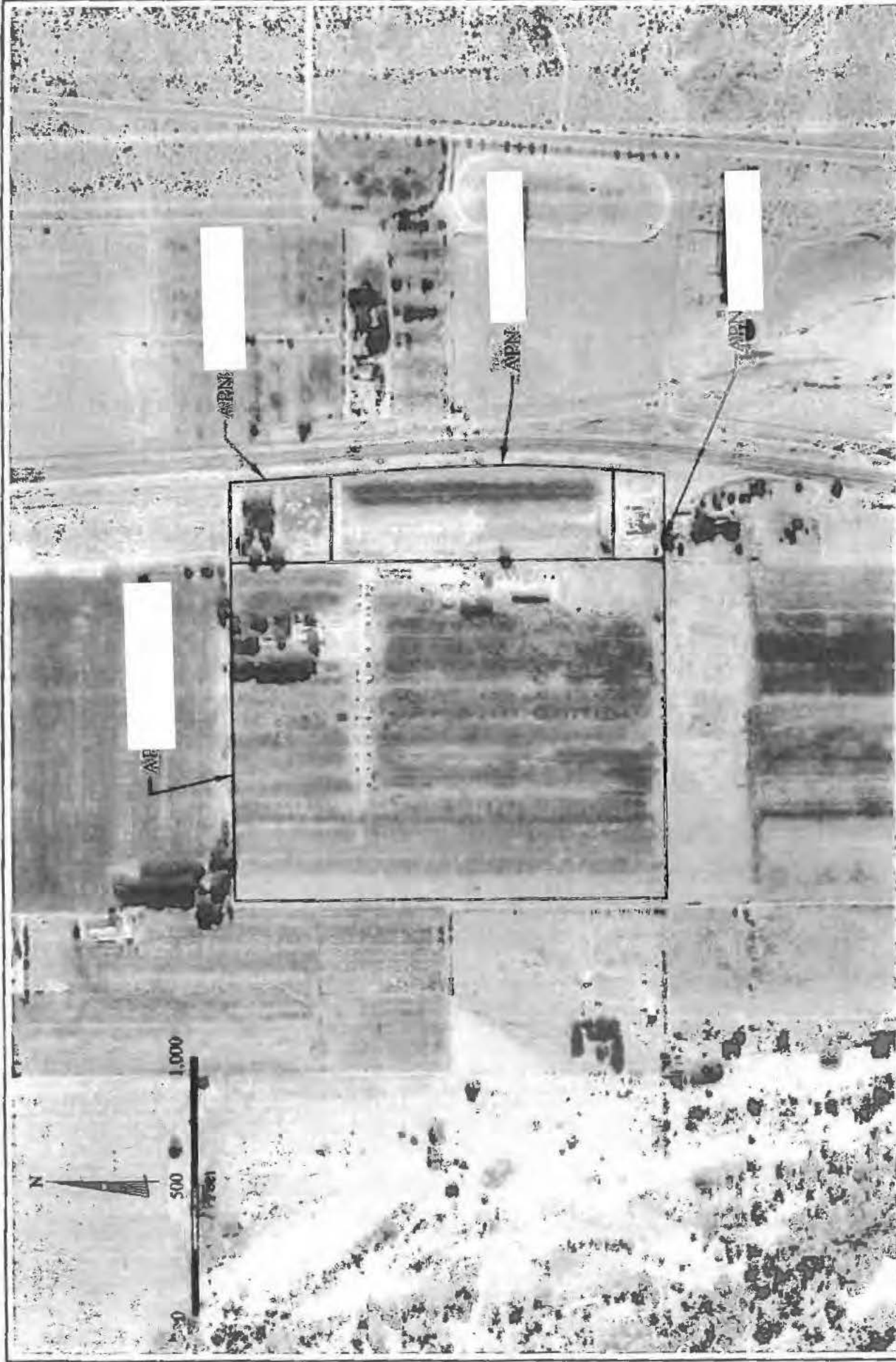


Image Date: June 2006

Historical Aerial Imagery Exhibit
 San Bernardino County, California

Wagner Bonsignore
 Consulting Civil Engineers, A Corporation



Historical Aerial Imagery Exhibit

San I

California

Wagner & Bonsignore
Consulting Civil Engineers, A Corporation

Image Date: May 1994

EXHIBIT 4

[EXTERNAL EMAIL]

Dear Mr. Ebright,

Thank you for your response and explanation regarding the above-referenced matter. Your candor is very much appreciated. I am hopeful that EHS truly understands and appreciates the significance of the hydrologic damage that is inflicted on the already-overdrafted Mojave groundwater basin when EHS issues its well drilling permits without consulting - or even notifying – the judicially-appointed Watermaster or any of the affected water purveyors overlying the Basin. I look forward to a more collaborative relationship with EHS when applications for well drilling permits in the Mojave groundwater basin are received by EHS.

Raymond M. Gagne', Jr.
General Manager
Office: 760-248-7883
Cell: 760-885-8587

From: Ebright, Adam
Sent: Tuesday, October 4, 2022 11:14 AM
To: jubileewaterco@gmail.com
Cc: Osorio, Jennifer; Evans, Adela; Tra, Kimberly; Alaniz, David
Subject: Well Permit Questions

Raymond M. Gagne', Jr. and Mr. Steven M. Kennedy,

My Client, Environmental Health Services, asked me to reach out to you and clarify the communication between a staff member, Mr. Flowers, and Mr. Gagne on September 2, 2022 regarding the classification of well permits in the county as ministerial.

Unfortunately, Mr. Flowers misspoke when he attempted to summarize the department's position on ministerial vs. discretionary permits, which served to complicate the matter. Since this issue, staff have received additional training on the matter.

In an attempt to clarify the departments position, I would like to acknowledge that Mr. Kennedy is correct in his assertion that well permits cannot categorically be deemed as ministerial, pursuant to the Powers decision, and this has been the departments position since that case was published.

However, my understanding is that although there is no blanket ministerial categorization, the permit in question was ministerial in that there were no variances due to the inability to meet the minimum horizontal separation distances identified in State Well Bulletin Standard 8.A and the well complied with local and state well permitting standard requirements, thus the department issued the permit.

Sincerely,

Adam Ebright
Deputy County Counsel
Office of County Counsel
San Bernardino County
385 North Arrowhead Avenue
San Bernardino, CA 92415-0140
(909) 387-4229

CONFIDENTIALITY NOTICE: This communication contains legally privileged and confidential information sent solely for the use of the intended recipient. If you are not the intended recipient of this communication, you are not authorized to use it in any manner, except to immediately destroy it and notify the sender.

EXHIBIT 5



13846 Conference Center Drive
Apple Valley, CA 92307
www.mojavewater.org

(760) 946-7000
(800) 254-4242

NEW WELL CONSTRUCTION ACKNOWLEDGEMENT FORM

PROPERTY OWNER INFORMATION	
Property Owner:	Mailing Address:
Phone Number:	Email Address:

WELL LOCATION	
Well Property Address:	
Assessor's Parcel Number:	Well Drilling Company:

INTENDED USE OF WATER	
This water will be used for (please estimate acres of land where water will be used):	
<input type="checkbox"/> Agricultural/Ranch _____ Acres of Land	Crop: _____
<input type="checkbox"/> Residential _____ Acres of Land	<input type="checkbox"/> Industrial _____ Industry Type
<input type="checkbox"/> Lake/Pond _____ Acres of Land	<input type="checkbox"/> Other _____ Acres of Land/Type

ACKNOWLEDGEMENT	
I, _____, acknowledge the following:	
(Full Name of Property Owner or Property Owner's Agent)	
<ul style="list-style-type: none">➤ Water, including groundwater, is a limited resource in California including San Bernardino County.➤ Mojave Water Agency, as a public agency, is charged with sustainably and responsibly managing the groundwater basins within the Mojave Water Agency Service Area.➤ By submitting an application to drill and construct a well within the Mojave Water Agency Service Area, I am providing a Notice of Intent to Extract or Divert Water within the Mojave Water Agency Service Area. Filing this form with the Agency prior to the issuance of a well permit will satisfy the requirement of providing Notice of Intent.➤ Any water extracted or diverted from the well being drilled and constructed will be used directly on the property where the well is drilled and constructed.➤ Any extraction or diversion of water within the Mojave Water Agency service area is subject to the jurisdiction of Mojave Water Agency, which has the authority to levy fees or assessments for the extraction and diversion of water to ensure sustainable groundwater management (Section 97-16 of the Mojave Water Agency Act).➤ If signed by an Agent acting for the Property Owner, this information has been or will be shared with the property owner.	
Property Owner/Property Owner's Agent Signature	Date

This form is available for download from: www.mojavewater.org

QUICK FACTS

Water in the High and Low Desert areas of San Bernardino County

Where does our water come from?

