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8 MOJAVE WATER AGENCY

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF RIVERSIDE**

11  
12 Coordination Proceeding Special Title )  
(Cal. Rules of Court, rule 3.550) )

CASE NO.: CIV 208568 / JCCP NO.: 5265

13 MOJAVE BASIN WATER CASES )  
14 \_\_\_\_\_ )

Dept. 1, Riverside Superior Court  
Hon. Craig G. Riemer, Retired  
\_\_\_\_\_

15 CITY OF BARSTOW, )

16 Plaintiff, )

17 vs. )

18 CITY OF ADELANTO, et al., )

19 Defendant. )  
20 \_\_\_\_\_ )

**WATERMASTER'S REPLY BRIEF IN  
SUPPORT OF MOTION FOR  
APPROVAL OF 2001-2020  
HYDROLOGIC BASE PERIOD**

Date: March 18, 2026  
Time: 8:30 a.m.  
Dept.: 1

21 AND RELATED CROSS ACTIONS )  
22 \_\_\_\_\_ )

**Per Court Order February 20, 2026**

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1 The Mojave Water Agency, as the Court-appointed Watermaster, submits the following  
2 brief in reply to Oppositions filed and served to Watermaster’s motion for authority to utilize the  
3 2001-2020 hydrologic base period at least for the Water the Year 2026/2027 PSY calculations.

4 **I.**

5 **Hydrologic base period is a management tool.**

6 Victorville Water District (“VWD”) argues a hydrologic base period is not a  
7 “management tool in and of itself” and whether a particular hydrologic base period would  
8 achieve “desired management outcomes” should not be a criterion for selecting a hydrologic  
9 base period. That is not true. Determination of Production Safe Yield based upon an appropriate  
10 hydrologic base period **“is a management tool used to determine the amount of supplemental  
11 water necessary to meet the annual deficit indicated by the safe yield calculation”** (Court’s  
12 Amended Statement of Decision, page 12; Exhibit 2, page 18 hereto.) Accordingly, VWD’s  
13 claim that a hydrologic base period cannot be utilized as a management tool is incorrect.  
14 Watermaster must use all tools provided in the Judgment’s tool box to address the drier  
15 hydrologic conditions predicted for the future. (See also Robert Wagner’s attached declaration,  
16 page 11, lines 9 to 27 [11:9-27] hereto.)

17 Moreover, VWD’s claim that a hydrologic base period should not be used as a  
18 management tool would apply equally to Mitsubishi’s proposed 1995-2024 base period as it  
19 would to Watermaster’s proposed 2001-2020 based period. VWD and Mitsubishi both attempt  
20 to justify Mitsubishi’s 1995-2024 proposed base period on the ground that it would achieve a  
21 very specific desired management outcome, to wit: the 1995-2024 base period is 3% drier than  
22 the average water supply during the period 1931-2024 and, thereby, is “aligned” with DWR’s  
23 predicted 3% drier conditions for the Basin by 2030. In support of this claim, VWD’s Opposition  
24 includes the declaration of expert consultant, Peter Leffler, who recommends the 1995-2024  
25 base period precisely because it “is aligned with DWR’s estimates of 2030 conditions.” (VWD  
26 Opp., 4:2-5).

27 Thus, Mitsubishi and VWD propose to “manage” the Basin by selecting a hydrologic base  
28 period that is 3% drier than the historical long-term water supply because the proposed

1 hydrologic base period is “aligned” with and may compensate for the 3% drier conditions  
2 predicted for 2030. How would this be accomplished? Compared to a hydrologic base period  
3 based solely upon the historical long-term average water supply, the 3% “drier” 1995-2024 base  
4 period would result in lower PSY values, more FPA rampdown, and the purchase of more  
5 supplemental water. The additional supplemental water purchased would offset or remediate the  
6 3% “drier” conditions predicted for 2030.

7         Justifying the 3% drier 1995-2024 base period (because it “is aligned with” and would  
8 presumably address the 3% “drier” conditions predicted for 2030) is an explicit acknowledgment  
9 that selecting a base period in order to achieve certain “management” goals or desired outcomes  
10 is entirely proper.<sup>1</sup>

11         In fact, both proposed base periods seek to “manage” the Basin by pro-actively  
12 remediating the effects of a predicted “drier” future. The only significant difference between the  
13 two is that Mitsubishi proposes to manage the Basin to address the 3% “drier” conditions  
14 projected *in the short term*, i.e., to 2030 (which is less than 4 years from today), while  
15 Watermaster *takes a longer view* and seeks to begin addressing now the 12% to 13% drier  
16 conditions predicted for the 2050s, i.e., 24 years from today (See Wagner Dec., p. 12, lines 1 to  
17 10 [11:1-10] hereto.).

