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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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Case No. CIV208568  
JCCP5265 MOJAVE BASIN WATER  
CASES

Judge: Craig Riemer, Department 1

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF MOTION TO  
INTERPRET AND CLARIFY THE  
JUDGMENT**

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

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

**[Reservation ID: 001680774956]**

Action Filed: May 30, 1990

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1 **REQUEST FOR JUDICIAL NOTICE**

2 Pursuant to Evidence Code, sections 452 and 453<sup>1</sup> and California Rules of Court, rules  
3 3.1113(l) and 3.1306(c), Specially-Appearing Petitioner Shadow Mountain Ranch, LLC (“SMR”)  
4 respectfully requests that the Court take judicial notice of the document listed below in support of  
5 SMR’s motion to interpret and clarify the scope of the January 10, 1996 Judgment and Physical  
6 Solution (“Motion”). Under Section 453, this request is conditionally mandatory and should be  
7 granted if (a) sufficient notice is given to the adverse party, and (b) the court is furnished with  
8 sufficient information to enable it to take notice of the matter. (*People v. Maxwell* (1978) 78  
9 Cal.App.3d 124, 130-31.)

10 SMR respectfully requests judicial notice of the document identified below, provides all  
11 parties with sufficient notice to enable such parties to respond to the request,<sup>2</sup> and furnishes  
12 sufficient information to enable the Court to take judicial notice of the California Groundwater  
13 Bulletin 118, excerpt of Harper Valley Groundwater Basin, Basin No. 6-47, which is attached to  
14 the Declaration of Christopher Pisano (“Pisano Declaration” or “Pisano Decl.”) as Exhibit “1”  
15 (“Bulletin 118”).

16 **LEGAL STANDARD**

17 Judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial  
18 departments of the United States and of any state of the United States,” and of “[f]acts and  
19 propositions that are not reasonably subject to dispute and are capable of immediate and accurate  
20 determination by resort to sources of reasonably indisputable accuracy.” (Evid. Code § 452,  
21 subs. (c) and (h).) “What is more, the court's discretion to take judicial notice of these matters  
22 disappears—and the court becomes obligated to judicially notice these matters—if the moving  
23 party gives adequate advance notice.” (*Licudine v. Cedars-Sinai Medical Center* (2016)  
24 3 Cal.App.5th 881, 902 [citing Evid. Code § 453].) “The trial court shall take judicial notice of  
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26 <sup>1</sup> All section references are to the Evidence Code unless otherwise indicated.

27 <sup>2</sup> By filing the Motion and all supporting papers, including this Request for Judicial Notice, all  
28 parties who are registered to receive electronic service in this case will automatically receive  
service of the Motion and supporting papers, including this Request for Judicial Notice. SMR has  
also served the Mojave Water Agency with the Motion and all supporting papers, including this  
Request for Judicial Notice.

1 any matter specified in Section 452 if a party requests it and: (a) Gives each adverse party  
2 sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party  
3 to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it  
4 to take judicial notice of the matter.” (Evid. Code § 453.)

5 Judicially noticeable materials generally must be relevant. (*Mangini v. R. J. Reynolds*  
6 *Tobacco Co.* (1994) 7 Cal.4th 1057, 1063, overruled on other grounds in *In re Tobacco Cases II*  
7 (2007) 41 Cal.4th 1257.) Relevant evidence is admissible. (Evid. Code §§ 350, 351.) Evidence  
8 is relevant if it has “any tendency in reason to prove or disprove any disputed fact that is of  
9 consequence to the determination of the action.” (Evid. Code § 210.)

10 **THE COURT SHOULD TAKE JUDICIAL NOTICE OF BULLETIN 118**

11 **a. Bulletin 118 is Judicially Noticeable**

12 Bulletin 118 is subject to judicial notice because it is a record of a public agency and its  
13 existence is not reasonably subject to dispute. (Evid. Code § 452, subs. (c) and (h).)

14 First, courts have taken judicial notice of a wide variety of administrative and executive  
15 records, reports, and acts under Section 452, subdivision (c). (See, e.g., *Villareal v. LAD-T, LLC*,  
16 84 Cal.App.5th 446, 455 [taking judicial notice of the file-stamped copy of a fictitious business  
17 name registration]; *City of Rocklin v. Legacy Family Adventures-Rocklin, LLC* (2022) 86  
18 Cal.App.5th 713, 733 n.8 [taking judicial notice of legislative history]; *City of Sacramento v.*  
19 *State Water Resources Control Board* (1992) 2 Cal.App.4th 960, 967 n. 2 [taking judicial notice  
20 taken of minutes of relevant Regional Water Quality Control Board meetings].) Further, courts  
21 routinely take judicial notice of government websites regarding official acts from the contents of  
22 government agency websites. (See *In re M.W.* (2018) 26 Cal.App.5th 921, 927 n.3, 929 n. 5; *In*  
23 *re H.C.* (2017) 17 Cal.App.5th 1261, 1268 n. 4; *Jackpot Harvesting Co., Inc. v. Superior Court*  
24 (2018) 26 Cal.App.5th 125, 136 n.3.)