MWA's Service Area is located in the most arid region in Southern California receiving less than six inches of rain annually making water conservation and steadfast water management critical to long-term sustainability.



How does MWA manage water supplies?

One of the primary ways MWA ensures a sustainable water supply is through a 1996 court action designed to ensure users are not over pumping water from the ground and depleting supplies. This action, called the Mojave Basin Area Judgment (Judgment), determined pumping rights for those who were pumping or "producing" more than 10 acre-feet of water a year. New pumpers who will pump more than 10 acre-feet annually, stipulate to the Judgment allowing them to be part of the solution. The court also recognized those pumpers who produce or pump less than 10 acre-feet of water a year as "minimal producers."

What group ensures we have enough water?

The Mojave Water Agency (MWA), by state law, is responsible for water management over a 4,900 square-mile area in the high and low desert areas of San Bernardino County including the Victor Valley area, Barstow and surrounding communities, and the Morongo Basin region.



How much is an acre-foot of water?

An acre-foot of water is equivalent to about 326,000 gallons, or enough water to cover an acre of land, about the size of a football field, one foot deep. A typical residence on ½ acre of land and average landscaping uses less than an acre-foot of water annually. A farm or ranch can use 100 to 3,000 acre-feet of water annually.



How does MWA ensure we have enough water and no one is over pumping?

Under the Judgment, MWA must provide pumping or production data to the court each year. The court reviews the amount of water that can be pumped from the Mojave Basin Area free of replacement water charges. Excess pumping is charged and billed to those who pump more than allowed by the court to provide replacement water. MWA then recharges the basin by using water purchased from the California Department of Water Resources (DWR). The billed price per acre-foot of water varies by year and is currently \$563 per acre-foot.

For more information contact MWA at 760.946.7000 or www.mojavewater.org

EXHIBIT 6

DEPARTMENT OF PUBLIC HEALTH

RECEIVED
PUBLIC HEALTH

COUNTY OF SAN BERNARDINO

ENVIRONMENTAL HEALTH SERVICES

- ☐ 385 North Arrowhead Avenue • San Bernardino, CA 92415-0100 • (909) 383-4538
- ☐ 320 East "D" Street • Ontario, CA 91764 • (909) 391-7570
- ☐ 18505 Grede Drive • Victorville, CA 92382 • (618) 243-6141
- ☐ 17830 Arroyo Boulevard • Fontana, CA 92336 • (909) 828-2244
- ☐ San Bernardino County Vector Control Program
2358 East Fifth Street • San Bernardino, CA 92415-0084 • (909) 383-3200

28 AUG 26 AM 10:23

THOMAS J. FREUDENGAFT, JR., M.D., MPH
Director of Public Health

PAMELLA V. BENNETT, REHS, NPA
Director of Environmental Health

August 19, 1996

Larry W. Rowe
General Manager
P.O. Box 1089
Apple Valley, CA 92307

ROUTE TO	
BOB	_____
Rowe, L.	_____
Wilson, G.	_____
Cassidy, M.	_____
Anderson, J.	_____
Prater, J.	_____
Mullins, G.	_____
Fahs, G.	_____
Other	_____

Also serving the cities of:

Appleton	Moreno, CA
Apple Valley	Needham
Banister	Ontario
Big Bear Lake	Rancho Cucamonga
Chico	Redlands
Chino Hills	Rialto
Colton	San Bernardino
Fontana	Tecoma, PA
Grand Terrace	Upland
Hesperia	Victorville
Highland	Yucca Valley
Laurel	Thousand Oaks

SUBJECT: MEMORANDUM OF UNDERSTANDING

Dear Mr. Rowe:

Included here, please find your Agency's copy of the Memorandum of Understanding as approved by both the Board of Directors of the Mojave Water Agency and the Board of Supervisors of San Bernardino County.

If there are any questions, please feel free to contact either my staff or myself.

Sincerely,

Pamella V. Bennett
PAMELLA V. BENNETT, Director

PVB:RRH/ljm

cc: Richard R. Hornby

MINUTES OF THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA

August 13, 1998

FROM: PAMELLA V. BENNETT, Division Chief
Department of Public Health/Environmental Health Services Division

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN THE MOJAVE WATER AGENCY AND THE
COUNTY OF SAN BERNARDINO CONCERNING WATER WELL PERMITS & REVISION TO
SECTION 33.0637 OF THE SAN BERNARDINO COUNTY CODE, RELATING TO WELL LOGS

RECOMMENDATION:

1. Approve agreement between the Mojave Water Agency (MWA) and the County of San Bernardino for sharing water well permitting information within the Agency's boundaries.
2. Read title only of proposed ordinance revising Section 33.0637 of the San Bernardino County Code relating to well logs; waive reading of the entire text and continue to Tuesday, August 20, 1998, for adoption on the next calendar.

BACKGROUND: In 1974 Environmental Health Services (EHS) became the permitting authority for construction and destruction of water wells within San Bernardino County. As a result of litigation between the City of Adelanto et al. vs. City of Barstow et al. the Mojave Water Agency (MWA) has been appointed as Watermaster for the Mojave River Basin. The Watermaster needs well information in order to manage the Basin's water resources. MWA and EHS have in the past shared information. This agreement expands that sharing.

REASON FOR RECOMMENDATION: This agreement provides a more formal framework for the continuation of this cooperative arrangement and better defines the role of each. Amendment of Section 33.0637 is a part of this MOU.

REVIEW BY OTHER DEPARTMENTS: The agreement and the Code revision were reviewed by County Counsel and Risk Management.

FINANCIAL IMPACT: There is no financial impact on local County cost.

PRESENTER: Pamela V. Bennett, Division Chief, Department of Public Health, Ext. 4686.

Pamela Bennett, Division Chief, presents the staff report.

On call of the chairman, no further testimony is presented.

AGREEMENT NO. 96-767

cc: Public Health/EHS-Bennett
Contractor w/agreement
c/o EHS-Bennett
Auditor w/agreement
Contract Compliance
Risk Management
CAO
File w/agreement

ch

Action of the Board of Supervisors

APPROVE AGREEMENT & CONT.
ORDINANCE TO TUESDAY, 8/20/98 @ 10 A.M.

BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO

MOYON ABSENT AYE SECOND MOVE AYE
1 1 1 1 1 1

EARLENE SPROAT, CLERK OF THE BOARD

BY

DATED August 13, 1998

Deputy

ITEM 56



County of San Bernardino
F A S

CONTRACT TRANSMITTAL

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code Mojavevata	Dept. SC	PHL A	Contract Number 96-767	
County Department PHL-Environmental Health Services		Dept. Orgn.	Contractor's License No. N/A		
County Department Contract Representative Pamella V. Bennett		Ph. Ext. 387-6219	Amount of Contract N/A		
Fund AAA	Dept. PHL	Organization 5200	Appr. 200	Obj/Rev Source Activity	GRC/PROJ/OS Number
Commodity Code		Estimated Payment Total by Fiscal Year			
Project Name Memorandum of Understanding		FY	Amount	YD	FY Amount YD

CONTRACTOR Mojave Water Agency

Birth Date July 21, 1960 Federal ID No. or Social Security No. 95-2283025

Contractor's Representative LARRY ROVE, P.E. General Manager/Chief Engineer

Address 22450 Headquarters Apple Valley, CA Phone (619) 240-9201

Nature of Contract: (Briefly describe the general terms of the contract)

This Memorandum of Understanding between the Mojave Water Agency and the County of San Bernardino defines the relationship between the two agencies for the issuance of well permits and sharing of well information. The Department of Public Health, Division of Environmental Health Services is the permitting agency and the Mojave Water Agency, in its capacity as Watermaster for the Mojave River Basin, will manage the usage and recharge of water resources. Both agencies will cooperatively encourage the wise usage of water within the boundaries of the Mojave Water Agency and preservation of the quality of water resources as well.

