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GOV. CODE § 6103

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12 OF VICTORVILLE (formerly VICTOR VALLEY WATER DISTRICT and BALDY MESA
13 WATER DISTRICT)

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF RIVERSIDE**

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

JCCP NO. 5265
Case No. CIV208568

18 MOJAVE BASIN WATER CASES

Assigned for All Purposes to Hon. Harold
W. Hopp, Department 1

19 CITY OF BARSTOW,

20 Plaintiff,

21 v.

22 CITY OF ADELANTO, et al.,

23 Defendants.

**VICTORVILLE WATER DISTRICT'S
AMENDED OPPOSITION TO
GOLDEN STATE WATER COMPANY
MOTION TO ENFORCE JUDGMENT**

**October 22, 2024
1:30 p.m.
Department M302, Menifee Justice
Center**

24 AND RELATED CROSS ACTIONS

Hon. Craig G. Riemer, Judge Presiding by
Assignment

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1 Victorville Water District¹ (**VWD** submits this amended opposition to the Motion to
2 Enforce Judgment (**Motion to Enforce**) of the Golden State Water Company (**GSWC**).

3 **I. INTRODUCTION**

4 VWD is the municipal water service provider to the City of Victorville and an adjacent
5 service area that includes the Southern California Logistics Airport that produces groundwater in
6 the Alto Subarea (**Alto**) and the Centro Subarea (**Centro**). VWD opposes the Motion to Enforce
7 on the grounds that GSWC has failed to show cause for the Court to direct the Mojave Basin Area
8 Watermaster (**Watermaster**) to reevaluate PSY for the Alto and Centro Subareas. VWD also
9 opposes the Motion to Enforce on the policy ground that the Watermaster’s analytic process should
10 be entitled deference.

11 **II. BACKGROUND**

12 Watermaster proposed, and the Court approved in its July 8, 2024 Ruling, revisions to the
13 Centro Production Safe Yield (**PSY**) from 21,088 AFA to 31,420 AFA, an increase of 49%
14 percent. Watermaster’s Motion to Adjust Free Production Allowance for Water Year 2024-2025
15 filed May 1, 2024 (**2024-25 FPA Motion**) and Watermaster Engineer Robert Wagner’s
16 Declaration (**Wagner Declaration ISO 2024-25 FPA Motion**) determined that the Alto Subarea
17 has fulfilled its subarea obligation to the Transition Zone (**TZ**) citing, among other analyses and
18 substantial evidence, that groundwater levels in the TZ and many portions of Centro are stable.
19 (Wagner Declaration ISO 2024-25 FPA Motion, pp. 4-5.) The Watermaster concluded that an
20 increase in Centro PSY was warranted despite GSWC having observed localized groundwater
21 level declines in its wells because:

22 We have presented Watermaster with data showing that concentrated pumping
23 (Exhibit 6) in small, segmented aquifers along the river are depleted faster than they
24 can be recharged through long dry periods. . . . Water levels in this area of Centro
25 are variable dependent on Mojave River storm flow. Due to concentrated pumping
26 in this area by Industrial, agricultural, and municipal parties, water levels are
27 depressed during long drought periods, and respond positively to storm events.

28 ¹ VWD is a subsidiary district of the City of Victorville formed in 2007 with the consolidation of Victor Valley
Water District and Baldy Mesa Water District, both of whom were original parties to the Judgment.

1 (Ex. C to 2024-25 FPA Motion (**Wagner Declaration ISO 2024-25 FPA Motion**), p. 4 (Motion
2 to Enforce, pdf p. 26); see also Ex. 6 (Motion to Enforce, pdf pp. 377-379).)

3 Noting that GSWC remained critical of Watermaster’s calculation of PSY, the Court’s
4 approval of 2024-2025 PSY and FPA was “without prejudice to challenges to the manner in which
5 the Watermaster has calculated PSY and the sufficiency of the factual investigation on which those
6 calculations are based.” (Ruling, p. 2.) On September 5, 2024, GSWC filed its Motion to Enforce
7 seeking, among other relief, that the Court “order Watermaster to re-evaluate its PSY calculations,
8 hydrologic data, and underlying assumptions, and undertake the more rigorous technical analysis
9 that is recommended by GSWC’s independent technical analysis and is mandated by the
10 Judgment.” (Motion to Enforce, p. 6, ln. 2-4.)

11 **III. ARGUMENT**

12 GSWC has not met its burden to show that Watermaster has miscalculated the Alto Subarea
13 Obligation to the TZ or miscalculated Alto and Centro PSY. VWD supports the advancement of
14 Mojave Basin science, including the in-progress expansion of the Upper Mojave River Basin
15 Model to include the TZ, Centro and Baja Subarea. The Court should not indulge GSWC’s request
16 that the Court micromanage the Watermaster’s analytic process.

