

1 ERIC L. GARNER, Bar No. 130665
eric.garner@bbklaw.com
2 CHRISTOPHER M. PISANO, Bar No. 192831
christopher.pisano@bbklaw.com
3 ALISON K. TOIVOLA, Bar No. 350252
alison.toivola@bbklaw.com
4 BEST BEST & KRIEGER LLP
300 South Grand Avenue
5 25th Floor
Los Angeles, California 90071
6 Telephone: (213) 617-8100
Facsimile: (213) 617-7480
7
8 Attorneys for Specially-Appearing Petitioner Shadow
Mountain Ranch, LLC

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF RIVERSIDE

12 CITY OF BARSTOW, et al.,
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14 Plaintiffs,
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16 v.
17 CITY OF ADELANTO, et al.,
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19 Defendants.
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Lead Case No. CIV208568
JCCP5265 MOJAVE BASIN WATER
CASES

Judge: Craig Riemer, Department 1

**DECLARATION OF TIMOTHY
WALSH IN SUPPORT OF MOTION TO
INTERPRET AND CLARIFY THE
JUDGMENT**

*[Filed concurrently with:
1. Motion to Interpret/Clarify;
2. Declaration of Tony Morgan;
3. Declaration of Christopher Pisano;
4. Request for Judicial Notice;
and,
5. [Proposed] Order.]*

Date: Jan. 8, 2024
Time: 8:30am
Dept: 1

Action Filed: May 30, 1990

1 the Judgment, SMR is not a party to the Judgment.

2 5. It is my understanding that groundwater pumping on the SMR Property does not
3 impact the groundwater levels in the area of the Mojave Basin that was adjudicated in the
4 Judgment. For example, while Mr. Jahnke and Ace pumped groundwater for alfalfa farming both
5 before and after the Judgment was entered, I am not aware of any claim of well interference that
6 any pumper in the Mojave Basin had against Mr. Jahnke and Ace.

7 6. After our new ownership group took over the SMR Property, we revitalized the
8 alfalfa farming operations, and we began pumping groundwater again to support those farming
9 operations. SMR has been pumping groundwater from the shallow aquifer beneath the SMR
10 Property since 2019, including for the reasonable and beneficial use of growing alfalfa. SMR
11 pumped approximately 631 AF of groundwater in the 2019-20 water year, and nearly 1,000 AF of
12 groundwater in the 2020-21 water year. Again, while we have resumed groundwater pumping in
13 recent years, there has been no claim of well interference by anyone in the Mojave Basin against
14 SMR that I am aware of.

15 7. In early 2018, SMR's new ownership group also embarked on a comprehensive
16 plan to evaluate the aquifers and groundwater pumping potential underneath the SMR Property.
17 When we purchased the SMR Property, we were aware that Mr. Jahnke and/or Ace had
18 commissioned analyses of the potential safe yield of the groundwater under the SMR Property,
19 and that several technical reports¹ suggest that a safe yield for pumping the shallow aquifer under
20 the SMR Property could be anywhere from 5,000 AFY to 24,000 AFY. These studies suggested
21 that there is a considerable amount of water available directly under the SMR Property that could
22 be pumped. At that time, there also were reports of exploratory drilling that suggested that there
23 might be a deep alluvial aquifer below the basaltic layers under the shallow aquifer.

24 8. The new SMR ownership wanted to get a better sense of the geology and
25 groundwater availability under the SMR Property. In January 2019, we retained Daniel B.
26 Stephens & Associates ("DBS&A") to undertake this investigation. As part of this investigation,
27

28 ¹ Among other materials that have been prepared over the last two decades, this specifically
included analyses from Neblett & Associates (2008) and Stetson Engineers (2012).

1 in 2022, we funded a deep exploratory well to drill through the shallow alluvial layer and the
2 basaltic layers underneath in order to verify the existence of the separate deep alluvial aquifer that
3 we understood existed, and to get an understanding of the nature of this deep aquifer and the
4 groundwater that is within it, including determining whether the deep aquifer is hydrologically
5 disconnected from the shallow aquifer and/or the rest of the Mojave Basin. DBS&A oversaw this
6 drilling, and the findings of their work are discussed in the declaration of Tony Morgan of
7 DBS&A, which is filed concurrently with this declaration and the Motion.