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form

Susan L. Nash
County Counsel

Date 5 August 96

Reviewed as to Affirmative Action

By _____

Date _____

Reviewed for Processing

By _____
Agency Administrator/CAO

Date _____

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
MOJAVE WATER AGENCY
AND THE
COUNTY OF SAN BERNARDINO

This Memorandum of Understanding is entered into by and between the MOJAVE WATER AGENCY (hereinafter "MWA"), on the one hand, and the COUNTY OF SAN BERNARDINO, (hereinafter "COUNTY") on the other hand. Its purpose is to provide a cooperative working relationship between MWA and COUNTY for matters of mutual concern relative to water wells within the boundaries of the MWA.

WHEREAS: California Water Code Section 231 requires statewide standards to be developed and maintained by the State Department of Water Resources (DWR) California Water Code Section 13801 requires the appropriate local agency to adopt a well ordinance that meets or exceeds DWR well standards. This was done October 15, 1974, with the adoption of San Bernardino County Ordinance 1954 with the Department of Public Health, Division of Environmental Health Services (hereinafter "EHHS") as the enforcing agency. (County Code Section 33.0630 through 33.0643.)

WHEREAS: The MWA, as a result of adjudication of the Mojave River basin area in The City of Barstow, et. al v. City of Adelanto et. al (Riverside County Superior Court Case No. 208568), has been appointed as Watermaster. The Watermaster has the authority to regulate the use of water from all sources within the adjudicated basin. The MWA has similar concerns and authority within the remainder of their area of jurisdiction.

WHEREAS: Pursuant to Water Code Appendix Section 97-15.3 (Assembly Bill 1629, effective January 1, 1996) MWA has broad authority to undertake any necessary measures with regard to wells or facilities used for the extraction of groundwater, whether operating, inactive, or abandoned, in order to enhance the management of groundwater resources.

WHEREAS: This MOU provides guidance as to the cooperative agreement between MWA and COUNTY for carrying out their respective responsibilities and sharing of information of mutual interest.

WHEREAS: The COUNTY of San Bernardino Department of Public Health, Division of Environmental Health Services is the COUNTY agency authorized to approve or deny issuance of permits for construction, reconstruction, and destruction of all water wells within unincorporated San Bernardino County and incorporated cities and towns which do not have water well codes of their own

WHEREAS: The MWA may enact Ordinances, in addition to the County Ordinances, for the purpose of regulating well drilling and abandonment activities within the MWA boundaries.

WHEREAS: COUNTY and MWA will work cooperatively with one another in promoting the protection and wise use of water within the jurisdiction of MWA.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. COUNTY agrees: EHS will provide copies of applications for well permits for the construction, reconstruction and destruction of water wells, to MWA within five (5) working dates after receipt. MWA shall have the right to submit any information to EHS in response to the application and EHS agrees to consider such information in determining whether or not the application complies with County Code Sections 33.0630 through 33.0645. MWA shall comment to EHS within five (5) working days of their receipt of the application.
2. COUNTY agrees: EHS will provide permittees with any information that MWA may request be distributed with well permits.
3. COUNTY agrees: County Code Section 33.0637 shall be amended to require that all well drillers timely submit accurate and complete drillers reports prior to final inspection of the completed well, prior to sign off by the COUNTY, or within 30 days of completion, whichever occurs first.
4. MWA agrees: MWA will provide EHS with three (3) copies of maps of their boundaries including the area affected by the Mojave River Basin area adjudication to a reasonable scale for use in processing well permits by EHS. MWA will also provide a list containing Assessor's parcel information for the same purpose. COUNTY will assist the MWA with provision of this data.
5. COUNTY & MWA agree: Either or both COUNTY and MWA may initiate an action for the destruction of an abandon or other well which may pose a threat to groundwater. When initiated independently, the initiating agency will notify the other agency within five (5) working days of issuance notice of a pending action.
6. COUNTY and MWA agree: Either agency collecting fees to recover costs incurred will do so independent of the other agency.
7. This Memorandum of Understanding shall remain in full force until terminated by a thirty (30) day written notice by either party.

8. All notices and communications under this Memorandum of Understanding shall be addressed to the following:

COUNTY:

Pamella V. Bennett
Director of Environmental Health Services
County Government Center
385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0160

MOJAVE WATER AGENCY:

Larry W. Rowe
General Manager
Post Office Box 1099
22450 Headquarters
Apple Valley, CA 92307

This Memorandum of Understanding is executed this AUG 13 1996 by the following authorized representatives of the parties.

For the COUNTY:

For the MOJAVE WATER AGENCY:

Chairman of the Board

Beverly J. Lowry
Beverly Lowry, President

SIGNED AND CERTIFIED TRUE COPY OF THIS
INSTRUMENT HAS BEEN DELIVERED TO THE CHAIR-
MAN OF THE BOARD.

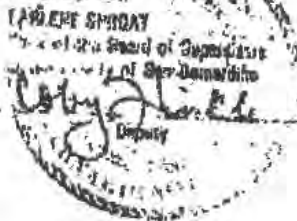


EXHIBIT 7

AGENDA

MEETING BETWEEN SAN BERNARDINO COUNTY STAFF AND LEGAL COUNSEL AND MOJAVE BASIN AREA WATERMASTER STAFF AND LEGAL COUNSEL

OCTOBER 1, 2018

- A. Introductions**
- B. Status of Baja Subarea Hydrology and Overdraft Conditions**
 - a. Net long term annual supply—11,542 AF—Table 5-2, Watermaster Annual Report
 - b. Total overdraft as of 2017—1,500,000 AF
 - c. Total FPA (27,860) represents a call on the water supply plus Carryover of 23,808 AF
 - d. Current year storage loss is 17,000 AF
 - e. Must balance supply and demand
 - f. New projects should identify new water supply
- C. Potential for MWA and Watermaster to have a role in Well Permitting process**
 - a. Watermaster's authority over new wells is limited to parties to the Judgment only
 - b. Minimal Producers can pump 10 acre-feet, 2 acre-feet under SGMA but Watermaster needs the opportunity to inform applicants of the Judgment and obtain compliance
 - c. Need County process to include notification to applicant of Watermaster jurisdiction and their responsibilities
 - d. Applicant to acknowledge understanding of the Judgment and responsibility before receiving a well permit
 - e. See draft well permitting concept package (attached)
- D. Ideas for potential for land use controls in the Baja Subarea (Daggett, Yermo, Calico, Newberry Springs areas)**
 - a. County ordinance limiting new lakes
 - b. County ordinance limiting new agriculture
 - c. County to identify new land uses that conform to water stressed area
- E. Goals for Discussion**
 - a. New MOU outlining County, MWA and Watermaster roles in well permitting process
 - b. Agreements on best way to enact land use reforms
 - c. Agreements to establish quantifiable limits on water use
 - d. Siskiyou County case

Documents: Provided:

1. Mojave Basin Area Judgment
2. Watermaster Annual Report 2016-17
3. Declaration of Robert C. Wagner re Watermaster's Motion to the Court May 2018
4. Reporter's transcript of Watermaster hearing of July 6, 2018 with the Court
5. MOU between MWA and County regarding well permitting
6. Draft well permitting concept prepared by Watermaster
7. Old county ordinance of land use restriction in the lower Mojave basin area
8. Draft Sample Ordinance for new restrictions in the Baja Subarea
9. Appellate Court Decision on Siskiyou County case regarding SGMA and Scott River
10. Watermaster letter submitted to County on proposed Daggett Solar project in Baja

Well Permitting Requirements for Mojave Basin Area Watermaster (MBAWM) and Mojave Water Agency (MWA) for new wells, or rehabilitation of existing wells, in San Bernardino County within the MBAWM and MWA boundaries

The Mojave Water Agency's service area wholly contains the adjudicated area subject to the court order. New wells to be drilled within these areas require evaluation by MBAWM and/or MWA prior to being permitted by San Bernardino County Health Department. Permits for re-drilled or rehabilitated wells also require evaluation.

