

1 William J. Brunick, Esq. [SB No. 46289]
2 Leland P. McElhaney, Esq. [SB No. 39257]
3 **BRUNICK, McELHANEY & KENNEDY PLC**
4 1839 Commercenter West
5 P.O. Box 13130
6 San Bernardino, California 92423-3130

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

7 Telephone: (909) 889-8301
8 Facsimile: (909) 388-1889
9 E-Mail: bbrunick@bmklawplc.com
10 E-Mail: lmcclhaney@bmklawplc.com

11 Attorneys for Plaintiff,
12 THE MOJAVE WATER AGENCY,
13 AS THE MOJAVE BASIN AREA WATERMASTER

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

16 Coordination Proceeding Special Title
17 (Cal. Rules of Court, rule 3.550)

JCCP NO.: 5265

18 MOJAVE BASIN WATER CASES

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

19 THE MOJAVE WATER AGENCY, AS
20 THE MOJAVE BASIN AREA
21 WATERMASTER,

CASE NO.: CIVSB 2218461

22 Plaintiff,

**NOTICE OF COORDINATION AND
THAT ALL FILES IN THIS
PROCEEDING ARE TO BE
TRANSFERRED TO THE SUPERIOR
COURT FOR THE COUNTY OF
RIVERSIDE**

23 vs.

24 All persons who are not presently parties to
25 the comprehensive groundwater
26 adjudication in the *City of Barstow, et al.,*
27 *v. City of Adelanto, et al.,* Riverside
28 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,

Assigned to the Hon. Joseph T. Ortiz, Judge
Presiding, Dept. S-17

Defendants.

\\

**NOTICE OF COORDINATION AND THAT ALL FILES IN THIS PROCEEDING ARE TO BE TRANSFERRED TO THE SUPERIOR
COURT FOR THE COUNTY OF RIVERSIDE**

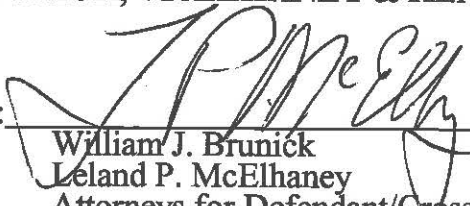
1 **TO THE CLERK OF THE COURT, AND ALL PARTIES AND THEIR COUNSEL**
2 **OF RECORD:**

3 **PLEASE TAKE NOTICE THAT** on June 9, 2023, in the Coordinated Proceedings
4 designated JCCP5265 (which includes this action), the coordination Judge, Craig G. Riemer,
5 Judge of the Superior Court, County of Riverside, issued his Order (a true copy of which is
6 attached as Exhibit 1 hereto) which, in pertinent part, provides:

7 **IT IS ORDERED THAT San Bernardino Superior Court Case Number**
8 **CIVSB2218461 be transferred to Riverside Historic Courthouse, Department 1, for**
9 **all purposes.** Case JCCP5265 is designated the master file.

10 Dated: July 26, 2023

BRUNICK, McELHANEY & KENNEDY PLC

11
12 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: Mojave Basin Water Cases / City of
Barstow v. City of Adelanto

Department 1

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CASE NO.: JCCPS265 / CIV208568

JUN 09 2023

DATE: June 9, 2023

Ms. L. Howell

PROCEEDING: Ruling on the Watermaster's Annual Motion to Adjust Free
Production Allowance for Water Year 2023-2024; Order to Watermaster

Watermaster's Motion to Adjust FPA

The City of Hesperia's request for judicial notice is granted as to Exhibits A and B,
but otherwise denied.

The Watermaster's motion is granted in part and denied in part as follows.

Este:

The FPA (12,523) greatly exceeds the PSY (4,728). The Watermaster recommends
that the FPA be reduced from 60% of BAP to 55%.

The Court adopts that recommendation. The verified production does not currently
exceed PSY, and thus the area is not currently being overdrafted. However, the FPA
should be ramped down now so that, if production increases in the future, the FPA will be
low enough to ensure that any producer exceeding PSY will be charged for that
excessive production.

The Court orders that the FPA for all producers in Este shall be reduced to 55% of
BAP for Water Year 2023-2024.

