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EXEMPT FROM FILING FEES
GOV. CODE § 6103

11 Attorneys for Defendant VICTORVILLE WATER DISTRICT, a subsidiary district of the CITY
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
OBJECTION TO DECLARATION OF DR.
W. RICHARD LATON, PG, CHG,
SUPPORTING NEWBERRY SPRINGS
RECREATIONAL LAKES
ASSOCIATION'S AMENDED RESPONSE
TO GOLDEN STATE WATER
COMPANY'S MOTION TO ENFORCE
JUDGMENT**

24
25 **AND RELATED CROSS ACTIONS**

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

Hon. Craig G. Riemer, Judge Presiding by
Assignment

1 Victorville Water District (VWD) objects to the Declaration of Dr. W. Richard Laton, PG,
2 CHG, (**Laton Declaration**) supporting Newberry Springs Recreational Lakes Association’s
3 (**Newberry**) Amended Response (**Amended Response**) to Golden State Water Company’s
4 (**GSWC**) Motion to Enforce Judgment (**Motion to Enforce**) on the grounds that (1) the summary
5 of the 2018 Declaration contained therein lacks a proper foundation, is hearsay, is misleading, and
6 is improper expert testimony, and (2) the Laton Declaration is not relevant to, and exceeds the
7 scope of the GSWC Motion to Enforce.

8 **I. ARGUMENT**

9 **A. Summary of 2018 Declaration Lacks Foundation, Is Hearsay, Is Misleading, and**
10 **Is Improper Expert Testimony**

11 The Laton Declaration, pages 16-17, includes a section entitled, “SUMMARIZED FROM
12 PREVIOUS DECLARATION: Declaration of Dr. W. Richard Laton, October 1, 2018.” No
13 foundation was provided to describe the relevance of a 2018 writing to the pending 2024 GSWC
14 Motion to Enforce, and this section should be disregarded on that basis alone.

15 The section includes a quote attributed to “USGS and Todd Engineering.” The Declaration
16 is misleading because the actual quotation is of a Todd Engineering statement discussing a USGS
17 report. The USGS report discussed is entitled, “Simulation of Ground-Water Flow in the Mojave
18 River Basin, California,” Water-Resources Investigations Report 01-4002 Version 3, by Stamos,
19 et al, available at https://pubs.usgs.gov/wri/wri014002/pdf/wrir014002_ver3.pdf. That report,
20 which is regularly relied upon and cited by Watermaster, is the best evidence of its contents. Dr.
21 Laton’s quote of a Todd Engineering statement is hearsay.

22 Dr. Laton then makes another misleading statement: “Based on this loss in storage, we
23 calculate a loss of 92,750 AF for the 25 years since 1993-94 water year or 3,710 AFY to the Baja
24 subarea.” (Laton Decl., pp. 16, 18.) This statement is misleading because the referenced report
25 does not calculate actual losses of storage in Baja or any other subarea attributable to groundwater
26 pumping under the Judgment; the USGS report discusses modeling simulations of “Upper Region
27 Pumping Only” and “Lower Region Pumping Only” scenarios to test and validate the model. (*See*
28 Stamos, et al (2001), pp. 88-93.) Dr. Laton’s statement about loss of storage in Baja is speculative,

1 not supported by evidence, and does not qualify as valid expert opinion. (Cal. Evid. Code §§ 720,
2 800-803; *Greshko v. County of Los Angeles* (1987) 194 Cal. App. 3d 822, 834 (“Affidavits or
3 declarations setting forth only conclusions, opinions or ultimate facts are held insufficient; even
4 an expert's opinion cannot rise to the dignity of substantial evidence if it is unsubstantiated by
5 facts”).)

6 **B. The Laton Declaration is Not Relevant to, and Reaches Beyond the Scope of, the**
7 **Motion to Enforce**

8 A person must show that they are qualified as an expert on the subject matter at issue before
9 offering an expert opinion as testimony. (Cal. Evid. Code § 720.) In the context of purported
10 hydrological expertise, when a person’s experience is confined to a set of data where hydrological
11 conditions are different from the conditions at issue, the person is not competent to testify as an
12 expert on the matter, and the court should not give the person’s testimony any weight. (*City of*
13 *Santa Cruz v. Enright* (1892) 95 Cal. 105, 30 P. 197, 200.) As stated above, the Motion to Enforce
14 centers on the cause of the falling groundwater levels that GSWC is purportedly measuring in its
15 wells in the Centro Subarea. (Motion to Enforce, pp. 7-9.) The Laton Declaration provides no
16 foundation as to Dr. Laton’s opinion concerning groundwater levels in Centro. Further, the Laton
17 Declaration provides no analysis of the groundwater levels in GSWC wells or activities within
18 Centro that may contribute to the groundwater levels therein. Accordingly, the Laton Declaration
19 is purely speculative and offers no data or analysis supporting a connection between the Laton
20 Declaration’s critique of the Watermaster’s methodologies and GSWC’s groundwater levels. In
21 sum, the Laton Declaration provides no indication that Dr. Laton is qualified to testify concerning
22 the alleged falling groundwater levels in Centro that GSWC complains of.

23 Furthermore, the Laton Declaration attempts to expand the scope of the matter before the
24 Court by introducing evidence pertaining to the Baja Subarea, a Subarea that the Motion to Enforce
25 does not mention even once. Dr. Laton’s opinion does not prove or disprove any disputed fact that
26 is of consequence to the Motion to Enforce motion, and is therefore not relevant. (Cal. Evid Code
27 §§ 210, 350-351.)

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II. CONCLUSION

For the foregoing reasons, the Court should disregard the Laton Declaration and afford it no evidentiary weight.

Dated: October 16, 2024

Law Office of Peter Kiel PC



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subsidiary district of the City of Victorville

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 16, 2024, I served the document

VICTORVILLE WATER DISTRICT'S OBJECTION TO DECLARATION OF DR. W. RICHARD LATON, PG, CHG, SUPPORTING NEWBERRY SPRINGS RECREATIONAL LAKES ASSOCIATION'S AMENDED RESPONSE TO GOLDEN STATE WATER COMPANY'S 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 List

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 15, 2024 at Petaluma, California.

/s/ Peter J. Kiel

Peter J. Kiel

Service List

City of Barstow v. City of Adelanto, et al.;
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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 16, 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 OBJECTION TO DECLARATION OF DR. W. RICHARD LATON, PG, CHG, SUPPORTING NEWBERRY SPRINGS RECREATIONAL LAKES ASSOCIATION'S AMENDED RESPONSE TO GOLDEN STATE WATER COMPANY'S 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 16, 2024 at Apple Valley, California.



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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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