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EXEMPT FROM FILING FEES
PER GOV. CODE, § 6103

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE

14 Coordination Proceeding Special Title
(Cal. Rules of Court, Rule 3.550)

JCCP NO. 5265
CIV 208568 (Lead Case No.)

15 **MOJAVE BASIN WATER CASES**

Dept. 1, Riverside County Superior Court,
Hon. Harold Hopp, Judge Presiding

18 CITY OF BARSTOW,

Plaintiff,

**CALIFORNIA DEPARTMENT OF
FISH AND WILDLIFE'S RESPONSE
TO WATERMASTER'S STATUS
REPORT REGARDING
PRODUCTION SAFE YIELD AND
FREE PRODUCTION ALLOWANCE
CALCULATIONS**

19 v.

21 CITY OF ADELANTO, ET AL,

Defendants.

Date: February 7, 2024

Time: 8:30 a.m.

Dept.: 1

Judge: Honorable Harold Hopp

Assigned for All Purposes to Dept. 1,
Honorable Harold Hopp, Judge Presiding by
Assignment

1 The California Department of Fish and Wildlife (Department) submits the following
2 response to Watermaster's Status Report Regarding Production Safe Yield and Free Production
3 Allowance Calculations (Watermaster Status Report).

4 **I. ALTO AND CENTRO SUBAREAS**

5 The Department appreciates the work and technical expertise that has gone into the
6 modeling effort by the Watermaster for these production safe yield (PSY) calculations pursuant to
7 the judgment in the *City of Barstow v. City of Adelanto, et al.* matter (Judgment). However, the
8 Department is concerned about the dramatic change in the focus and guidance from the previous
9 PSY calculations and from last year's overview of the PSY recalculation process, especially as it
10 relates to the Alto and Centro subareas. In his Declaration last year in Support of Watermaster's
11 Motion to Adjust Free Production Allowance for Water Year 2023-2024 (Wagner 2023 Dec.), the
12 Watermaster Engineer, Robert Wagner, discusses his current PSY analysis. (Wagner 2023 Dec.
13 pp. 3-6.) Mr. Wagner stated that his current PSY analysis takes into account water supply, i.e.
14 natural inflows and outflows of water, and the correct base period from which to determine those
15 inflows and outflows. (*Ibid.*) Mr. Wagner indicated that the Alto subarea, for example, has seen
16 78% of the long-term average inflow for the last 23 years, and only 42% in the last 11 years, and
17 has lost between 16,800 and 18,500 acre-feet per year of storage between 1951 and 2017. (*Ibid.*)

18 Mr. Wagner continued to state that he recommends that the Alto free production
19 allowance (FPA) under the Judgment remain at 50% for 5 years. (Wagner 2023 Dec. p. 6.) He
20 also stated that the model's preliminary analysis agrees with his recommendation. (*Id.* at p.4.)
21 The Department agrees with the Watermaster's previous 2023 recommendations and believes that
22 the parties will need time to study, analyze and possibly do discovery of the new model and its
23 calculations. This is especially true, if as noted in the Watermaster's Status Report, the
24 Watermaster Engineer will be changing his preliminary analysis and the model's preliminary
25 results. It is important to note that a reduction in PSY does not mean that any party is precluded
26 from pumping water for use on its land; it merely requires that the parties purchase additional
27 water from the Watermaster to replenish the groundwater.

1 The same comments apply to the Centro analysis, where Mr. Wagner opined in his
2 Wagner 2023 Declaration that Centro’s PSY is likely to require continued rampdown and is not
3 likely to increase based upon the new analysis. (Wagner 2023 Dec. p. 6.) He even noted that the
4 Watermaster has already been forced to provide supplemental water to Centro because of
5 drought. (*Ibid.*)

6 Finally, the Court’s order on rampdown for the 2023-2024 water year also states that the
7 PSY for Alto clearly needs to adjusted downward, since there has been over 51,000 acre-feet in
8 depletion of storage in recent years. (Superior Court’s June 9, 2023 Minute Order at pp. 2-3.)
9 The Court recognized that even one good year of precipitation and increased inflow will not make
10 up for many years of deficit. (*Ibid.*)

11 The Department believes that additional time to study and analyze the model and its new
12 PSY analysis will be necessary for all the parties to the Judgment. This is especially true given its
13 preliminary results, Mr. Wagner’s 2023 analysis and the Court’s 2023 order. Mr. Wagner’s
14 previous recommendation was to wait 5 years to study the rampdown and the new PSY. The
15 Department believes that taking time to evaluate the new PSY is wise, given the need to evaluate
16 what changes in storage occur, and the need for the parties in the subareas, especially the Alto
17 subarea, to purchase supplemental water. The Department also looks forward to seeing any

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1 analysis Mr. Wagner makes regarding the PSY for the other subareas, including the Baja subarea,
2 which were not part of the Watermaster Status Report and will need to be reviewed and evaluated
3 as well by the parties to the Judgment.
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5

6 Dated: January 31, 2024

Respectfully submitted,

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DECLARATION OF SERVICE BY E-MAIL AND OVERNIGHT COURIER

Case Name: **City of Barstow v. City of Adelanto**

Case No.: **CIV208568**

I declare: I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 300 South Spring Street, Suite 1702, Los Angeles, CA 90013-1230. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for overnight mail with the **Federal Express** courier service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the overnight courier that same day in the ordinary course of business.

On January 31, 2024, I served the **CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE'S RESPONSE TO WATERMASTER'S STATUS REPORT REGARDING PRODUCTION SAFE YIELD AND FREE PRODUCTION ALLOWANCE CALCULATIONS** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for overnight delivery, addressed as follows:

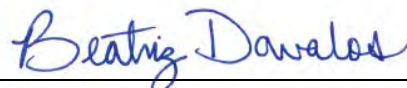
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I declare under penalty of perjury under the laws of the State of California and the United States of America, the foregoing is true and correct and that this declaration was executed on January 31, 2024, at Los Angeles, California.

Beatriz Davalos

Declarant



Signature

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.

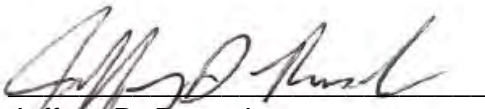
On January 31, 2024, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing 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:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE'S RESPONSE TO WATERMASTER'S STATUS REPORT REGARDING PRODUCTION SAFE YIELD AND FREE PRODUCTION ALLOWANCE CALCULATIONS

 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 January 31, 2024 at Apple Valley, California.



Jeffrey D. Ruesch

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Mojave Basin Area Watermaster Service List as of January 31, 2024

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Mojave Basin Area Watermaster Service List as of January 31, 2024

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Mojave Basin Area Watermaster Service List as of January 31, 2024

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Mojave Basin Area Watermaster Service List as of January 31, 2024

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Mojave Basin Area Watermaster Service List as of January 31, 2024

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