Oeste:

The FPA (4,011) greatly exceeds the PSY (1,712). The Watermaster recommends
that the FPA be reduced from 55% of BAP to 50%.

The Court adopts that recommendation. The verified production does not currently
exceed PSY, and thus the area is not currently being overdrafted. However, the FPA
should be ramped down now so that, if production increases in the future, the FPA will be
low enough to ensure that any producer exceeding PSY will be charged for that
excessive production.

The Court orders that the FPA for all producers in Oeste shall be reduced to 50%
of BAP for Water Year 2023-2024.

Centro:

The FPA (31,260) greatly exceeds the PSY (21,088). The Watermaster recommends that the FPA be reduced from 60% of BAP to 55%.

The Court adopts that recommendation. The verified production does not currently exceed PSY, and thus the area is not currently being overdrafted. However, the FPA should be ramped down now so that, if production increases in the future, the FPA will be low enough to ensure that any producer exceeding PSY will be charged for that excessive production.

The Court orders that the FPA for all producers in Centro shall be reduced to 55% of BAP for Water Year 2023-2024.

Baja:

The FPA (12,213) marginally exceeds the PSY (12,189). The Watermaster recommends that FPA continue at 20.5% of BAP.

The Court adopts that recommendation. The Court orders that the FPA for all producers in Baja shall be 20.5% of BAP for Water Year 2023-2024.

Alto:

The FPA (64,337) exceeds both the previously set PSY (64,406) and the Watermaster's revised PSY (59,409). The Watermaster recommends that the FPA be reduced from 54.4% of BAP to 50%.

The Court adopts that recommendation in part. As the Court noted in 2022, the PSY for Alto is clearly incorrect, since the subarea had experienced 51,016 acre feet of groundwater depletion in 2020-2021 even though the estimated PSY was only slightly less than the FPA. Accordingly, the Court ordered the Watermaster to re-evaluate the PSY. The Watermaster has done so, albeit on the basis of what it labels a preliminary analysis.

In opposing the recommendation, the Victorville Water District raises three criticisms. The Court does not find any of them to be persuasive.

First, it criticizes the reliance upon estimates rather than "actual data." To the Court's understanding, all calculations of PSY are estimates. PSY is incapable of precise determination, and certainly cannot be confidently predicted for the coming year. Whether measuring the current conditions or the conditions as they may exist in the future, all determinations of PSY are estimates. As conditions change, those estimates must be revised.

Second, it urges the Court to wait until the analysis of the PSY in Alto and the other subareas is completed in December of this year. The Court declines to wait, for three reasons. (1) Mr. Wagner indicated that, although there is additional analysis to be

done between now and December of 2023, he does not expect his final estimate of PSY to change materially from the preliminary estimate. (2) The Watermaster indicated that the accuracy of the revised PSY may not be known for another five years. (3) In the Court's mind, waiting for more precise information is not a viable action, because Alto's groundwater continues to be depleted. In water year 2021-2022, the subarea lost another 33,383 in groundwater storage. (29th Annual Report, p. 31, table 3.2.) Although Mr. Wagner estimates that the extraordinary precipitation in December of 2022 and in January and February of 2023 will result in 100,000 acre feet of recharge in Alto, the trend over the last 12 years has been one of continued depletion of groundwater. The Alto subarea can ill afford to simply maintain the status quo until a more complete analysis is possible. The status quo is one in which the subarea continues to lose tens of thousands of acre feet of groundwater storage per year. Finally,

Third, VWD asserts that, even under the new PSY, the spread between the current FPA and the recommended FPA is less than five percent, and therefore an adjustment in FPA is "not necessary." The VWD confuses when the Watermaster is *required* to recommend a reduction with when the Watermaster *may* recommend a reduction. That the judgment does not require the Watermaster to recommend an adjustment to FPA does not mean that it is precluded from doing so, or that the Court cannot consider that recommendation.

The City of Hesperia also opposes the proposed reduction of PSY. It argues that the decision should be deferred until the "atmospheric river events during 2022-2023" can be addressed by the Watermaster. But as Hesperia acknowledges, the Watermaster addressed that in the motion itself, concluding that one wet winter does not overcome the effects of the prolonged drought. And although the Court accepts Hesperia's observation that this year's rains provide "the Watermaster and MWA with substantial access to replacement water," the availability of imported water is not a factor affecting PSY.