In order to process an application for a well permit an applicant must contact the MWA and /or MBAW staff. The staff will be able to inform the applicant whether or not the proposed well is within the MBAWM service area and/or the MWA service area.

The Mojave Water Agency Act, provides that: The agency may do any and every act necessary to be done so that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants of the agency, including, without limiting the generality of the foregoing, irrigation, domestic, fire protection, municipal, commercial, industrial, and recreational uses. (Water Code Section § 97-15 (a))

The Mojave Basin Area Watermaster (MBAWM) administers a court ordered Judgment regulating water extractions and use in the Mojave Basin Area. (Judgment After Trial, Dated January 10, 1996). Attached is a Map showing the affected area to be managed by the Watermaster.

MWA requirement to provide notice of intent to extract or divert water:

§ 97-39. Notice of intent to extract or divert water; contents; penalty

Sec. 39. (a) Any person who intends to dig, bore, or drill a water well, as defined in Section 13710 of the Water Code, any person who intends to cause to have such a well dug, bored or drilled, and any person who intends to divert or cause to be diverted any surface water, within the territory of the agency or such portion thereof as the agency may delineate by ordinance, shall file with the agency at least 15 days before commencement of such construction a "Notice of Intent to Extract or Divert Water" (hereinafter called "notice").

(b) The notice shall be submitted on a form prepared by the agency and shall contain such information as the agency may require, including, but not limited to: (1) the location of the well site or diversion; (2) a description of the type of construction to be used; (3) the proposed uses of the extracted or diverted water, including the lands to be served thereby; and (4) the proposed date of construction.

Both the person owning the land or an interest therein and the person who will construct the well or diversion facility shall sign and verify the notice.

(c) Failure to file the notice required by this section shall be punishable by a civil fine of not exceeding five hundred dollars (\$500). Both the person owning the land or an interest therein and the person constructing the well or diversion facility shall be assessed under this subdivision.

Requirements of the Judgment After Trial, January 10, 1996:

Certain portions of San Bernardino County have been subject to a general adjudication of water rights. Within the area of adjudication there are certain restrictions that well permittees must adhere too. In the case of the Mojave Basin Area Watermaster service area, one significant condition requires well owners to be bound by the terms of the court ordered Judgment in the event the well owner pumps 10 acre-feet or more from all wells in a given year. Well owners that pump 10 acre-feet or less from all wells in a given year are excluded from the Judgment requirements at this time.

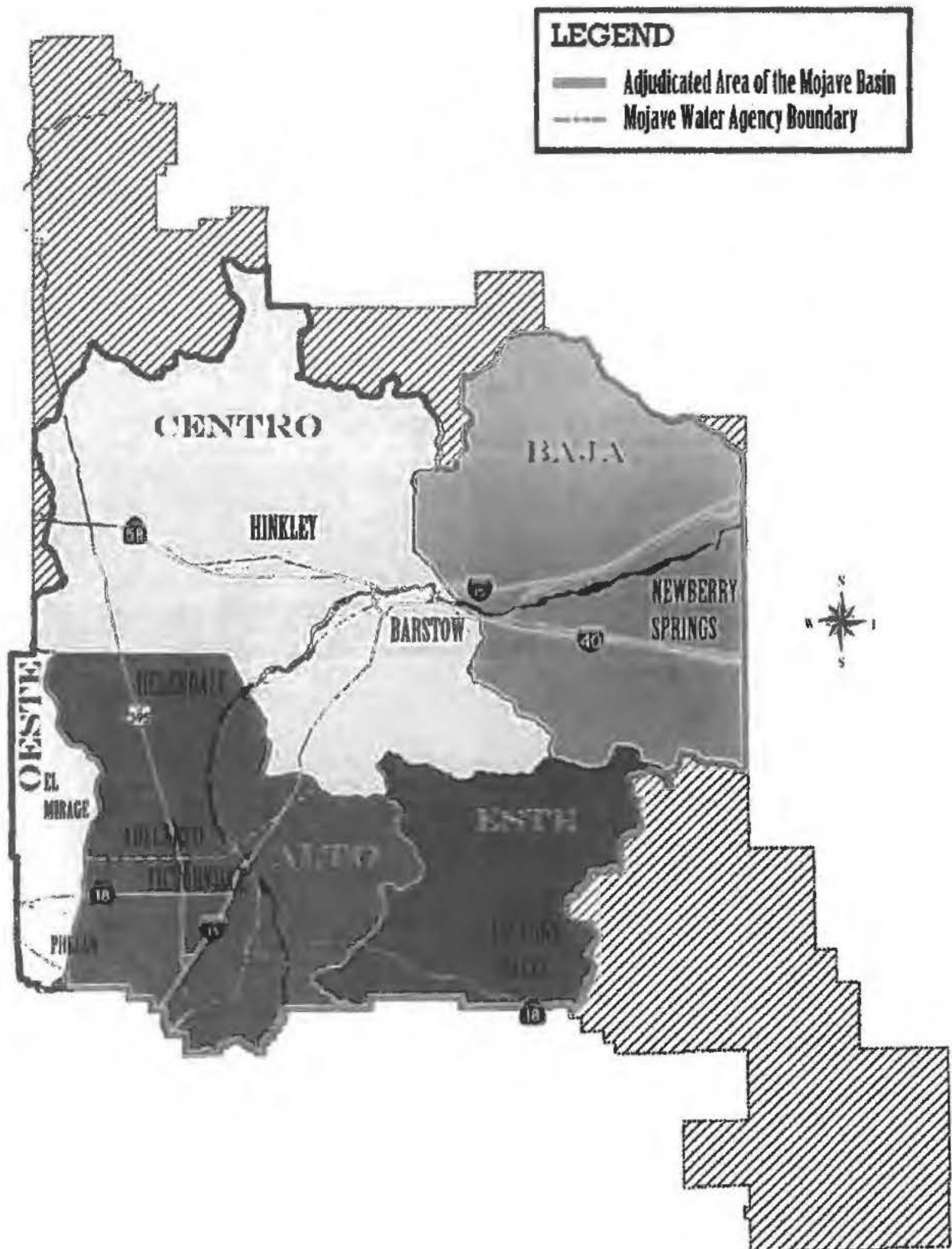
Production Only Pursuant to Judgment. This Judgment, and the Physical Solution decreed herein, addresses all Production within the Mojave Basin Area. Because of the existence of Overdraft, any Production outside the framework of this Judgment and Physical Solution will contribute to an increased Overdraft, potentially damage the Mojave Basin Area and public interests in the Basin Area, injure the rights of all Parties, and interfere with the Physical Solution. Watermaster shall bring an action or a motion to enjoin any Production that is not pursuant to the terms of this Judgment. (Paragraph 12, Judgment After Trial)

Wells within the MBAWM service area intended for uses requiring 10 acre-feet or more per year cannot be processed until the applicant has stipulated to the terms of the Judgment and returned a signed stipulation to the Watermaster. In addition, the Notice of Intent to Divert or Extract Water form and accompanied Acknowledgment form must also be filed with MWA and/or MBAWM.

Wells intended for uses requiring 10 acre-feet or less cannot be processed until the applicant has filed the Notice of Intent to Divert or Extract Water form and accompanied Acknowledgment form with MWA and/or MBAWM.