18         With the obvious goal of “managing” the Basin to meet future predicted drier conditions  
19 (Mitsubishi to 2030, and Watermaster to the 2050s), Mitsubishi and Watermaster have both  
20 proposed base periods which are “drier” than the historical record’s average water supply (1931-  
21 2024). Watermaster prudently proposes a hydrologic base period (2001-2020) based upon a  
22 somewhat longer view of the predicted climatic changes/disruptions (to the 2050s), while  
23 Mitsubishi looks only 3-4 years ahead to 2030 (Wagner Declaration, 12:13-14 hereto).

24         Significantly, no party has rejected or stated any objection to USBR’s prediction that the  
25 Basin’s hydrologic conditions in the 2050s are expected to be 12%-13% “drier”. As Mr. Leffler

26

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27         <sup>1</sup> On page 10, lines 5-6 of its Opposition, Mitsubishi again attempts to justify its proposed  
28 1995-2024 hydrologic base period because “it aligns more closely with DWR’s projected ‘dryness’  
forecasts.”

1 also observes, Watermaster’s proposed base period is 11% drier than the long-term average  
2 (1931-2024) (VWD Opp., 4:10), which means Watermaster’s proposed 2001-2020 hydrologic  
3 base period “aligns” quite well with 12%-13% drier conditions expected by the 2050s.

4 Caution! The original 1931-1990 hydrologic base period is about 5% drier than the long-  
5 term average water supply during the period from 1931-2024, and drier by 2% than Mitsubishi’s  
6 proposed 1995-2024 base period (Wagner Dec., 12:23-13:15 hereto). Therefore, if the goal is  
7 to select a base period that is “drier” (in order to address predicted drier conditions in the future),  
8 it would be a definite step backward to substitute for the 1931-1990 base period, the 1995-2024  
9 hydrologic base period which is 2% “wetter” than the 1931-1990 base period. (Wagner Dec.,  
10 13:11-16 hereto.)<sup>2</sup>

11 To meet the increasingly drier hydrologic conditions predicted by the mid-century, the  
12 best choice of all is the 2001-2020 hydrologic base period which: (a) is preceded by a series of  
13 dry years [1999 and 2000]; (b) ends with a series of dry years (2012-2020); (c) includes years  
14 that are extremely wet [2005, 2011] and extremely dry [2002, 2007, 2013-2016]; and (d) is  
15 representative of both recent cultural conditions and long-term average water supply).

## 16 II.

### 17 **Climate disruption is a legitimate criterion for selecting a hydrologic base period.**

18 VWD acknowledges “climate disruption” is one criterion to be considered when selecting  
19 a hydrologic base period (VWD Opp., 4:7-13). Likewise, Mitsubishi admits that in “Selecting  
20 a Base Period,” Watermaster should “consider expected climatic conditions going forward”  
21 (Mitsubishi Opp., 4:18-25). Those acknowledgments by VWD and Mitsubishi prompt two  
22 responses. First, that is precisely what Watermaster has done (consider expected climatic  
23 conditions going forward) (See Wagner Dec., 12:3-13:3 hereto.). Second, the requirement to  
24 “consider expected climatic conditions going forward” is a tacit admission the Court may select  
25

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26 <sup>2</sup> Illustrating this point, the water supplies recorded at the Forks during Water Years 1992  
27 through 1995, were about three times the long-term average supply (see Exhibit 1, p. 15 hereto).  
28 This phenomenon helps explain why Mitsubishi’s proposed 1995-2024 base period is 2% “wetter”  
than the 1931-1990 base period.

1 a hydrologic base period that is “drier” than the Basin’s historical long term average water  
2 supply. That is what prudent planning and “management” of the Basin looks like.

3 Accordingly, the hydrologic base period is, in and of itself, an important management  
4 tool; and it is entirely appropriate for the Court to approve a “drier” hydrologic base period in  
5 order to remediate the negative effects of predicted “drier” conditions for the Basin.

### 6 III.

#### 7 **The legitimate goal of requiring more supplemental water purchases.**

8 Echoing VWD, Mitsubishi complains Watermaster is pursuing “a ‘drier’ hydrologic Base  
9 Period to simply lower PSY” and, thereby, require additional supplemental water purchases  
10 (Mitsubishi Opp., 4:8-9). However, Mitsubishi ignores the fact that its own proposed 1995-2024  
11 hydrologic base period is about 3% “drier” than the historical record (1931-2024); and, if  
12 approved, the 1995-2024 hydrologic base period would result in lower PSY values (compared  
13 to the long-term average water supply from 1931-2024) and, also, would require additional  
14 supplemental water purchases.