Hesperia also urges the Court to defer any further rampdown until the Watermaster has completed its re-evaluation of PSY and has considered four other factors. For the same reasons as described above in response to the VWD's objections, the Court is not persuaded. In light of the continuing depletion of Alto's groundwater, the Court finds that the most prudent course of conduct is to act sooner rather than later. While the information available to the Court may not be perfect, it is the best evidence available at the present time. Moreover, it is not contradicted by any evidence cited by Hesperia.

Hesperia asserts that the Watermaster is failing to "take into account all available hydrologic data." It is not clear what currently existing data Hesperia claims is being overlooked. For instance, when discussing R-Cubed, Hesperia does not claim that relevant data currently exists. Instead, it says that any ruling on the rampdown

recommendation should be continued “until such time as the Watermaster can conduct further studies to determine the impact of the R-Cubed project”

Hesperia also asserts that “[t]he Watermaster has failed to manage the Basin in accordance with the Judgment” because “the Watermaster did not deliver imported water as it was obliged to do.” If that is the case, Hesperia is free to bring a motion to instruct the Watermaster, or even to replace the Watermaster. However, no such motion is before the Court at the present time.

The objections of Mitsubishi, Robertson’s, and CalPortland are largely subsumed within the arguments presented by Hesperia.

Because the re-evaluation of PSY is not final, and because there is a chance that the final PSY could be slightly higher, the Court declines to adopt the full amount of the rampdown recommended by the Watermaster, 4.4%. Instead, the Court will impose a rampdown of 90% of that figure. Accordingly, The Court orders that the FPA for all producers in Alto shall be 50.4% of BAP for Water Year 2023-2024. That order is made without prejudice to a motion by any party to modify either the PSY, the FPA, or both after December 1, 2023.

The Court acknowledges that the Watermaster proposes to hold the FPA for Alto at 50% for the next five years. No decision on that recommendation is necessary until next year. The Court will evaluate that recommendation at that time.

Other Orders

1. In its Supplemental Report filed 5-1-23, the Watermaster described its unsuccessful attempts to persuade the County of San Bernardino to impose conditions on the issuance of well permits, such as a requirement that the permittee be required to install a measuring device. It encouraged the Court to address the issue with the County, which is a party to the action. In response to the Court’s question, counsel for the Watermaster opined that the Court has the power under the the Judgment to order the County to impose such a requirement. The County denied that the Court has such authority.

To explore that issue, the Watermaster is ordered to prepare and file a motion for an order directing the County to impose that or similar conditions. The motion shall be supported by a memorandum explaining (1) the Court’s authority to require the County to exercise its permitting discretion in a particular way, and (2) why it is appropriate to exercise that authority by issuing the particular order proposed by the Watermaster. The hearing on such a motion shall be scheduled for a date no earlier than September 11, 2023, in Department 1.

2. The order coordinating the City of Barstow v. City Adelanto with the Mojave Water Agency v. All Persons was filed in JCCP5265 on 2-17-23, and an order

assigning Craig Riemer of the Riverside Superior Court as the coordination trial judge was filed 4-4-23 and served on the Watermaster. As yet, no portion of the file in the San Bernardino Superior Court has been received by Riverside Superior Court. Counsel for the Watermaster is ordered to file a notice of coordination in Mojave Water Agency v. All Persons, San Bernardino Superior Court Case Number CIVSB2218461. The notice shall attach copies of the 2-17-23 and 4-4-23 orders and shall provide notice of the following portion of this order:

Pursuant to the Order Granting Petition for Coordination in JCCP5265, by which San Bernardino Superior Court Case Number CIVSB2218461 has been coordinated in case JCCP5265, and the Order Assigning Coordination Trial Judge, by which Judge Craig G. Riemer of Riverside Superior Court has been appointed as the coordination trial judge, IT IS ORDERED that San Bernardino Superior Court Case Number CIVSB2218461 be transferred to Riverside Historic Courthouse, Department 1, for all purposes. Case JCCP5265 is designated the master file.