A copy of the completed stipulation and/or the Notice of Intent to Divert or Extract Water form and accompanied Acknowledgment form must be provided to the San Bernardino County Environmental Health, Well Permitting division before a well permit can be issued.

MOJAVE BASIN AREA





13846 Conference Center Drive
Apple Valley, CA 92307
www.mojavewater.org

(760) 946-7000
(800) 254-4242
FAX (760) 240-2642

NOTICE OF INTENT TO EXTRACT OR DIVERT WATER NEW WELL CONSTRUCTION

This report must be filed with the Agency at least 15 days prior to the commencement of drilling any new well or diverting water within the Agency boundary. In emergency cases where replacement wells are being drilled and the 15 days prior notice is impossible, telephone authorization may be obtained.

PROPERTY INFORMATION	
Property Owner:	Mailing Address:
Phone Number:	Email Address:

WELL DRILLER INFORMATION	
Well Driller:	Phone Number:
License Number:	Email Address:

WELL LOCATION (attach map of property with location of well)			
Township:	Range:	Section:	Assessor's Parcel Number:
Latitude (decimal):		Longitude (decimal):	

WELL DRILLING DATES	
Proposed starting date:	Projected completion date:

ESTIMATED ANNUAL WATER USE			
<input type="checkbox"/> Agriculture	_____ Acre-Feet	Crop _____	Acres _____
<input type="checkbox"/> Golf Course	_____ Acre-Feet	<input type="checkbox"/> Industrial	_____ Acre-Feet
<input type="checkbox"/> Municipal	_____ Acre-Feet	<input type="checkbox"/> Residential	_____ Acre-Feet

Note: 1 acre-foot equals 43,560 cubic feet or about 325,851 gallons.

VERIFICATION	
This report is true to the best of my knowledge and belief and I have completed the required Acknowledgement (attached).	
Property Owner's Signature _____	Date _____

FAILURE TO FILE A FIRST NOTICE IS PUNISHABLE BY A CIVIL FINE OF NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500). Both the person owning the land or an interest therein and the person constructing the well or diversion facility shall be assessed under this subdivision. (Section 1 of Section 39, Mojave Water Agency Law, Chapter 2146 of the Statutes of 1959).

FOR AGENCY USE ONLY		
Within Adjudicated Area (which one)?:	Pumping more than 10 AF/Yr?:	Waiver / Stipulation Signed & Notarized?:
Received by:	Action: Approved [] Denied []	Date of Action:
Date Received:	By (Name):	Title:

This form is available for download from: (insert web page here).

ACKNOWLEDGMENT

Choose the appropriate acknowledgment to complete (1, 2 or 3):

1. Mojave Basin Area (pumping 10 acre-feet or less per year)

I, _____, certify that:

- ☐ I have reviewed the Mojave Basin Area Judgment After Trial, dated January 10, 1996
- ☐ I have provided details to the Mojave Water Agency and/or the Mojave Basin Area Watermaster about my well(s) and intended uses of water
- ☐ My well(s) are within the Mojave Basin Area and I intend to pump 10 acre-feet or less per year from all wells on my property(s)
- ☐ I am the owner of the property where all wells are located
- ☐ I will measure my water production from all sources and will not produce more than 10 acre-feet in any given year
- ☐ At such time as my well(s) produce more than 10 acre-feet in the aggregate in any given year, I will notify Watermaster and voluntarily stipulate to the Judgment and be bound by its requirements.

Signed _____ Dated _____

Print Name _____

2. Mojave Basin Area (Subject to Judgment if pumping more than 10 acre-feet per year)

I, _____, certify that:

- ☐ I have reviewed the Mojave Basin Area Judgment After Trial, dated January 10, 1996
- ☐ I have provided details to the Mojave Water Agency and/or the Mojave Basin Area Watermaster about my well(s) and intended uses of water
- ☐ My well(s) are within the Mojave Basin Area and I intend to pump more than 10 acre-feet per year from all wells on my property(s)
- ☐ I am the owner of the property where all wells are located
- ☐ I will measure my water production from all sources pursuant to the requirements of the Judgment
- ☐ I will voluntarily stipulate to the Judgment and be bound by all of its requirements
- ☐ I will not have a Base Annual Production Right under the Judgment and will be subject to a Replacement Assessment for the water that I pump from all my wells in any given year

Signed _____ Dated _____

Print Name _____

3. Outside the Mojave Basin Area Watermaster's jurisdiction but within the Mojave Water Agency boundary

I, _____, certify that:

- ☐ My property and well(s) are outside of the Mojave Basin Area Watermaster's jurisdiction but still within the Mojave Water Agency's boundary
- ☐ I have provided details to the Mojave Water Agency and/or the Mojave Basin Area Watermaster about my well(s) and intended uses of water
- ☐ I am the owner of the property where all wells are located
- ☐ I will measure my water production from all sources
- ☐ I am subject to the State of California's Groundwater Recordation Act and have received information on its requirements from Mojave Water Agency

Signed _____ Dated _____

Print Name: _____

Acknowledgement of Mojave Water Agency and/or Watermaster

Signed _____ Dated _____

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PROHIBITING NEW WATER WELL PERMITS AND NEW WATER WELLS IN PORTIONS OF SAN BERNARDINO COUNTY, AND ESTABLISHING CERTAIN EXCEPTIONS AND PROCEDURES FOR WAIVERS ESTABLISHING A MORATORIUM ON NEW OR EXPANDED IRRIGATION CROP PRODUCTION, CONVERSION OF DRY LAND TO NEW EXPANDED IRRIGATED CROP PRODUCTION AND NEW DEVELOPMENT DEPENDENT UPON A WELL IN THIS UNINCORPORATED AREA ESTABLISHING A MORATORIUM ON ANY NEW LAKES AND RESERVOIRS APPROVED IN ANY ORDINANCE

The Board of Supervisors of the County of San Bernardino hereby ordains as follows:

Section 1. Findings and Declarations.

The Board of Supervisors makes the following findings and declaration in support of the enactment of this Urgency Ordinance:

A. CEQA Exemption Findings. This Ordinance is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment as it includes regulations to protect groundwater resources within certain groundwater basins in the unincorporated area of San Bernardino County from further depletion (CEQA Guidelines § 15307); and because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of the environment, including groundwater resources within the groundwater basins within the unincorporated area of San Bernardino County (Class 8, CEQA Guidelines § 15308). No exceptions to these exemptions are present. The area is more particularly described as (the Baja Subarea of the Mojave Basin Area Adjudication, as shown on Exhibit A of the Judgment After Trial, dated January 10, 1996, in the matter of City of Barstow, et al. v. City of Adelanto, et al., Riverside County Superior Court Case No. 208568).

B. This Ordinance is also exempt from CEQA because it is an Urgency Ordinance that prevents or mitigates impacts from the sudden, unexpected failures of existing wells within groundwater basins in the unincorporated areas of San Bernardino County, which failures impose a clear and imminent danger to existing residential, recreational lakes, industrial and agricultural water wells in the groundwater basins in the unincorporated area of San Bernardino County and to users who rely on the water from those wells, and which requires immediate action of prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. The Urgency Ordinance, therefore, qualifies for an exemption under Public Resources Code Section 21080(b)(4) and CEQA Guidelines section 15269(c).

The groundwater basin termed the Baja Subarea supplies water to unincorporated communities, rural home sites and agriculture in the northerly portion San Bernardino

County. The groundwater basin is the sole source of water for all users in the area. Major hydrogeologic studies and pumping evaluations of the basin have been produced in 1) *Simulation of Ground-Water Flow in the Mojave River Basin, California, United States Geological Survey, Water Resources Investigations Report 01-4002, (2001)*; 2) *Conceptual Hydrogeologic Model and Assessment of Water Supply and Demand for the Centro and Baja Management Subareas, Mojave River Groundwater Basin, Todd Engineers with Kennedy/Jenks Consultants, July 2013*; 3) *Watermaster Annual Reports 1994-2014*.