15 Moreover, as noted above, determination of PSY from an appropriate hydrologic base  
16 period “is a management tool used to **determine the amount of supplemental water necessary**  
17 **to meet the annual deficit indicated by the safe yield calculation**” (Court’s Amended  
18 Statement of Decision, page 12; Exhibit 2, p. 18 hereto.) Thus, it is entirely appropriate to select  
19 a drier base period which will have the effect of requiring additional supplemental water  
20 purchases.

### 21 IV.

#### 22 **Watermaster’s focus on purchasing additional supplemental water is appropriate.**

23 The Judgment emphasizes the importance of, and need for importation of supplemental  
24 water into the Basin:

25 **Secure Supplemental Water.** MWA, separate and apart from its duties as the initial  
26 Watermaster designated under this Judgment, shall exercise its authority under Sections  
27 1.5 and 15 of the MWA Act to pursue **promptly, continuously and diligently** all  
28 reasonable sources to secure Supplemental Water as necessary to fully implement the

1 provisions of this Judgment.

2 (Judgment, page 17, ¶ II.,C.,9a; emphasis added.)

3 **Need for flexibility.** It is essential that this Physical Solution provide **maximum**  
4 **flexibility and adaptability** in order that the Court may be free to use existing and future  
5 technological, social, institutional and economic options in order to maximize reasonable  
6 beneficial use of the waters of the Basin Area. To that end, the court's retained  
7 jurisdiction may be utilized where appropriate, to supplement the Physical Solution.

8 (Judgment, page 25, ¶V. 21; emphasis added.)

9 **Purchase of and recharge with Supplemental Water.** In accordance with paragraph  
10 27, to the extent Supplemental Water is available and is reasonably needed for  
11 Replacement Water or Makeup Water, to use Replacement Water Assessment proceeds  
12 to purchase Replacement Water, and to use Makeup Water Assessment proceeds to  
13 purchase Makeup Water and to have such Replacement Water and Makeup Water  
14 provided to the appropriate subarea as soon as practicable. Watermaster may prepurchase  
15 Supplemental Water and apply subsequent Assessments towards the costs of such  
16 prepurchases.

17 (Judgment, p. 30, ¶V. 24. g.)

18 **Availability of Supplemental Water.** . . . Watermaster shall determine when to request  
19 Supplemental Water from MWA and shall determine the amount of Supplemental Water  
20 to be requested. **MWA shall use its best efforts to acquire as much Supplemental**  
21 **Water as possible** in a timely manner. . . .

22 (Judgment, p. 38, ¶ V. 27.)

23 The Judgment's foregoing provisions make clear that Watermaster's determination as to  
24 when to purchase Supplemental Water and how much Supplemental Water to purchase (to be  
25 paid for by the proceeds of Replacement Water Assessments and Makeup Water Assessments)  
26 are key to managing the Basin to prevent or minimize further groundwater depletions. Thus,  
27 when Supplemental Water is needed, Watermaster is obligated to use the resources and tools  
28 available to it to arrange for the purchase and appropriate placement of as much Supplemental

1 Water as is needed, subject only to the availability of sufficient proceeds for that purpose from  
2 Replacement Water Assessments and Makeup Water Assessments. In accordance with its  
3 powers and responsibilities under the Judgment, Watermaster must take whatever actions or  
4 steps are necessary to ensure that sufficient funds are available for the purchase of needed  
5 Supplemental Water.<sup>3</sup>

6 **V.**

7 **The Judgment’s PSY definition.**

8 As noted, Production Safe Yield (determined by the selected hydrologic base period) is  
9 a management tool for addressing deficits where consumptive uses and outflow exceed the long  
10 term water supply. For example, the Judgment’s Table C-1 example for the Alto Subarea shows  
11 a deficit of 23,000 acre-feet (based upon total water supply of 74,000 acre-feet, less total  
12 consumptive uses and outflow of 97,000 acre-feet). In this example, to avoid or eliminate the  
13 deficit, either the aggregate consumptive uses must be reduced or supplemental water must be  
14 purchased (or a combination thereof) to a degree that consumptive uses and outflow do not  
15 exceed the total water supply. (Wagner Dec., 11:10-17 hereto.)

16 However, the Judgment’s PSY definition does not mandate criteria for selecting an  
17 appropriate hydrologic base period for PSY calculations.