3. 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

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Mojave Basin Water Cases JCCP5265

On July 27, 2023, I served the following entitled document: **NOTICE OF COORDINATION AND THAT ALL FILES IN THIS PROCEEDING ARE TO BE TRANSFERRED TO THE SUPERIOR COURT FOR THE COUNTY OF RIVERSIDE** on the interested parties in this action in the manner described below, addressed as follows:

XX BY MAIL AS FOLLOWS: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Bernardino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct

P. Jo Anne Quirkuis

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

1
2
3
4
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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
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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 July 27, 2023, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing each document being served, to each Party or its designee according to the official service list, a copy of which is attached hereto, and which shall be maintained by the Mojave Basin Area Watermaster pursuant to Paragraph 37 of the Judgment. Served documents will be posted to and maintained on the Mojave Water Agency's internet website for printing and/or download by Parties wishing to do so.

Document(s) filed with the court and served herein are described as follows:

**NOTICE OF COORDINATION AND THAT ALL FILES IN THIS
PROCEEDING ARE TO BE TRANSFERRED TO THE SUPERIOR COURT
FOR THE COUNTY OF RIVERSIDE**

 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 July 27, 2023 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

Attn: Pedro Dumaua
(pdumaua@ducommun.com)
Aerochem, Inc. (via email)
4001 El Mirage Rd.
Adelanto, CA 92301-9489

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

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

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

Attn: Chun Soo Ahn
(davidahnmd@gmail.com,
chunsooahn@naver.com;
davidahn0511@gmail.com)
Ahn, Chun Soo and David (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

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

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

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

Attn: Ana Chavez
American States Water Company
160 Via Verde, Ste. 100
San Dimas, CA 91773-5121

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

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

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

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

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

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

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

Attn: Deborah Stephenson
(stephenson@dmsnaturalresources.com)
Atchison, Topeka, Santa Fe Railway Company
(via email)
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-

Attn: Debrah Stephenson
Atchison, Topeka, Santa Fe Railway Company
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

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

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

Attn: Chuck Bell (Chuckb193@outlook.com;
Chuckb193@outlook.com)
Bell, Charles H. Trust dated March 7, 2014
(via email)
P. O. Box 193
Lucerne Valley, CA 92356-0193

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

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

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

Attn: Marvin Brommer
Brommer House Trust
9435 Strathmore Lane
Riverside, CA 92509-0941

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

Brown, Jennifer
10001 Choicena Ave.
Hesperia, CA 92345

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

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

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

Attn: Noah Furie
Budget Finance Company
PO BOX 641339
Los Angeles, CA 90064-6339

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

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

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

Attn: William DeCoursey
(michael.lemke@dot.ca.gov;
William.Decoursey@dot.ca.gov)
California Department Of Transportation (via
email)
175 W. Cluster
San Bernardino, CA 92408-1310

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

Attn: Catalina Fernandez-Moores
(cfernandez@calportland.com)
CalPortland Company - Agriculture (via email)
P. O. Box 146
Oro Grande, CA 92368-0146

Attn: Catalina Fernandez-Moores
(cfernandez@calportland.com)
CalPortland Company - Oro Grande Plant (via
email)
P. O. Box 146
Oro Grande, CA 92368-0146

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

Attn: Myron Campbell II
Campbell, M. A. and Dianne
19327 Cliveden Ave
Carson, CA 90746-2716

Carlton, Susan
445 Via Colusa
Torrance, CA 90505-

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

Attn: Beahta Davis
CDFW - Mojave Narrows Regional Park
777 E. Rialto Avenue
San Bernardino, CA 92415-1005

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

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

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

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

Attn: Carl Pugh (talk2betty@aol.com;
cpugh3@aol.com)
Cheyenne Lake, Inc. (via email)
44658 Valley Center Rd.
Newberry Springs, CA 92365-

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

(joan.chong7@gmail.com;
joancksp@hotmail.com)
Chong, Joan (via email)
10392 Shady Ridge Drive
Santa Ana, CA 92705-7509

Christison, Joel
P. O. Box 2635
Big River, CA 92242-2635

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

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

Attn: Erik Archibek
Clark, Gary and Beth A.
2443 Topanga Dr.
Bullhead City, AZ 86442-8464