C. The Mojave Water Agency has concluded that the Baja Subarea water production exceeds safe yield meaning that more water is pumped out than is recharged resulting in continual and widespread decline of groundwater levels and depletion of groundwater storage.

Due to the existence of critical overdraft for at least the past 50 years in the Baja Subarea, and the current extreme drought conditions existing throughout California, an urgency now exists regarding groundwater conditions within the Baja Subarea of the Mojave Basin Area Adjudication. The conditions are critical and need urgent action for the following reasons:

- a) The Baja Subarea of the Mojave Basin Area Adjudication is in a rainfall deficient area receiving an average of only about 4 inches of precipitation annually. Rainfall is insufficient to replenish the groundwater basin. Demands within the Subarea greatly exceed supply. The Physical Solution of the Mojave Basin Area Adjudication (The Judgment) is designed to allocate resources equitably to the parties. However, an urgent need to prevent new water production, new wells, and limit high water demand land uses exists.
- b) Water level measurements show constant water level declines for decades. The water level declines have reached elevations sufficiently low as to present an overdraft condition that the groundwater basin may not be able sustain without potential loss of water to the existing users.
- c) New wells, new water production, and continued high water demand uses for non-household, and other essential uses (e.g., schools, hospitals essential community services), will exacerbate the overdraft condition.
- d) Groundwater levels have declined at a rate approaching two feet per year. Groundwater storage, an essential reserve to sustain water supply during long periods without rainfall and recharge, has been depleted by in excess of 325,400 acre feet since entry of Judgment in 1996, and 183,000 acre feet since the last major recharge event in 2005 (Watermaster Engineer, 2015). Previously, USGS, 2001, estimated a loss of storage prior to 1996 of about 1,100,000 acre-feet.
- e) Small producer wells are reported to have gone dry or are experiencing difficulty pumping, and are expected to go dry in the future.
- f) The Baja Subarea is 100% reliant on groundwater for its domestic and other uses.

- g) State legislation requires groundwater basins designated as medium or high priority to develop management strategies to bring the basins into long-term sustainability. The Judgment will accomplish this in the Baja Subarea, however there is an urgent need to restrict new wells and new production and limit high water demands to assist in achieving sustainability. The Baja Subarea is shown as a high priority basin by DWR (Bulletin 118 Basin 6-40, Lower Mojave Valley).

D. The Mojave Water Agency maintains monitoring well locations throughout the Baja Subarea. Measurements are conducted twice a year to determine groundwater levels. The latest measurements taken in March 2014 and October 2014 are shown on "hydrographs" which are graphic representations of changes in groundwater levels over time. The hydrographs are published in the Mojave Basin Area Watermaster reports annually. These hydrographs graphically shows that groundwater levels have consistently fallen for decades. (Watermaster Annual Reports, Figure 3-13 Baja Subarea)

E. The Mojave Water Agency has reports by individuals and reviewed written correspondence from numerous individuals throughout the basin who believe they have or they soon will experience severe drops in the water levels in their wells and decreased well performance. Some of the homeowners have report that they have had to drill new, much deeper wells or lower their pumps. Other individuals have said that their wells are in imminent danger of going dry. These reports have been received from throughout the basin.

F. This year has been a particularly dry year and has resulted in increasingly severe drought conditions within the State of California. This drought has likely exacerbated the effects of the recent increase in water intensive uses within the basin and contributes to the emergency situation facing homeowners whose wells have very recently gone dry or are about to go dry.(Add reference to all claims made)

- a. Snively letter to Watermaster dated March 12, 2015.
- b. Petition from Minimal Producers- Jan. – Feb. 2015 (254 signatures).
- c. Various letters submitted as comments on the Baja Plan.

G. Currently, the County's Land Use Ordinance allows new land uses to be established that rely on water from the groundwater basin, including new irrigated agricultural uses and the building of new water-using structures such as homes, lakes and reservoirs through the issuance of varying levels of permits or without permits. Some of these water-intensive uses are allowed to be established through the issuance of ministerial permits and some, such as new irrigated agriculture, require no permits at all. Yet, any and all new development and agricultural expansion will contribute to the declining groundwater levels within the basin. Based on the recent rates of decline of water levels in the basin, the reported increased concern in incidences of well failures within the basin, and the rate of establishment of new uses dependent on water from the basin, continuing to allow the establishment of new water-intensive uses with the basin poses a current and immediate threat to the people, species, and environs that currently depend on that basin, and to the public, health, and welfare as a whole.

H. In order to address these urgent water needs within the groundwater basin, the County is contemplating amendments to its general plan and/or zoning ordinance and intends to study those potential amendments within a reasonable time. In the meantime, the approval of additional subdivisions, land use permits, variances, building permits, construction permits, grading permits, well permits, or any other applicable entitlement for use required to comply with the Ordinance within the groundwater basin would threaten the public health, safety, and welfare by exacerbating the declining water levels of the basin and contributing the failure of additional residential and agricultural wells. This urgency and interim zoning ordinance will allow County staff time to complete necessary studies and reports for the contemplated amendments to its general plan and/or zoning ordinance while preserving the resources of the basin.

I. This Ordinance is adopted as an Urgency Ordinance pursuant to the provisions of Government Code sections 25123 and 25131 and as an interim zoning ordinance pursuant to the provisions of Government Code section 65858 and shall be effective for a period of 45 days from its passage. Based on the findings set forth above in this section of the Ordinance, the Board of Supervisors finds and determines that the adoption of this Ordinance as an Urgency Ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare pursuant to the requirements of Government Code sections 25123, 25131 and 65858, and is necessary to provide additional time to prepare the studies and reports required to consider a comprehensive Ordinance and/or general plan amendment addressing water shortages within the groundwater basin.

Section 2. Applicability.

This Ordinance applies to all properties within the unincorporated areas of San Bernardino County that overlie the Baja Subarea groundwater basin as defined by Exhibit A of the Judgment After Trial, dated January 10, 1996.

Section 3. Limitations on Uses.

A. Limitation on Use – None of the following uses shall be established, commenced or initiated, and no applications filed to construct, repair or modify a water system proposed to serve any of the following uses or applications for a construction permit in connection with the establishment of any of the following uses shall be approved, except in conformance with this Ordinance:

1. New or Expanded Irrigated Crop Production
2. Conversion of Vacant Land, Dry Farm or Grazing Land to New Irrigated Crop Production
3. New Development dependent upon a well in the groundwater basin
4. New lakes exceeding one (1) acre.
5. New power facilities with groundwater as a use.

Section 4. Activities that are not subject to the Ordinance.

A. The following categories are not subject to the requirements of this Ordinance and may be processed in accordance with the County's plans, policies and regulations provided, as applicable, the water uses are in compliance with the Judgment:

1. A Minor Modification.
2. An Efficiency Improvement.
3. Existing irrigated crop production (including irrigation practices) in effect as of the effective date of this Ordinance.
4. Any application for a land use permit, land division, general plan amendment, ordinance amendment, construction permit, grading permit or well that was submitted to the County, and accepted as complete, including any required fees, prior to the effective date of this Ordinance.
5. Any construction permit necessary to implement a land use permit approved prior to the effective date of this Ordinance.
6. New irrigated crop production where the crop was planted as of the effective date of this Ordinance.
7. New ponds, reservoirs and dams constructed to regulate or store a supply of water for seasonal irrigation, or livestock purposes (not to exceed 1/10 of an acre).

Section 5. Exemptions.

A. The following categories are exempt from the requirements of this Ordinance and may be processed in accordance with the County's plans, policies and regulations:

1. A proposed development for a public use or facility (e.g. fire station).
2. A proposed development where the Board of Supervisors has determined there is an overriding public or emergency need for the proposed development.
3. Replacement structures (when an existing legal structure had previously existed on the property) where there is no increase to the square footage and number of bathrooms.
4. Where satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product.

5. A proposed multi-family development project.

Section 6. Enforcement.