18 Further, the reference in the PSY definition to “a period of years that is *representative of*  
19 long-term average annual natural water supply” does not mean the period of years selected must  
20 be *exactly equal to* the historical long-term average. As noted above, both proposed hydrologic  
21 base periods (2001-2020 and 1995-2024) are not exactly equal to the historical long term  
22 average, e.g., 1995-2024 is 3% “drier than the 1931-2024 reference period.”<sup>4</sup>

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23  
24 <sup>3</sup> In its Opposition, Mitsubishi quotes certain statements included in Watermaster’s motion,  
25 but ignores the following: “. . . importation of supplemental water is necessary to arrest overdraft and  
26 achieve equilibrium” (WM Mot., 6:15); supplemental water purchases are needed “to replenish  
27 groundwater depletions and ultimately achieve equilibrium between the Basin Area’s water supply  
28 and consumptive uses.” (WM Mot., 6:24-26.)

<sup>4</sup> VWD also mistakenly states, “The 1995-2024 period is drier than the existing BP by 3%.”  
(VWD Opp., 6:11.) That is not true. While 1995-2024 is 3% drier than the average of the period from

1 Even assuming *arguendo* that the Judgment’s PSY definition establishes criteria for the  
2 selection of a hydrologic base period, both proposed base periods could be criticized for not  
3 reflecting the full amount of the long-term average water supply during the entire historical  
4 record (1931-2024), or for not reflecting a water supply (indicated in another alternative  
5 hydrologic base period) that is even larger than the historical long-term average.

6 For the reasons set forth in Watermaster’s Opposition to Mitsubishi’s motion and herein,  
7 the Judgment’s PSY definition does not preclude adoption of Watermaster’s proposed 2001-  
8 2020 hydrologic base period.

## 9 VI.

### 10 **California Department of Fish & Wildlife does not object to Watermaster’s request for** 11 **leave to utilize the 2001-2020 hydrologic base period for PSY calculations for** 12 **Water Year 2026-2027.**

13 While stating objections to both hydrologic base period motions, CDFW concludes by  
14 stating that it “does not object to the Court authorizing Watermaster on a temporary, non-  
15 precedential basis, to use 2001-2020 as the base period for purposes of making determinations  
16 for water year 2026-2027.” (CDFW Opp., 13:15-17.)

17 CDFW also demonstrates that Mitsubishi’s proposed 1995-2024 base period would  
18 further exacerbate problems for public trust resources in the Baja Subarea. In this connection,  
19 CDFW notes there was significantly less flow to the Baja Subarea during Mitsubishi’s 1995-  
20 2024 base period (compared to the flow during Watermaster’s 2001-2020 proposed hydrologic  
21 base period), i.e., “7,500 [acre-feet annually] during the Watermaster’s proposed base period and  
22 . . . [only] 6,000 during Mitsubishi’s proposed base period.” (CDFW Opp., 9:20-22.)

23 Selecting a shorter, drier hydrologic base period will better protect public trust resources  
24 by lowering PSY/FPA values, and thereby require more water to be imported “to better prepare  
25 the Basin for the significantly ‘drier’ conditions [predicted] for the future” (Wagner Dec., page  
26

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27 1931-2024, it is actually 2% “wetter” than “the existing BP [1931-1990]” (Wagner Dec., 13:11-16  
28 hereto.)

1 14, lines 10-11 of WM Opposition to motion for approval of 1995-2024 hydrologic base period;  
2 see, also, WM Renewed Motion, page 6, lines 15-17).

3 CDFW recognizes the need to select a base period for this year’s PSY calculations and,  
4 importantly, “does not object to the Court authorizing Watermaster on a temporary, non-  
5 precedential basis, to use 2001-2020 as the base period for purposes of making determinations  
6 for water year 2026-2027.”

## 7 VII.

### 8 **The selected hydrologic base period should not include 1995-2000.**

9 In his declaration attached to VWD’s Opposition, Mr. Leffler also acknowledges that “the  
10 1990s ... may not be as representative of current cultural conditions” (Leffler Dec., ¶ 16,  
11 Victorville Opp., 4:23-25). This confirms further the demonstration in Watermaster’s Opposition  
12 to Mitsubishi’s motion (“WM Opp.”) that years 1995-2000 should be excluded because:

- 13 • The 2013 USBR report indicates that “**between 1995 and 2000, the Mojave Basin**  
14 **transitions from mostly agriculture to mostly urban demands;**” therefore, 1995-2000 are not  
15 representative of recent cultural conditions (WM Opp., 7:3-11); and
- 16 • Implementation of the Physical Solution in the 1990s did not affect the water supply to  
17 the Mojave Basin Area. (WM Opp., Point “C”, pp. 7-8.)