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

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

Contratto, Ersula
13504 Choco Road
Apple Valley, CA 92308-4550

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

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

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

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

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

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

Attn: Shanna Mitchell (daggettsd@aol.com;
daggettsd@outlook.com;
daggettwater427@gmail.com)
Daggett Community Services District (via
email)
P. O. Box 308
Daggett, CA 92327-0308

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

Attn: James Kelly
(James.Kelly@clearwayenergy.com)
Daggett Solar Power 3 LLC (via email)
5780 Fleet Street, Suite 130
Carlsbad, CA 92008-4715

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

Attn: Penny Zaritsky
(pennyzaritsky2000@yahoo.com)
Desert Girlz LLC (via email)
10757 Lincoln Road
Lucerne Valley, CA 92356-7

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

Attn: Debby Wyatt
DLW Revocable Trust
13830 Choco Rd.
Apple Valley, CA 92307-5525

Attn: Judith Dolch-Partridge, Trustee
Dolch Living Trust Robert and Judith
4181 Kramer Lane
Bellingham, WA 98226-7145

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

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

Attn: David Dorrance
Dorrance, David W. and Tamela L.
118 River Road Circle
Wimberley, TX 78676-5060

Attn: David Looper
Douglas, Tina
P.O. Box 1730
Lucerne Valley, CA 92356-

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

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

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

Eygnor, Robert E.
3424 S. Friendship Road
Germanton, NC 27019-9133

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

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

(afc30@yahoo.com)
Fernandez, Arturo (via email)
28 Calle Fortuna
Rancho Santa Margarita, CA 92688-2627

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

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

Attn: Alex and Jerrica Liu
(alexliu1950@gmail.com;
alexroseanneliu@yahoo.com)
First CPA LLC (via email)
46669 Valley Center Rd
Newberry Springs, CA 92365-

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

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

Attn: Camille Yusuf
Foothill Estates MHP, LLC
9454 Wilshire Blvd., Ste. 920
Beverly Hills, CA 90212-2925

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

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

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

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

Gabrych, Eugene
2006 Old Highway 395
Fallbrook, CA 92028

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

Garcia, Daniel
223 Rabbit Trail
Lake Jackson, TX 77566-3728

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

Garg, Om P.
358 Chorus
Irvine, CA 92618-1414

Attn: Brent Peterson
Gayjikian, Samuel and Hazel
34534 Granite Road
Lucerne Valley, CA 92356-

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

Attn: Nereida Gonzalez
(ana.chavez@gswater.com,
Nereida.Gonzalez@gswater.com)
Golden State Water Company (via email)
160 Via Verde, Ste. 100
San Dimas, CA 91773-5121

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

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

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

Attn: Nick Grill (terawatt@juno.com)
Grill, Nicholas P. and Millie D. (via email)
35350 Mountain View Road
Hinkley, CA 92347-9613

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

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

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

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

(hackbarthoffice@gmail.com)
Hackbarth, Edward E. (via email)
12221 Poplar Street, Unit #3
Hesperia, CA, CA 92344-9287

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

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

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

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

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

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

Harter, Joe and Sue
10902 Swan Lake Road
Klamath Falls, OR 97603-9676

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

Attn: Joshua Behnke
Helendale School District
P. O. Box 249
Helendale, CA 92342-0249

Attn: Jeff Gallistel
Hendley, Rick and Barbara
P. O. Box 972
Yermo, CA 92398-0972

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

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

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

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

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

Attn: Patricia Mohr (ghd123@earthlink.net)
Hettinga Revocable Trust (via email)
P. O. Box 455
Ehrenberg, AZ 84334-0455

Attn: Lisset Sardeson
Hi Desert Mutual Water Company
23667 Gazana Street
Barstow, CA 92311

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

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

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

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

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

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

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

Attn: Joan Rohrer
Hollister, Robert H. and Ruth M.
22832 Buendia
Mission Viejo, CA 92691-

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

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

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

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

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

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

(dell2342008@gmail.com)
Hu, Minsheng (via email)
33979 Fremont Road
Newberry Springs, CA 92365-9136

Attn: Ester Hubbard
Hubbard, Ester and Mizuno, Arlean
47722 Kiloran St.
Newberry Springs, CA 92365-9529