A violation of this Ordinance is deemed to be a violation of _____. In the event of a violation of this Ordinance or any requirement imposed pursuant to this Ordinance, the County may, in its discretion and in addition to all other remedies, take such enforcement action as is authorized under _____ of the County code and any other action authorized by law.

Section 7. Severability.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 8. Effective Date.

In light of these recitals in this Ordinance, the Board of Supervisors declares that this Ordinance is necessary as an urgency measure for preserving the public health, safety and welfare. This Ordinance shall take effect immediately upon its passage and shall expire 45 days thereafter unless extended pursuant to law.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, on the ____ day of _____, 2015

AYES:
NOES:
ABSTAIN:
ABSENT:

EXHIBIT 8

Kathy Cortner, General Manager
Mojave Water Agency
760/946-7054 (Direct)
760/221-8341 (Cell)

From: Kathy Cortner
Sent: Wednesday, September 22, 2021 4:19 PM
To: Snoke, Luther <Luther.Snoke@cao.sbcounty.gov>
Cc: Hernandez, Leonard - CAO <Leonard.Hernandez@cao.sbcounty.gov>; Nottingham, Chad <Chad.Nottingham@cao.sbcounty.gov>
Subject: RE: --EXTERNAL-- Well-Permitting Process Review

Hi Luther;

Again, thank you for responding to our request. Unfortunately, our basins are being impacted which is why we are trying to insert ourselves in the well permitting process. My hope was that the County would be able to find a way to accommodate us without triggering CEQA on every single well. With the increase in well permits and increase in cannabis, the problem has been exacerbated. We are at the point where we cannot continue to avoid all issues involving the well permits and the impact that the pumping has on the over drafted basins. All future pumping needs to be mitigated.

As a result, unless you come up with another idea, I think we are at the point where perhaps CEQA on every well is the only way (maybe a mitigated neg dec?). I will talk to my Board and see which direction they would like to go. If you have any ideas to help make this happen (eg: legislation, Mojave Water Agency Act amendment, or??), please let me know.

Sincerely,

Kathy Cortner, General Manager
Mojave Water Agency
760/946-7054 (Direct)

From: Snoke, Luther <Luther.Snoke@cao.sbcounty.gov>
Sent: Wednesday, September 1, 2021 9:38 AM
To: Kathy Cortner <KCortner@MojaveWater.org>
Cc: Hernandez, Leonard - CAO <Leonard.Hernandez@cao.sbcounty.gov>; Nottingham, Chad <Chad.Nottingham@cao.sbcounty.gov>
Subject: --EXTERNAL-- Well-Permitting Process Review

[EXTERNAL EMAIL]

Kathy,

I hope you're doing well!

I asked staff to review MWA's request regarding whether MWA could participate at a greater level in the County's well-permitting process. I understand this is something that your agency has been interested in for some time so I pressed for a detailed review. I wanted to provide a summary of the analysis that County staff completed and share that with you. I'd be interested in MWA's input. I understand the County EHS has already implemented the proposed solutions below which I hope helps keep you informed as to activity.

Thanks,
Luther

MWA Request:

MWA has approached the County to request to participate in the County's well permitting process. Specifically, that County well applicants be required to file a *Notice of Intent to Extract or Divert Water* with MWA, fifteen days prior to construction of a well. MWA has cited that the County has the authority to do so through the California Water Code in Appendix 97, (Mojave Water Agency Act), and believes that County may have an obligation to comply.

Review Findings:

Currently, this permit is a ministerial permit, meaning a permit is granted upon determination that a permit application complies with established standards set forth in ordinance and/or other applicable policy documents. This is not a discretionary permit.

Staff have reviewed this request and it was determined that requiring County applicants to file with MWA as a condition of a well application would change the well permitting process from ministerial to discretionary. Doing so has been determined to trigger California Environmental Quality Act (CEQA) requirements, which could entail the filing of technical documents such as an Exemption/Mitigated Negative Declaration/Environmental Impact Report, for the purpose of drilling a well on a property.

A recent court case, *Protecting Our Water and Environmental Resources v. County of Stanislaus* (2020), addresses the ministerial versus discretionary nature of the well permitting process, and how CEQA can be triggered based on the application of certain items. In this case, the court found that the permit process for the agency involved, was indeed discretionary due to the considerations for impact on groundwater the agency placed on applications, even though it was labeled as ministerial. The non-standard separation distance requirements for this agency caused the courts to determine that significant discretion was being utilized in the applications. Based on the findings of this case, it is understood that MWA's participation alone would be discretionary, which would make the entire project discretionary, invoking CEQA requirements.

Regarding the Water Code section MWA is referencing as the authority to require applicants to file with them fifteen days prior to construction, this code section requires filing by the permittee and not the County, which does not obligate

the County to withhold an application or place a condition of approval on an application the Environmental Health Services (EHS) receives.

It was determined that notification from the County related to well permitting application would not invoke CEQA. Based on this determination the below solution is recommended.

County Solution:

In an effort to make MWA aware of permit applications that have been submitted, EHS has moved to implement a notification system for incoming well permit applications within MWA's adjudicated area. MWA is now receiving 3 notifications from EHS.

1. Upon the receipt of a well permit application
2. When the inspector finalizes and approves the permit
3. A weekly well report that shows all approved wells from the past week

Luther Snoke
Chief Operating Officer
County Administrative Office
Phone: 909-387-5425
Cell: 714-878-5758



Our job is to create a county in which those who reside and invest can prosper and achieve well-being.
sbcounty.gov

EXHIBIT 9



13846 Conference Center Drive ♦ Apple Valley, California 92307
Phone (760) 946-7000 ♦ Fax (760) 240-2642 ♦ www.mojavewater.org

January 28, 2022

Honorable Chairman Curt Hagman

San Bernardino County Board of Supervisors
385 N. Arrowhead Avenue
San Bernardino, CA 92415

RE: Well-Permitting in the High Desert and Morongo Basin

Dear Chairman Hagman:

As elected officials, we are all aware of the importance of water in San Bernardino County. Since its formation in 1960, the Mojave Water Agency (MWA) has worked to manage water resources to insure there is sufficient water available within our 4900 square mile service area to allow our region to prosper and support future growth. In the early 1890's the area became adjudicated. Since that time the water rights have been fully allocated and managed. As the MWA seeks to monitor water use we are asking the County Board of Supervisors to partner in managing this resource. To this end, we are requesting to be part of the well permitting process.

Over the past year, MWA staff members has met with County staff in an effort to create a satisfactory solution. To date, resolution has not been achieved.

The unfettered use of groundwater resources puts the entire area in jeopardy and at risk of state intervention to balance our basins if we are unable to. The proliferation of new domestic wells that are used for illicit marijuana production is of grave concern to those who have been part of the solution to sustainably maintain our water resources.

Under the current County process, MWA is informed of a new well after the issuance of the permit. This circumvents our ability to educate the permit applicant of their obligation under the Mojave Basin Area Adjudication. While the County has offered to notify the Mojave Water Agency of new well permit applications, the permit process concludes without assurance from Mojave Water Agency that we have obtained all necessary information from the applicant to effectively manage our groundwater basins. Land Use Services employs a "will-serve" process for water agencies that ensures engagement in the process. We respectfully suggest a similar process for well permits that would ensure they are not approved prior to the Mojave Water Agency providing

County with a letter attesting to the fact that we have obtained the necessary information.

The risk in this for both the County and MWA is the state taking over management of our groundwater basins if we fail to ensure sustainability. The Mojave Water Agency respectfully requests to be part of the well permitting process for the sole purpose of managing our groundwater basins.

Should you have any questions please feel free to contact me at 760.953.8520 or our General Manager Allison Febbo at 760.946.7001

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanette Hayhurst". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeanette Hayhurst
Board President
Mojave Water Agency

cc: First District Supervisor, Paul Cook
Second District Supervisor, Janice Rutherford
Third District Supervisor, Dawn Rowe
Fifth District Supervisor, Joe Baca Jr.