17 **A. GSWC has not established cause for the Court to direct Watermaster to reevaluate** 18 **PSY for the Alto and Centro Subareas.**

19 In the Ruling on the Watermaster’s Annual Motion to Adjust Free Production Allowance
20 for Water Year 2024-2025 (**FPA Ruling**), this Court directed that “[a]ny expert opinions offered
21 either in support of or in opposition to any motion shall be limited to opinions that (a) are stated to
22 be more likely than not true and (b) are supported by such analysis and evidence to allow a finder
23 of fact to understand the reasons for that opinion.” (FPA Ruling, p. 7, ¶ 3.) The opinion on which
24 GSWC relies to argue that PSY for the Alto and Centro Subareas should be revised does not meet
25 the above standard.

26 **1. Alto Subarea Obligations**

27 GSWC cites groundwater elevation decline in its well field to argue that this decline is
28 evidence of groundwater decline in Centro as a whole, and that this localized condition indicates

1 that Alto is not fulfilling its obligations to Centro. VWD notes that Altos' Subarea Obligations to
2 the TZ are defined in Exhibit G of the Judgment, which provides:

3 1. Subarea Obligations. Producers in the respective Subareas shall have the
4 obligation to provide the following average annual and minimum Annual
Subsurface Flows and/or Base Flows per Year:

5 . . .
6 e. Alto subarea Producers – an average Annual combined Subsurface Flow and
Base Flow of 23,000 acre-feet per Year to the Transition Zone. . . .

7 **2. GSWC Data Range is Misleading**

8 The Declaration of VWD's expert consulting hydrogeologist Peter Leffler (**Leffler**
9 **Declaration** filed concurrently with this Opposition) provides various observations on and
10 critiques regarding the Declaration of Anthony Brown in Support of the Golden State Water
11 Company Motion to Enforce Judgment (**Brown Declaration**). Mr. Leffler observes that GSWC
12 wells "show a strong relationship between GSWC water levels and very wet years with high river
13 flows," and that the selected 20-year period "starts right after groundwater elevations in GSWC
14 wells increased dramatically in response to the 2005 wet year." (Leffler Declaration, ¶¶ 4-5.)
15 GSWC's 20-year period is artificially inflated (i.e., has abnormally high groundwater elevations)
16 by selecting 2005 as the first year of the 20-year sequence and the use of artificially high
17 groundwater elevations in the first year of the analysis period tends to give the impression of
18 declining groundwater elevations that may only be occurring because the starting point is not
19 representative. (*Ibid.*)

20 **3. GSWC Data Range is Not Representative of Long-term Conditions**

21 GSWC's selection of 2005 through 2023 data contains an unusually long period between
22 very wet years from 2011 to 2023 that has not occurred since the 1940s/1950s. This period is not
23 representative of longer-term climatic/hydrologic conditions. (Leffler Declaration, ¶¶ 6-7.) The
24 Watermaster's use of 2001 through 2020 as the hydrologic base period for reevaluating Production
25 Safe Yield and Consumptive Use is a more appropriate evaluation period for an evaluation of
26 conditions in GSWC wells. (*Ibid.*, ¶ 12.)

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1 **4. GSCW Does Not Consider Non-GSWC Well Data**

2 GSWC provided groundwater level data for its wells only, which does not allow the Court
3 to determine whether conditions are isolated to GSWC wells, are occurring in a larger region, or
4 are caused by localized GSWC and non-GSWC pumping. (Leffler Declaration, ¶¶ 8-11.) Mr.
5 Leffler notes that the conditions in GSWC wells may be explained by localized factors:

6 Concentrated pumping can cause localized groundwater elevation declines and/or
7 groundwater elevation depressions, which may not be representative of the
8 subbasin/subarea water balance as a whole. The occurrence of mutual well
9 pumping interference and/or the presence of discharge boundaries (low
permeability) within the radius of pumping influence may cause localized
groundwater level declines.

10 (*Ibid.*, ¶ 10.)

11 **5. GSWC Data Does Not Demonstrate Chronic Water Level Decline**

12 Mr. Leffler finds that GSWC data do not demonstrate chronic water level declines because:
13 (a) the period selected is too short to represent long-term average conditions in the Mojave Basin
14 and the selected period does not represent an average hydrological condition for comparison to
15 subsequent year condition; (b) groundwater levels in the Transition Zone and western portion of
16 the Centro Subarea are stable; (c) localized groundwater pumping and localized hydrogeologic
17 conditions may contribute to unique conditions in GSWC wells not experienced elsewhere in
18 Centro; and (d) GSWC well levels are mostly closely correlated with Mojave River flows. (Leffler
19 Declaration, ¶ 13.) Mr. Leffler also observes that “the groundwater elevations in GSWC wells
20 during 2024 are very similar to groundwater elevations that occurred 15 years earlier.” (*Ibid.*, ¶ 8.)

21 **6. It is Not Possible to Draw Meaningful Conclusions about Pumping Effects on**
22 **GSWC Wells**

23 GSWC does not provide sufficient data to assess whether pumping from GSWC and non-
24 GSWC wells affects groundwater levels in GSWC wells. In fact, localized pumping by GSWC
25 and non-GSWC wells may exceed the near-term average recharge, especially over the period from
26 2011 to 2022. (Leffler Declaration, ¶ 14.)