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

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

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

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

(econorx@yahoo.com)
Im, Nicholas Nak-Kyun (via email)
23329 Almarosa Ave.
Torrance, CA 90505-3121

Mojave Basin Area Watermaster Service List as of July 27, 2023

Irvin, Bertrand W.
3224 West 111th Street
Inglewood, CA 90303-

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

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

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

Attn: Gary A. Ledford
(gledream@gmail.com)
Jess Ranch Water Company (via email)
906 Old Ranch Road
Florissant, CO 80816-

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

Attn: Paul Johnson
(johnsonfarming@gmail.com)
Johnson, Paul - Industrial (via email)
10456 Deep Creek Road
Apple Valley, CA 92308-8330

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

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

Attn: Magdalena Jones
(mygoldenbiz9@gmail.com)
Jones Trust dated March 16, 2002 (via email)
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
Karimi, Hooshang
1254 Holmby Ave
Los Angeles, CA 90024-

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

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

Katcher, August M. and Marceline
47887 Palo Verde Lane
Newberry Springs, CA 92365-9096

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

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

Kim, Jin S. and Hyun H.
6205 E Garnet Circle
Anaheim, CA 92807-4857

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

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

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

Attn: Richard Koering
Koering, Richard and Koering, Donna
40909 Mountain View Road
Newberry Springs, CA 92365-9414

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

Attn: Claire Cabrey
(HandleWithClaire@aol.com;
mjaynes@mac.com)
Lake Jodie Property Owners Association (via
email)
8581 Santa Monica Blvd., #18
West Hollywood, CA 90069-4120

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

Attn: c/o J.C. UPMC, Inc. Lori Rodgers
(timrohmbuilding@gmail.com)
Lake Wainani Owners Association (via email)
2812 Walnut Avenue, Suite A
Tustin, CA 92780-7053

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

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

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

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

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

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

Attn: Virginia Janovsky
(virginiajanovsky@yahoo.com)
Lem, Hoy (via email)
17241 Bullock St.
Encino, CA 91316-1473

Lenhart, Ronald and Toni
4474 W. Cheyenne Drive
Eloy, AZ 85131-3410

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

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

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

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

Attn: Manshan Gan
Lo, et al.
5535 North Muscatel, Avenue
San Gabriel, CA 91776-1724

Attn: Neal Davies (ndavies@terra-gen.com;
dkelly@terra-gen.com)
Lockhart Land Holding, LLC (via email)
43880 Harper Lake Road
Hinkley, CA 92347-

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

(lowgo.dean@gmail.com)
Low, Dean (via email)
3 Panther Creek Ct.
Henderson, NV 89052-

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

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

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

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

Attn: Ola Smith (olacompany@yahoo.com)
Luckey 2010 Revocable Trust (via email)
6028 Thornwood Court
Indianapolis, IN 46240-1332

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

Attn: Maria Martinez
M.B. Landscaping and Nursery, Inc.
6831 Lime Avenue
Long Beach, CA 90805-1423

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attn: Mahnas Ghamati
(mahnaz.ghamati@atlantica.com)
Mojave Solar, LLC (via email)
42134 Harper Lake Road
Hinkley, CA 92347-9305

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

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

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

Moss, Lawrence W. and Helen J.
38338 Old Woman Springs Road Spc# 56
Lucerne Valley, CA 92356-8116

Attn: Bradford Ray Most
Most Family Trust
39 Sundance Circle
Durango, CO 81303-8131

Attn: Dennis Hills
Mulligan, Robert and Inez
35575 Jakobi Street
Saint Helens, OR 97051-1194

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

(z.music5909@gmail.com;
zajomusic@gmail.com)
Music, Zajo (via email)
43830 Cottonwood Rd
Newberry Springs, CA 92365-8510

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

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

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

Attn: Kody Tompkins
(ktompkins@barstowca.org)
Odessa Water District (via email)
220 E. Mountain View Street, Suite A
Barstow, CA 92311-2888

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

Attn: Craig Maetzold
(craig.maetzold@omya.com)
Omya California, Inc. (via email)
7225 Crystal Creek Rd
Lucerne Valley, CA 92356-8646