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Mojave Basin Water Cases JCCP5265

On May 1, 2023, I served the following entitled document: **WATERMASTER'S SUPPLEMENTAL REPORT AS REQUIRED BY THE COURT'S FEBRUARY 21, 2023 ORDER** on the interested parties in this action in the manner described below, addressed as follows:

SEE ATTACHED FOR SERVICE LIST

 (BY OVERNIGHT COURIER SERVICE): I caused such envelopes to be delivered via overnight courier service to the addressee(s) described above.

Executed May 1, 2023, in the City of San Bernardino, State of California.

P. Jo Anne Quihuis

SERVICE LIST

The Mojave Water Agency, as the Mojave Basin Area Watermaster vs. All Persons Who are not presently parties to the comprehensive groundwater adjudication in the City of Barstow, et al., v. City of Adelanto, et al., Riverside Superior Court Case No. CIV208568, and are either producing more than 10 acre-feet of Basin groundwater annually, or using Basin groundwater for unlawful purposes, and Does 1 through 2,000

San Bernardino Superior Court Case No.: CIVSB 2218461

Mojave Basin Water Cases JCCP5265

Shunxing Weng 135 W. Newmark Ave., Apt. A Monterey Park, California 91754	Defendant, In Pro Per
Jasper Young Kim 2665 Amber Wood Pl. Thousand Oaks, California 91362	Defendant, In Pro Per
Kyung Ja Kim 9494 Baker Rd Lucerne Valley, California 92356	Defendant, In Pro Per
Chong C. Kim 9494 Baker Rd. Lucerne Valley, California 92356	Defendant, In Pro Per
Kyung P. Kim 15565 Meridian Rd. Lucerne Valley, California 92356	Defendant, In Pro Per
Jae Hwan Lee 1520 James M. Wood Blvd. Los Angeles, California 90015	Defendant In Pro Per
Byung Koo Chin 15648 Meridian Rd. Lucerne Valley, California 92356	Defendant In Pro Per
The Chin Family Life Estate Trust 15648 Meridian Rd. Lucerne Valley, California 92356	Defendant In Pro Per
Law Offices of Matthew C. Mullhofer, PC Matthew C. Mullhofer, Esq. 18012 Sky Park Circle, Ste. 100A Irvine, California 92614 Telephone: (714) 827-9955 Facsimile: (714) 827-9966 E-Mail: mcm@matthewcmullhofer.com	Attorneys for Defendant, Jing Chen

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Cameron H. Totten Paul P. Cheng Gene S. Lizaso PPRC Law, APC 790 E. Colorado Blvd., Suite 260 Pasadena, California 91101 Tele: (626) 356-8880 Fax: (888) 231-8196 E-Mail: litigation@pprclaw.com	Attorneys for Defendant, Weilong Huang
--	---

updated 04.18.23

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.

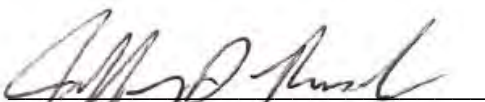
On May 1, 2023, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing 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:

WATERMASTER'S SUPPLEMENTAL REPORT AS REQUIRED BY THE COURT'S FEBRUARY 21, 2023 ORDER

 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 May 1, 2023 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of May 01, 2023

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P. O. Box 401472
Hesperia, CA 92340-1472

Attn: Magdalena Jones
(mygoldenbiz9@gmail.com)
Jones Trust dated March 16, 2002 (via email)
35424 Old Woman Springs Road
Lucerne Valley, CA 92356-7237

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 Gagné
Jubilee Mutual Water Company
P. O. Box 1016
Lucerne Valley, CA 92356

Attn: Lee Logsdon
Juniper Riviera County Water District
P. O. Box 618
Lucerne Valley, CA 92356-0618

Attn: Ash Karimi
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Kasner Family Limited Partnership (via email)
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(Robertkasner@aol.com)
Kasner, Robert (via email)
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48441 National Trails Highway
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Attn: Peggy Shaughnessy
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Kim, Jin S. and Hyun H.
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Kim, Ju Sang (via email)
1225 Crestview Dr
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Kim, Seon Ja
34981 Piute Road
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Koering, Richard and Koering, Donna
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Kosharek, John and Joann
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Mojave Basin Area Watermaster Service List as of May 01, 2023

Attn: Claire Cabrey
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864 Sapphire Court
Pomona, CA 91766-5171

Attn: Vanessa Laosy
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Attn: Anna K. Lee (aklee219@gmail.com)
Lee, Anna K. and Eshban K. (via email)
10979 Satsuma St
Loma Linda, CA 92354-6113

Attn: Eric Archibek
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41717 Silver Valley Road
Newberry Springs, CA 92365

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-

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

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

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

Langley Revocable Trust and Sharon Lanagley
P. O. Box 524
Yermo, CA 92398-0524

Attn: Robert Lawrence Jr.
Lawrence, William W.
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Newberry Springs, CA 92365

Lee, Doo Hwan
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Attn: Virginia Janovsky
(virginiajanovsky@yahoo.com)
Lem, Hoy (via email)
17241 Bullock St.
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Attn: Billy Liang
Liang, Yuan - I and Tzu - Mei Chen
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Attn: Manshan Gan
Lo, et al.
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Low, Dean (via email)
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Henderson, NV 89052-

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Lee, et al., Sepoong and Woo Poong
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Mojave Basin Area Watermaster Service List as of May 01, 2023

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Attn: Maria Martinez
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46622 Fairview Road
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Attn: Jimmy Berry
Manning, Sharon S.
19332 Balan Road
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Attn: Jodi Howard
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Mojave Basin Area Watermaster Service List as of May 01, 2023

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Association (via email)
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Newberry Springs, CA 92365-

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NSSLC, Inc. (via email)
9876 Moon River Circle
Fountain Valley, CA 92708-7312

Núñez, Luis Segundo
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Attn: Pearl or Gail Nunn
Nunn Family Trust
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Quakenbush, Samuel R. (via email)
236 Iris Drive
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Mojave Basin Area Watermaster Service List as of May 01, 2023

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Attn: Ian Bryant
Rim Properties, A General Partnership
15434 Sequoia Road
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Attn: Josie Rios
Rios, Mariano V.
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Attn: Mitchell Kaufman (mitch@kmcclp.com)
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16633 Ventural Blvd., Ste., 500
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Attn: David Kelly Gray
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Victorville, CA 92393-1226

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

Attn: Sherwin Shoraka
S and B Brothers, LLC
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Attn: Jafar Rashid
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S and E 786 Enterprises, LLC (via email)
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Attn: Sara Fortuna (sarajfortuna@gmail.com;
fourteengkids@aol.com)
Saba Family Trust dated July 24, 2018 (via
email)
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San Clemente, CA 92672-5468

Attn: Kanoe Barker (kanoebarker@yahoo.com)
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email)
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(BILLU711@Yahoo.com)
Samra, Jagtar S. (via email)
10415 Edgebrook Way
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San Bernardino Co Barstow - Daggett Airport
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Detention Center (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
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San Bernardino County Service Area 42 (via
email)
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Attn: Jackie McEvoy (jackiem@rrmca.com;
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Attn: Rod Sexton
Sexton, Rodney A. and Sexton, Derek R.
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Rim Forest, CA 92378-

Attn: Chris Cummings
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Mojave Basin Area Watermaster Service List as of May 01, 2023

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Attn: Denise Smith
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Smith, Porter and Anita
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Attn: Chan Kyun Son
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Spillman, James R. and Nancy J.
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Attn: Alex Vienna (mark@richardsonsrv.com)
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Attn: c/o Clenera, LLC
(cre.notices@clenera.com)
Sunray Land Company, LLC (via email)
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Mojave Basin Area Watermaster Service List as of May 01, 2023

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Attn: Stephen Thomas
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Attn: Rodger Thompson
Thompson Living Trust, R.L. and R.A.
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14024 Sunflower Lane
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Van Leeuwen Trust, John A. and Letie
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Vernola Trust, Pat and Mary Ann
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Attn: Deidra Hitt
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