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1 **GSWC Does Not Establish that Recharge to Centro from Alto has Decreased and**
2 **Contributed to the Chronic Water Level Declines**

3 GSWC cannot establish that “it is more likely that recharge to the Centro Subarea from the
4 Alto Subarea has decreased and contributed to the observed chronic water level declines” because:
5 (a) groundwater levels in the Transition Zone and western portion of the Centro Subarea appear to
6 be stable and at higher elevation than levels near GSWC wells; (b) GSWC wells respond positively
7 to very high Mojave River flows; (c) localized pumping and reduced Mojave River flow during
8 drought periods may be the cause of chronic groundwater level declines at GSWC wells, if any
9 such declines are occurring. (Leffler Declaration, ¶ 15.)

10 **7. GSWC Does Not Establish that Alto is Not Meeting its Subarea Obligation**

11 GSWC does not present any substantial evidence to support the conclusion that there is a
12 deficit in the volume of water that Alto is obligated under the Judgment to deliver as recharge to
13 the Transition Zone. (Leffler Declaration, ¶ 16.) Mr. Leffler, however, concludes that the
14 Watermaster has presented substantial evidence in its 2024 PSY/FPA Tech Memo and 2024-2025
15 FPA Motion that the Alta Subarea is meeting its subarea obligation to the Transition Zone.

16 **8. Summary Conclusion of Facts and Evidence**

17 The Court cannot draw any conclusion about Centro Subarea groundwater conditions or
18 flows from the Transition Zone to the Centro Subarea considering only GSWC well levels and
19 pumping. Accordingly, GSWC has not established that it is more likely than not (1) that decreases
20 in inflow to Centro have contributed to declining water levels in GSWC’s wells or (2) that Alto is
21 failing to meet its obligation to the Transition Zone.

22 **B. The Watermaster’s analytic process and tools should be entitled deference.**

23 VWD opposes the Motion to Enforce on practical and policy grounds. The Watermaster
24 is appointed to serve in “an impartial manner without favor or prejudice to any Subarea, Producer,
25 Party or Purpose of Use.” (Judgment, ¶ 23.) The Court and the parties rely on Watermaster’s
26 professional judgment and experience to administer the Judgment and to regularly update its
27 understanding of Mojave Basin hydrology, and the Watermaster provides numerous opportunities
28 for the public to engage in the data, science and management of the Mojave Basin before

1 information is presented to the Court. (*See, e.g.,* Judgment, ¶ 24(k).) The parties and the Court
2 rely on Watermaster and its public workshops to openly discuss the feasibility, cost, and value of
3 potential new analytic tools.

4 VWD is not suggesting that the Court defer on substantive legal and factual determinations
5 required by the Judgment, such PSY and FPA. VWD only encourages the Court to defer to the
6 analytic process and tools utilized by Watermaster. VWD opposes the use of limited evidence
7 presented in a hearing brought by one party to dictate which study, model or gage the Watermaster
8 should use. If GSWC’s Motion to Enforce is granted, parties will be encouraged to bypass the
9 public Watermaster process and will lobby the Court to dictate Watermaster’s tasks in a manner
10 that favors special interests to the detriment of the Basin as a whole.

11 **IV. CONCLUSION**

12 For the foregoing reasons, GSWC’s request that the Court order Watermaster to undertake
13 specific studies is without merit, and GSWC’s motion should be denied.

14
15 Dated: October 9, 2024

Law Office of Peter Kiel PC

16 

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19 Attorney for Defendant Victorville Water District, a
20 subsidiary district of the City of Victorville
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SONOMA

Re: *City of Barstow v. City of Adelanto, et al.*;
Riverside Superior Court Case No.: CIV 208568

I am over 18 years of age, and not a party to this action. I am employed at the Law Office of Peter Kiel PC. My mailing address is Law Office of Peter Kiel PC, PO Box 422, Petaluma, California 95953-422 and my email is pkiel@cawaterlaw.com.

On October 9, 2024, I served the document

VICTORVILLE WATER DISTRICT'S AMENDED OPPOSITION TO GOLDEN STATE WATER COMPANY MOTION TO ENFORCE JUDGMENT

By FedEx Overnight Mail to the recipients listed below. I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to CCP § 1013(c), with delivery fees fully prepaid or provided for.

By Electronic Mail/Email to the email addresses listed below. Said document was served electronically and the transmission was reported as complete and without error.

To the Attached Service Lise

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on October 9, 2024 at Petaluma, California.

/s/ Peter J. Kiel

Peter J. Kiel

Service List

City of Barstow v. City of Adelanto, et al.;
Riverside Superior Court Case No.: CIV 208568

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PROOF OF SERVICE

**STATE OF CALIFORNIA }
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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 October 9, 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:

VICTORVILLE WATER DISTRICT'S AMENDED OPPOSITION TO GOLDEN STATE WATER COMPANY MOTION TO ENFORCE 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 October 9, 2024 at Apple Valley, California.



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Contratto, Ersula
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Mojave Basin Area Watermaster Service List as of October 09, 2024

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Mojave Basin Area Watermaster Service List as of October 09, 2024

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Mojave Basin Area Watermaster Service List as of October 09, 2024

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Mojave Basin Area Watermaster Service List as of October 09, 2024

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Mojave Basin Area Watermaster Service List as of October 09, 2024

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