Attn: John P. Oostdam
Oostdam Family Trust, John P. and Margie K.
24953 Three Springs Road
Hemet, CA 92545-2246

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

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

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

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

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

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

Pearce, Craig L.
127 Columbus Dr
Punxsutawney, PA 15767-1270

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

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

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

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

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

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

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

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

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

(s_quakenbush@yahoo.com)
Quakenbush, Samuel R. (via email)
236 Iris Drive
Martinsburg, WV 25404-1338

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

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

Rivero, Fidel V.
612 Wellesly Drive
Corona, CA 92879-0825

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

Attn: Bill Taylor or Property Mng'r
(billt@rrmca.com)
Robertson's Ready Mix (via email)
200 S. Main Street, Suite 200
Corona, CA 92882-2212

Attn: Susan Sommers
Rossi Family Trust, James Lawrence Rossi
and Naomi
P. O. Box 120
Templeton, CA 93465-0120

Attn: Robert Vega
Royal Way
2632 Wilshire Blvd., #480
Santa Monica, CA 90403-4623

Attn: David Kelly Gray
Rue Ranch, Inc.
P. O. Box 2805
Victorville, CA 92393-2805

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

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

Attn: Jafar Rashid
(jr123realestate@gmail.com)
S and E 786 Enterprises, LLC (via email)
3300 S. La Cienega Blvd.
Los Angeles, CA 90016-3115

Attn: Sara Fortuna (sarafortuna@gmail.com;
fourteengkids@aol.com)
Saba Family Trust dated July 24, 2018 (via
email)
212 Avenida Barcelona
San Clemente, CA 92672-5468

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

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

San Bernardino Co Barstow - Daggett Airport
268 W. Hospitality Lane, Suite 302
San Bernardino, CA 92415-0831

Attn: Jared Beyeler
(waterquality@sdd.sbcounty.gov)
San Bernardino County - High Desert
Detention Center (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0415

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

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 42 (via
email)
222 W. Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 64 (via
email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(ssamaras@sdd.sbcounty.gov;
jbeyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 70J (via
email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0450

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

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

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

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

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

Short, Jerome E.
P. O. Box 1104
Barstow, CA 92312-1104

Attn: Francisco Ibarra
(maint@silverlakesassociation.com;
fibarra@silverlakesassociation.com)
Silver Lakes Association (via email)
P. O. Box 179
Helendale, CA 92342-0179

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

Attn: Denise Smith
Smith, Denise dba Amerequine Beauty, Inc
P. O. Box 188
Newberry Springs, CA 92365-0188

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

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

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

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

Attn: Maria de Lara Cruz
(maria.delaracruz@mineralstech.com)
Specialty Minerals, Inc. (via email)
P. O. Box 558
Lucerne Valley, CA 92356-0558

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

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

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

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

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

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

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

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

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

Attn: Alex Vienna
Sundown Lakes, Inc.
44596 Valley Center
Newberry Springs, CA 92365-

Attn: c/o Clenera, LLC
(cre.notices@clenera.com)
Sunray Land Company, LLC (via email)
P. O. Box 2576
Boise, ID 83701-2576

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

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

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

Tapie, Raymond L.
73270 Desert Greens Dr N
Palm Desert, CA 92260-1206

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

Attn: Daryl Lazenby
Thayer, Sharon
P. O. Box 845
Lucerne Valley, CA 92356-

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

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

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

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

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

Attn: Jim Hoover
Triple H Partnership
35870 Fir Ave
Yucaipa, CA 92399-9635

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

Turner, Terry
P. O. Box 3367
Crestline, CA 92325-3367

Attn: Aurelio Ibarra (aibarra@up.com;
powen@up.com)
Union Pacific Railroad Company (via email)
HC1 Box 33
Kelso, CA 92309-

(druppall@aicdent.com)
Uppal, Gagan (via email)
220 S Owens Drive
Anaheim, CA 92808-1327

(gagevaage23@gmail.com)
Vaage, Gage V. (via email)
47150 Black Butte Road
Newberry Springs, CA 92365-9698

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

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

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

Attn: Jacob Bootsma
Van Leeuwen Trust, John A. and Ietie
44128 Silver Valley Road
Newberry Springs, CA 92365-9588