25 Here, Bulletin 118 is an official document created by the California Department of Water  
26 Resources (“DWR”). According to DWR, Bulletin 118 “is the State’s official publication on the  
27 occurrence and nature of groundwater in California. The publication defines the groundwater  
28 basin boundaries and summarizes groundwater information for each of the State’s 10 hydrologic

1 regions.” (See DWR, California’s Groundwater (Bulletin 118), available at  
2 <https://water.ca.gov/programs/groundwater-management/bulletin-118> [last accessed Nov. 1,  
3 2024].) Bulletin 118 was created for official publication and is publicly available online. (*Id.*;  
4 see also Pisano Decl., ¶ 4.) Therefore, Bulletin 118 is a public agency record subject to judicial  
5 notice under Section 432, subdivision (c).

6 Second, the Documents are subject to judicial notice because they contain “[f]acts and  
7 propositions that are not reasonably subject to dispute and are capable of immediate and accurate  
8 determination by resort to sources of reasonably indisputable accuracy.” (Evid. Code § 452, subd.  
9 (h).) The existence of this Bulletin 118 is not reasonably subject to dispute as it is publicly  
10 available. (Pisano Decl., ¶ 4.) The existence of this Bulletin 118 is also capable of immediate  
11 and accurate determination by resort to sources of reasonably indisputable accuracy because it is  
12 readily pulled and confirmed via publicly-available information, including through a publicly-  
13 available website.<sup>3</sup> (*Id.*)

14 The Court should therefore take judicial notice of Bulletin 118 under Section 452,  
15 subdivisions (c) and (h).

16 **b. Bulletin 118 is Relevant to the Motion**

17 Bulletin 118 is relevant to the Motion for several reasons.

18 First, Bulletin 118 describes the general hydrogeologic characteristics of the Harper  
19 Valley basin—including basin boundaries, groundwater inflow and outflow, groundwater quality,  
20 estimates of storage and replenishment capacities, and basin management information. The  
21 presence or absence of each of these different characteristics is directly relevant to SMR’s  
22 Motion. For example, Bulletin 118’s conclusions are consistent with SMR’s conclusions  
23 regarding groundwater inflow (or the lack thereof) from the Mojave River to the aquifers  
24 underlying the SMR Property, as more fully described in the Motion and in the Declaration of  
25 Tony Morgan.

26  
27 <sup>3</sup> Indeed, the very substance of Bulletin 118 is so reliable and broadly accepted that the  
28 Streamlined Adjudication Act, passed in 2015, uses the Bulletin 118 boundaries as the required  
boundaries for an adjudication, absent evidence to the contrary and approval by DWR. (See Code  
Civ Proc. § 841.)

1 Second, Bulletin 118 also identifies the Harper Valley basin as separate and distinct from  
2 the Mojave Basin, including from the Centro Subarea of the Mojave Basin. This distinction is  
3 further relevant to SMR’s position that the Harper Valley basin, and not the Centro Subarea, is  
4 the better approximation of the SMR Property, especially when assessing hydrologic  
5 characteristics such as groundwater inflow and outflow.

6 Overall, it is relevant that California’s preeminent agency on groundwater issues—  
7 DWR—has opined on the exact same issues raised by SMR here.

8 **Conclusion**

9 For the reasons stated herein, SMR respectfully requests that the Court take judicial notice  
10 of Bulletin 118 pursuant to Evidence Code, sections 452 and 453 and California Rules of Court,  
11 rules 3.1113(l) and 3.1306(c).

12  
13 Dated: November 2, 2023

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14  
15 By: Christy P. P.  
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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):

**REQUEST FOR JUDICIAL NOTICE 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.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

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

  
\_\_\_\_\_  
Vanessa Guillen-Becerra

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**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:

**REQUEST FOR JUDICIAL NOTICE 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



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Attn: Debby Wyatt  
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Dolch Living Trust Robert and Judith  
4181 Kramer Lane  
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Donaldson, Jerry and Beverly  
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Delta, CO 81416-8501

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345 E Carson St.  
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Gabrych, Eugene  
2006 Old Highway 395  
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Attn: Mitch Hammack  
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9366 Joshua Avenue  
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Attn: Jay Storer  
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## Mojave Basin Area Watermaster Service List as of December 07, 2023

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

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

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Johnston, Harriet and Johnston, Lawrence W.  
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Attn: Magdalena Jones  
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Attn: Paul Jordan  
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Attn: Ray Gagné  
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Lucerne Valley, CA 92356

Attn: Lee Logsdon  
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Newberry Springs, CA 92365

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

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

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