18 Leffler continues to argue for inclusion of certain years in the 1990s on the ground that  
19 period of time “simulates different stress conditions” (*Ibid.*) However, 1995-2000 should not be  
20 included in a new hydrologic base period because (like the cultural conditions existing during  
21 the original base period from 1931-1990), 1995-2000 are no longer representative of “recent  
22 cultural conditions” (as Mr. Leffler himself concedes).

## 23 VIII.

### 24 **The selected hydrologic base period should not include 2021-2024.**

25 VWD and Mitsubishi have not demonstrated there is a significant difference in the  
26 Basin’s cultural conditions during years 2021-2024, compared to years 2001-2020. Absent such  
27 a showing, nothing would be gained by adding 2021-2024. As previously noted, an appropriate  
28 base period should remain unchanged for 10 years or more (absent significant changes in cultural

1 conditions).

2 **IX.**

3 **Objections of Newberry Springs Recreational Lake Association**

4 NSRLA argues an appropriate hydrologic base period should not be determined until after  
5 the current modeling is completed. NSRLA states, “Let the RMRBM process continue with the  
6 development of a conceptual model for the Baja and Centro Subbasins, and then change the base  
7 period after that process is complete.” (NSRLA Opp., 4:2-4.)

8 However, Watermaster must file motions this year to determine PSY and FPA values for  
9 WY 2026-2027, and those values must be calculated in relation to a specific hydrologic base  
10 period. NSRLA argues the 1931-1990 hydrologic base period should continue to be used for this  
11 year’s calculations (NSRLA Opp., 4:7-10). However, as previously noted, the 1931-1990 base  
12 period is not representative of “recent cultural conditions” and, therefore, use of the 1931-1990  
13 base period can no longer be justified or sanctioned. Instead, a hydrologic base period reasonably  
14 representative of recent hydrologic and cultural conditions must be selected for this year’s  
15 calculations.

16 **X.**

17 **Conclusion**

18 The Court should grant Watermaster’s renewed motion and approve the proposed 2001-  
19 2020 hydrologic base period for use in determining PSY values at least for Water Year 2026-  
20 2027.

21 Dated: March 11, 2026

**BRUNICK, MCELHANEY & KENNEDY PLC**

22 

23 By: \_\_\_\_\_

24 Leland P. McElhane  
25 Attorneys for the MOJAVE WATER AGENCY  
26 (as the MOJAVE BASIN AREA WATERMASTER)



1                   **The base period 2001-2020 addresses long-term future climatic conditions**  
2

3                   The Watermaster's proposed base period of 2001-2020 meets the expectations of  
4 preparing for a drier future conditions that are predicted for the mid-century rather  
5 than the climatic disruption to 2030 proposed by Mitsubishi. The 2013 USBR report  
6 titled "Mojave River Watershed Climate Change Assessment" (included in the Appendix  
7 G of the Mojave Region Integrated Regional Water Management Plan) and referenced  
8 in a 2019 Lahontan Regional Board report, indicates that the average annual run-off to  
9 the Basin Area (at the Forks) is expected to decrease by about 12 to 13% by the middle  
10 of this Century (the 2050s), and decline by about 14 to 20% by the 2070s decade, relative  
11 to the USBR's baseline period. The 2013 USBR report is the only document that models  
12 and predicts that future average stream flows in the Mojave River will decline. In contrast,  
13 Mitsubishi's base period of 1995-2024 only addresses the 3% drier conditions predicted in  
14 the short term (year 2030), which is less than 4 years from today.

15                   Further, EKI in a February 6, 2026 memorandum to Mr. Derek Hoffman writes, "The  
16 average streamflow change factor for the 2030 climate scenario, the most relevant scenario  
17 for immediate planning purposes, is 0.96 for the monthly datasets and 0.97 for the annual  
18 datasets provided by DWR. This suggests that DWR anticipates that the Mojave River Flows  
19 may decrease in the future by approximately 3-4% relative to the historical period."  
20 (Apparently, WWD relies on the same information.)

21                   However, the datasets referred to by EKI include only the years 1916-2011. EKI's  
22 conclusion that Mojave River flows may decrease in the future by 3-4% relative to the  
23 historical period is misleading. The underlying assumption is that this historical period  
24 represents the future and is "the most relevant scenario for immediate planning purposes."  
25 Notably, the 14-year period since 2011 (2012-2025) produced only 43,484 acre-feet at the  
26 Forks, or only about 64% of the 1931-2025 average (here we use the entire period of  
27 available record); the average flow at the Forks during the last six years (2020-2025) was  
28

1 62,208 acre-feet which is within about 1-percent of Watermaster's 2001-2020 base period  
2 average (61,635 acre-feet). Therefore, flow data **after** 2011 is relevant for future planning,  
3 not just the flow data from **1916-2011**.