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

Attn: John Nahlen
Victor Valley Community College District
18422 Bear Valley Road
Victorville, CA 92395-5850

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

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

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

Attn: Arnold Villarreal
(sashton@victorvilleca.gov;
avillarreal@victorvilleca.gov;
dmathews@victorvilleca.gov)
Victorville Water District, ID#2 (via email)
P. O. Box 5001
Victorville, CA 92393-5001

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

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

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

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

Attn: Barbara Allard-Ward
(kenbombero@aol.com; allardward@aol.com)
Ward, Ken and Barbara (via email)
14141 State Hwy 138
Hesperia, CA 92345-9339

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

Weems, Lizzie
9157 Veranda Court
Las Vegas, NV 89149-0480

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

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

Attn: Thomas G. Ferruzzo
(tferruzzo@ferruzzo.com)
Wet Set, Inc. (via email)
44505 Silver Valley Road, Lot #5
Newberry Springs, CA 92365-9565

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

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

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

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

Attn: Mark J. Cluff
WLSR, Inc.
236 E. Country Club Drive
Henderson, NV 89015-7404

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

(thechelseaco@yahoo.com)
Yang, Zilan (via email)
428 S. Atlantic Blvd #205
Monterey Park, CA 91754-3228

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

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

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

Attn: Wesley A. Miliband, Esq.
(wes.miliband@aalrr.com)
Atkinson, Andelson, Loya, Ruud & Romo (via email)
2151 River Plaza Drive
Suite 300
Sacramento, CA 95833-

Attn: W.W. Miller, Esq. (bmiller@aalrr.com)
Atkinson, Andelson, Loya-Ruud & Romo (via email)
3612 Mission Inn Avenue, Upper Level
Riverside, CA 92501

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

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

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

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

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

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

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

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

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

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

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

Attn: Derek Hoffman, Esq.
(dhoffman@fennemorelaw.com)
Fennemore LLP (via email)
550 East Hospitality Lane
Suite 350
San Bernardino, CA 92408-4206

Attn: Marlene Allen Murray, Esq.
(mallenmurray@fennemorelaw.com)
Fennemore LLP (via email)
550 East Hospitality Lane
Suite 350
San Bernardino, CA 92408-4206

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

Attn: Toby Moore, PhD, PG, CHG
(TobyMoore@gswater.com)
Golden State Water Company (via email)
160 W. Via Verde, Suite 100
San Dimas, CA 91773-

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

Attn: Paige Gosney, Esq.
(paige.gosney@greshamsavage.com;Dina.Snider@GreshamSavage.com)
Gresham, Savage, Nolan & Tilden, LLP (via email)
550 E Hospitality Ln, Ste. 500
San Bernardino, CA 92408-4208

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

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

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

Attn: Mitchell Kaufman, Esq.
(mitch@kmcllp.com)
Kaufman McAndrew LLP (via email)
16633 Ventura Blvd., Ste. 500
Encino, CA 91436-1835

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

Attn: Peter J. Kiel (pkiel@cawaterlaw.com)
Law Office of Peter Kiel PC (via email)
PO Box 422
Petaluma, CA 94953-0422

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

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

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

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

Attn: Adnan Anabtawi
(aanabtawi@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307

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

Attn: Kieth Lemieux
(KLemieux@omlola.com)
Olivarez Madruga Lemieux O'Neill, LLP (via email)
500 South Grand Avenue, 12th Floor
Los Angeles, CA 90071-2609

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

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

Attn: Todd O. Maiden, Esq.
(TMaiden@ReedSmith.com)
Reed Smith LLP (via email)
101 Second Street
Suite 1800
San Francisco, CA 94105-

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

Mojave Basin Area Watermaster Service List as of July 27, 2023

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

Attn: Randall R. Morrow, Esq.
Sempra Energy Law Department
Office of the General Counsel
555 West Fifth Street, Suite 1400
Los Angeles, CA 90013-1011

Attn: Shannon Oldenburg, Esq.
(shannon.oldenburg@sce.com)
Southern California Edison Company
Legal Department (via email)
P.O. Box 800
Rosemead, CA 91770

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

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

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

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