8 9. Since 2018, the new ownership group of SMR has invested approximately \$2
9 million in the drilling, testing, and analyses of the aquifers and groundwater beneath the SMR
10 Property. Again, the results are discussed in Mr. Morgan’s declaration, but it appears that the
11 groundwater beneath the SMR Property is separate from the water that was adjudicated in the
12 Judgment, and thus this water is essentially supplemental water that, if pumped, could be put to a
13 beneficial use without causing harm or otherwise impacting the Judgment’s safe yield allocations.
14 Moreover, it appears that the water in the deep aquifer has never previously been pumped from
15 the SMR Property to extract groundwater (other than the recent extractions that we did for testing
16 purposes).

17 10. SMR intends to pump groundwater from both of the aquifers underlying the SMR
18 Property as a source of supplemental water, and sell that supplemental water to other user(s) so
19 that this water can be put to beneficial use.

20 11. In August of 2023, I discussed the potential to sell this water to Mojave Water
21 Agency with Mojave Water Agency’s General Manager, Adnan Anabtawi. When I explained the
22 substantial work and investigations we have conducted with DBS&A, as well as our plan to pump
23 this supplemental water and sell it, Mr. Anabtawi indicated that he was interested, but that we
24 should secure Court approval before Mojave Water Agency would consider purchasing the water
25 from us. As a result, we now bring this Motion.

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I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed this 1st day of November, 2023, at Lake Forest, IL.



Timothy Walsh

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PROOF OF SERVICE

I, Vanessa Guillen-Becerra, declare:

I am a citizen of the United States and employed in San Bernardino County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2855 E. Guasti Road, Suite 400, Ontario, California 91761. On November 6, 2023, I served a copy of the within document(s):

DECLARATION OF TIMOTHY WALSH IN SUPPORT OF MOTION TO INTERPRET AND CLARIFY THE JUDGMENT

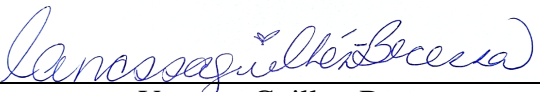
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Ontario, California addressed as set forth below.
- by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Please see attached Service List.

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 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 6, 2023, at Ontario, California.



Vanessa Guillen-Becerra

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Service List

Via Email

Williams J. Brunick, Esq.
Leland P. McElhaney, Esq.
BRUNICK, McELHANEY & KENNEDY PLC
1839 Commercenter West
P.O. Box 13130
San Bernardino, CA 92423-3130
Tel No. (909) 889-8301
Fax No. (909) 388-1889
Email: bbrunick@bmklawplc.com
lmcelhaney@bmklawplc.com

Via One Legal Eservice:

Andrew, Brittany
bandrews@tinnellylaw.com

Kiel, Peter
ikiel@cawaterlaw.com

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 December 7, 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:

DECLARATION OF TIMOTHY WALSH IN SUPPORT OF MOTION TO INTERPRET AND CLARIFY THE JUDGMENT

 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 December 7, 2023 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of December 07, 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 (avfwd@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

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: John Munoz
(barlenwater@hotmail.com)
Bar-Len Mutual Water Company (via email)
P. O. Box 77
Barstow, CA 92312-0077

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

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

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

Attn: Deborah Stephenson
(stephenson@dmsnaturalresources.com)
BNSF Railway Company (via email)
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-6483

Attn: Debrah Stephenson
(stephenson@dmsnaturalresources.com;
Jason.Murray@bnsf.com;
Blaine.Bilderback@bnsf.com)
BNSF Railway Company (via email)
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-

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: Valeria Brown
Brown Family Trust Dated August 11, 1999
26776 Vista Road
Helendale, CA 92342-9789

Brown, Jennifer
10001 Choiceana Ave.
Hesperia, CA 92345

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

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

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

Attn: Noah Furie
Budget Finance Company
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
2309 Highland Heights Lane
Carrollton, TX 75007-2033

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

Carlton, Susan
445 Via Colusa
Torrance, CA 90505-

Attn: Shawn Barrachs
Casa Colina Foundation
P.O. Box 1760
Lucerne Valley, CA 92356