4 **Substitution of the initial base period 1931-1990 with the 1995-2024 would be a**  
5 **step backward in managing the Basin**

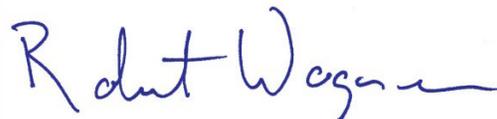
6  
7 The annual average surface water supply to the Basin Area during the proposed base  
8 period of 1995-2024 is about 67,057 acre-feet. In comparison, the average water supply  
9 (as measured by flow at the Forks), during the initial base period 1931-1990 used in the  
10 Judgment is about 65,538 acre-feet.

11 The original 1931-1990 hydrologic base period is about 5% drier than the long-  
12 term average water supply during the period 1931-2004, and drier by 2% than  
13 Mitsubishi's proposed 1995-2024 base period. Therefore, if the goal is to select a base  
14 period that is "drier" (in order to manage to the expected drier conditions in the future),  
15 it would be a step backward to substitute for the 1931-1990 base period, the 1995-2024  
16 hydrologic base period which is 2% "wetter" than the 1931-1990 base period.

17 Noticeably, the 1990s decade (Water Years 1991-2000) was about 50-percent  
18 wetter than the entire period of record 1931-2025, and 56-percent wetter than the initial  
19 base period 1931-1990. This extremely wet period, together with the following facts –  
20 (a) the 1990s are not representative of "recent cultural conditions," and (b)  
21 implementation of the Physical Solution did not impact water supply to the Basin as  
22 measured at the Forks – support Watermaster's conclusion that it would be inappropriate  
23 to include in the selected hydrologic base period years 1995-2000.

24 I declare under penalty of perjury, under the laws of the State of California, that the  
25 foregoing is true and correct.

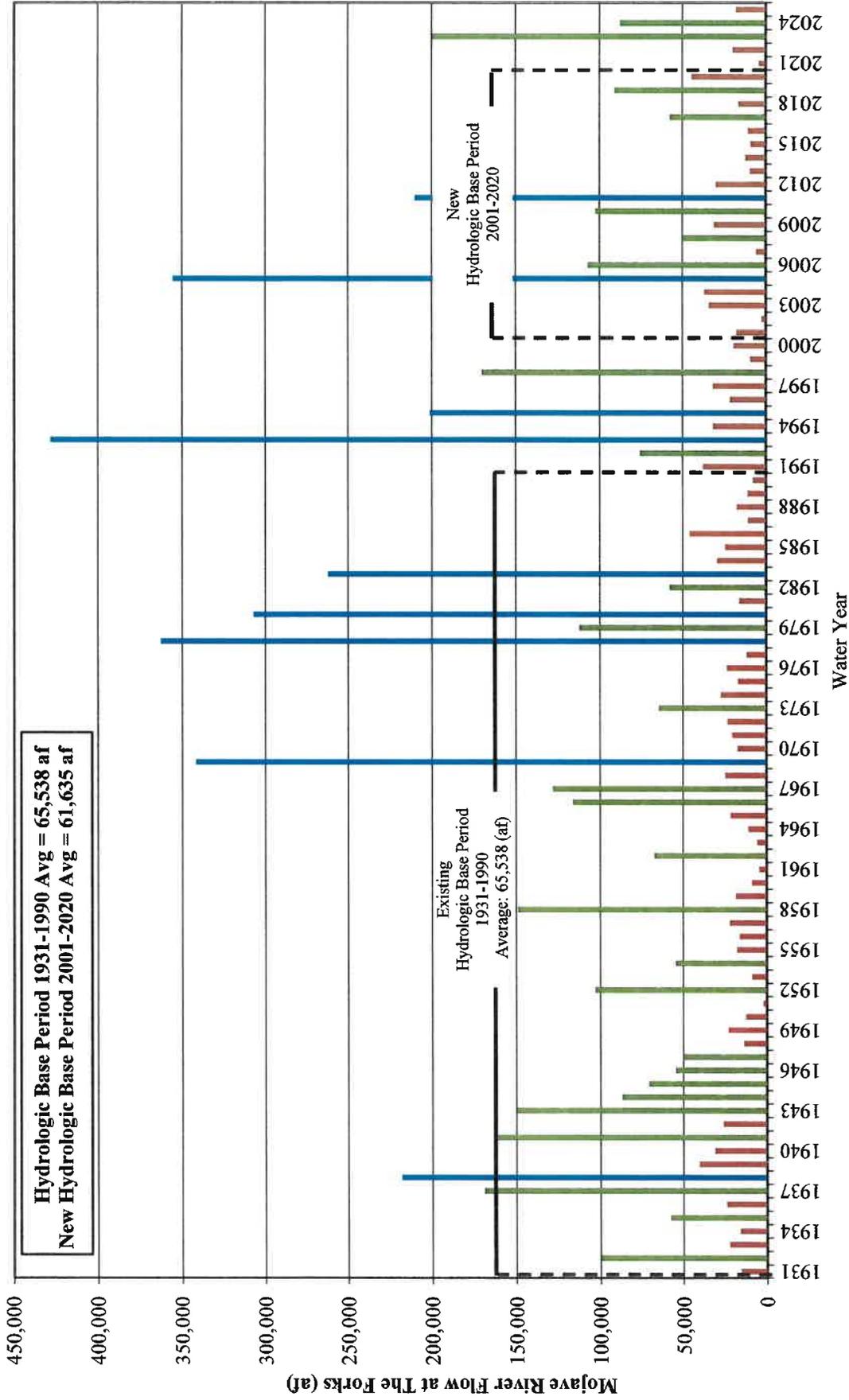
26 Dated: March 11, 2026



27 \_\_\_\_\_  
28 Robert C. Wagner, P.E.

# **EXHIBIT 1**

### Mojave River Flow at The Forks Water Years 1931 - 2025



Note: Discharge of Mojave River at The Forks from the addition of values as reported from USGS stations at West Fork Mojave River Near Hesperia, CA (10261000), and Deep Creek Near Hesperia, CA (10260500) from 1931-1971, the greater of 10260500 and Mojave River Below Forks Reservoir Near Hesperia, CA (10261100) from 1972-1974, and the addition of West Fork Mojave River Above Mojave River Forks Reservoir Near Hesperia, CA (10260950) and 10260500 from 1975-Present.

## **EXHIBIT 2**



E. Michael Kaiser  
Judge  
Riverside Superior Court

Date: January 3, 1996

To: ALL COUNSEL

From: E. MICHAEL KAISER

Subject: ATTACHED AMENDED STATEMENT OF  
DECISION

The only amendment is on page 26,  
paragraph 7.

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amount for each subarea over a period of 5 years (five percent per year for the next four years). [RT 156:20-28] After five years of ramp down under the Physical Solution to eighty percent (80%) of Base Annual Production, the Free Production Allowance will begin to approximate the Production Safe Yield of the Basin Area on an average, but not perhaps as to all subareas (using for example the production safe yield calculations in Exhibit 4013 as calculated for 1990 conditions). [RT 358:3-360:10] If there is still overdraft after the end of the first five years of the stipulated judgment, then the subareas in overdraft will be further ramped down after the fifth year to Production Safe Yield. [RT 361:2-15; 753:16-18]

4) The regulation of Free Production Allowance which would be imposed under the terms of the Judgment Pursuant to Stipulation is imposed on an equitable basis. Such regulation is necessary to ensure that maximum beneficial use is made of a limited resource, the water supply of the Mojave River Basin, and to protect the public interest. The court finds that such regulation does not constitute a taking of private property within the meaning of the United States or California Constitutions.

5) The stipulated judgment provides flexibility to allow the watermaster and the court to consider any and all relevant factors and give them whatever weight is deemed appropriate in the determination of a Free Production Allowance for each subarea. It is important to keep enough dewatered storage to pick up the natural inflow. [RT 890:2-25; 891:1-11] [RT 881:13-882:16]

### C. PERIODIC DETERMINATION OF SAFE YIELD

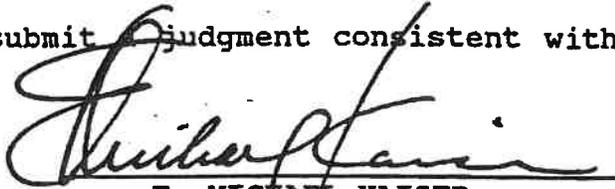
1. The average annual natural consumptive safe yield of water which can be consumed in the Basin Area is equivalent to the annual water supply net of out-flows and other losses. [RT 1042:10-19] Because some of the water produced for use in the Basin Area returns to the groundwater and is available for additional production, the Production Safe Yield is greater than the Consumptive Safe Yield. The percentage return flow varies with the mix of types of water uses, which reflects the cultural conditions existing at any point in time. To the extent imported water is used to satisfy water uses, the Production Safe Yield is greater than that solely attributable to the natural supply. Production Safe Yield is a management tool used to determine the amount of supplemental water necessary to meet the annual deficit indicated by the safe yield calculation. [RT 831:5-14;]