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attn: Gwen Bartels
Cross, Francis and Beverly
156 W 100 N
Jerome, ID 83385-5256

Attn: Alessia Morris
Crystal Lakes Property Owners Association
P. O. Box 351
Yermo, CA 92398-0351

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

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

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

Attn: Nancy Ryman
Chamisal Mutual Water Company
P. O. Box 1444
Adelanto, CA 92301-2779

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

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

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

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

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

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

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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)
P. O. Box 709
Lucerne Valley, CA 92356-0709

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

Attn: David Dittenmore
(d2dittenmore@bop.gov; rslayman@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: Mike 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 Ave.
Van Nuys, CA 91405-1423

Attn: Daisy Cruz
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: 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

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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: Eric Archibek
Green Hay Packers LLC
41717 Silver Valley Road
Newberry Springs, CA 92365-9517

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

Hang, Phu Quang
645 S. Shasta Street
West Covina, CA 91791-2818

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 (harmsecow@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

(harveyl.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

Attn: Joshua Maze
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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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: Carabeth Carter ()
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

(lechiett@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 965
Lucerne Valley, CA 92356-0965

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: Barry 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: Paul Johnson
Huerta, Hector
25684 Community Blvd
Barstow, CA 92311-

(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

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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
(gleddream@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

Attn: Martin A and Mercedes Katcher
Katcher, August M. and Marceline
12928 Hyperion Lane
Apple Valley, CA 92308-4565

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
(ljm9252@aol.com;
timrohmbuilding@gmail.com)
Lake Wainani Owners Association (via email)
2812 Walnut Avenue, Suite A
Tustin, CA 92780-7053

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

(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: 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

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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: Freddy Garmo (freddy@garmolaw.com)
Minn15 LLC (via email)
5464 Grossmont Center Drive, #300
La Mesa, CA 91942-3035

Attn: David Riddle
(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: Sarah Bliss
Mojave Desert Land Trust
60124 29 Palms Highway
Joshua Tree, CA 92252-4130

Attn: Mahnaz 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 (jeffgaastra@gmail.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)
NSSLC, 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 December 07, 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, Fransisco 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

Attn: Brian C. Vail (bvail@river-west.com)
Reido Farms, LLC (via email)
2410 Fair Oaks Blvd., Suite 110
Sacramento, CA 95825-7666

(LucerneJujubeFarm@hotmail.com)
Rhee, Andrew N. (via email)
11717 Fairlane Road., #989
Lucerne Valley, CA 92356-8829

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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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

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

(RayRizvi@Yahoo.com)
Rizvi, S.R Ali (via email)
4054 Allyson Terrace
Freemont, CA 94538-4186

Attn: Bill Taylor or Property Mngr
(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 (sarajfortuna@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, Kanoelokelani 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 (mcsgray@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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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: Stephen H. Douglas
(cre.notices@clenera.com)
Sunray Land Company, LLC (via email)
1717 West Loop South, Suite 1800
Houston, TX 77027-3049

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 or Lucinda Lazenby
Thayer, Sharon
P. O. Box 845
Luceren 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

Mojave Basin Area Watermaster Service List as of December 07, 2023

Attn: Mike Troeger (mjtroeger@yahoo.com)
Troeger Family Trust, Richard H. (via email)
P. O. Box 24
Wrightwood, CA 92397

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-

(drupal@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, Bldg 10
Victorville, CA 92395-5850

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

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

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
(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, 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

Mojave Basin Area Watermaster Service List as of December 07, 2023

Attn: Nick Gatti ()
Western Development and Storage, LLC (via email)
5701 Truxtun Avenue, Ste. 201
Bakersfield, CA 93309-0402

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.
3507 N 307th Drive
Buckeye, AZ 85396-6746

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

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: 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

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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

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

Attn: Derek Hoffman, Esq.
(dhoffman@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@kasdanclaw.com)
Kasdan, LippSmith Weber Turner, LLP (via email)
19900 MacArthur Blvd., Suite 850
Irvine, CA 92612-

Attn: Mitchell Kaufman, Esq.
(mitch@kmcclp.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@omlowlaw.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-

Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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

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

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