2. Production Safe Yield is the yield that can safely be produced by pumping water from the basin without causing an adverse effect, assuming that water is actually imported to replace the deficit. [RT 822:1-4] Production Safe Yield is always based on a particular cultural condition. [RT 470:17-475:1] If production

g. Leroy Pittman. Mr. Pittman was served on October 19, 1992. His default was taken on August 17, 1994.

h. Edwin Evenson. Mr. Evenson was served on March 1, 1993. His default was taken on August 17, 1994.

The MWA will prepare and submit judgment consistent with this opinion.



E. MICHAEL KAISER  
Judge of the Superior Court

The Court received a number of letters concerning its intended decision. The Court will attempt to answer the expressed concerns.

The Mojave River Basin has had more water taken out of it than nature has returned. This overdraft commenced in the early 1950's and continues to this date.

The long term average natural water supply is 78,600 acre-feet per year. There is consumptive use by vegetation and surface and subsurface outflow. These uses amount to 15,760 acre-feet per year. This leaves a basin safe yield of 62,900 acre-feet per year.

Safe yield is defined as "the maximum quantity of water which can be withdrawn annually from a groundwater supply under a given set of conditions without causing an undesirable result. 'The phrase 'undesirable result' is understood to refer to a gradual lowering of the groundwater levels result in eventually in depletion of the supply'." (Los Angeles v San Fernando (1975) 14 Cal. 3d 278)

The present basin overdraft is 72,200 acre-feet per year. The present overdraft in the Alto Basin is 23,300 acre-feet per year and as of 1990 there was 960,000 acre-feet of groundwater stored in the Alto Basin. All of the groundwater in storage is not available for use because a continuing overdraft will affect water quality and require the drilling of new wells. If the overdrafting continues, eventually there will be no water.

In the court's view, a reduction in production to the safe yield level of 62,000 acre-feet per year would have adverse economic consequences for the Mojave River Basin. Therefore, the production safe yield was used, as a guideline, to allow the communities and agriculture to adjust.

Some suggested giving agriculture the water. However, agricultural production exceeds the basin safe yield. A reduction in agricultural use, with no water going to the communities, would not benefit anyone.

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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 March 11, 2026, 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:

### **WATERMASTER'S REPLY BRIEF IN SUPPORT OF MOTION FOR APPROVAL OF 2001-2020 HYDROLOGIC BASE PERIOD**

  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 March 11, 2026 at Apple Valley, California.

  
\_\_\_\_\_  
Jeffrey D. Ruesch

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10 Western Road  
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Attn: Jeremy McDonald  
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Attn: Carabeth Carter ()  
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Attn: Lori Clifton (lclifton@robar.com)  
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Attn: Katherine Hill (Khill9@comcast.net)  
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Attn: Anne Roark  
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Hesperia, CA 92345-5361

Attn: Paul Hong  
Hong, Paul B. and May  
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Covina, CA 91722-0432

Attn: Sandra D. Hood  
Hood Family Trust  
2142 W Paseo Del Mar  
San Pedro, CA 90732-4557

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Horton Family Trust  
47716 Fairview Road  
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Attn: James Jackson Jr.  
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## Mojave Basin Area Watermaster Service List as of March 11, 2026

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Attn: Gary A. Ledford  
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Attn: Cynthia Mahoney  
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Johnson, Paul - Industrial (via email)  
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Attn: Lawrence W. Johnston  
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Jones Trust dated March 16, 2002 (via email)  
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Lucerne Valley, CA 92356-7237

Attn: Paul Jordan  
Jordan Family Trust  
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Attn: Ray Gagné  
Jubilee Mutual Water Company  
P. O. Box 1016  
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Attn: Jilin Xiao  
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19 Pemberly  
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## Mojave Basin Area Watermaster Service List as of March 11, 2026

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## Mojave Basin Area Watermaster Service List as of March 11, 2026

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Most Family Trust  
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## Mojave Basin Area Watermaster Service List as of March 11, 2026

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Attn: John P. Oostdam  
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Attn: Nick Higgs  
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District (via email)  
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## Mojave Basin Area Watermaster Service List as of March 11, 2026

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