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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF RIVERSIDE -- CENTRAL DISTRICT
11

12 Coordination Proceeding Special Title
(Cal. Rules of Court, Rule 3.550)
13 MOJAVE BASIN WATER CASES

Case No. JCCP5265 Mojave Basin Water Cases
Dept. 1, Riverside Superior Court
Hon. Craig G. Reimer

14 CITY OF BARSTOW, et al.,
15 Plaintiffs,

Lead Case CIV208568
Coordinated With San Bernardino Superior Court
Case No. CIVSB2218461

16 v.
17 CITY OF ADELANTO, et al.,
18 Defendants.

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

Date: April 20, 2026
Time: 1:30 p.m.
Dept: 1

1 **I. INTRODUCTION**

2 Movants submit this sur-reply solely to address new theories Watermaster now advances in
3 its reply. The underlying issues have already been briefed at length, and Movants do not repeat
4 them here except as necessary to respond to Watermaster’s new framing and to assist the Court.

5 Watermaster’s Reply Brief In Support of Motion For Approval of 2001-2020 Hydrologic
6 Base Period (“**Watermaster’s Reply**”) now states that selecting a hydrologic Base Period to
7 achieve specific *management* outcomes is “entirely proper,” and that it is “entirely appropriate” to
8 select a drier period because doing so will lower PSY and require additional Supplemental Water
9 purchases. (Watermaster Reply ¶ 3:1-14; 5:15-22.) Watermaster now also defends its proposed
10 2001-2020 period on rationales and evidence materially different from those it presented through
11 the public process or in its moving papers. Watermaster now attempts to transform the Court’s
12 instruction to consider climatic disruption into a basis for tying present hydrologic Base Period
13 selection to forecasts over twenty years into the future. (Watermaster Reply ¶ 3:15-28; 4:1-6; 5:1-
14 7.) Those positions should be rejected.

15 **II. THE HYDROLOGIC BASE PERIOD IS NOT A MANAGEMENT TOOL TO**
16 **DRIVE SUPPLEMENTAL WATER PURCHASES**

17 Watermaster’s Reply collapses the distinction between the hydrologic Base Period, used as
18 a benchmark for determining the amount of water supply, and the management tools that follow
19 from it. Watermaster quotes the Amended Statement of Decision for the proposition that
20 Production Safe Yield, determined from an appropriate hydrologic base period, “is a management
21 tool used to determine the amount of supplemental water necessary to meet the annual deficit
22 indicated by the safe yield calculation.” (Watermaster Reply ¶ 2:8-13.) Watermaster conveniently
23 ignores the fact that the definition clearly states the purpose of PSY is to establish “the *highest*
24 *average* Annual Amount of water that can be produced from a Subarea” (Judgment, ¶ II.A.4.aa,
25 emphasis added). Watermaster argues that selecting a hydrologic Base Period to achieve
26 Watermaster-desired management outcomes is “entirely proper,” and that a drier Base Period
27 should be chosen because it will generate lower PSY, more Rampdown, and more imported water.
28 (Watermaster Reply ¶ 3:1-14; 5:15-22.)

1 Watermaster’s new framing strays far beyond the Judgment. Determining the hydrologic
2 Base Period requires identifying a sequence of years that is representative of the long-term average
3 annual natural supply, to inform PSY calculations. The hydrologic Base Period is the benchmark
4 against which PSY is calculated and then used to determine the highest average Annual Amount
5 of water without resulting in a long-term net reduction of groundwater in storage. Rampdown,
6 Replacement Water and Supplemental Water, among other tools, are then used to manage the
7 Basin. Watermaster reverses that order by beginning with its desired result and then working
8 backward to a Base Period that will produce it. Watermaster’s reliance on climate forecasts over
9 twenty years into the future compounds this flawed methodology because those forecasts from
10 2013 are not best available science and are highly speculative and detached from the Basin’s
11 current hydrologic condition.

12 That is why Watermaster’s new framing is so significant. Watermaster’s Reply confirms
13 that Watermaster is not asking the Court to determine which hydrologic Base Period is most
14 representative. Watermaster is instead asking the Court to select a hydrologic Base Period because
15 doing so will reduce PSY and compel more Supplemental Water purchases. That is outcome-
16 driven selection, not representativeness-based selection, and ignores PSY’s inherent definition
17 reflecting the highest average annual amount of water that can be produced from a Subarea.

18 If driving supplemental water purchases was the standard in selecting a hydrologic Base
19 Period, the requirement of representativeness would have no meaning.

20 Watermaster’s reliance on the quoted language of the Statement of Decision is misplaced.
21 (Watermaster Reply ¶ 2:8-13.) PSY itself is not a management tool. PSY is a technical concept
22 that must be determined based upon a representative Hydrologic Base period. The Statement of
23 Decision does not authorize choosing a hydrologic Base Period designed to generate funding for
24 supplemental water. Watermaster’s attempt to equate the hydrologic Base Period and PSY as
25 management tools should be rejected.

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1 **III. WATERMASTER’S REPLY MATERIALLY DEPARTS FROM THE BASIS**
2 **PRESENTED THROUGH THE PUBLIC PROCESS**

3 Watermaster’s Reply also departs materially from the rationale presented to the parties and
4 to its Board through the public process. Whereas Watermaster staff presented 2001-2020 as among
5 the range of alternatives that would qualify under Bulletin 84 and the related criteria for selecting a
6 hydrologic Base Period, the Watermaster Reply blatantly alleges its proposed base period should
7 be used as a mechanism to force more imported-water purchases, and because it aligns with
8 certain far-reaching predicted conditions for the 2050s.

9 The formal recommendation and Board action make the point even more clearly. Staff
10 recommended that Watermaster “adopt the hydrologic base period of 2001-2020” and direct
11 counsel to seek a court hearing on that recommendation. (Movants Opposition ¶ 8:21-9:2.) The
12 Board then voted to “adopt the hydrologic base period of 2001-2020.” (*Id.*) There was no
13 approved finding that 2001-2020 should be selected because it would lower PSY, increase
14 Rampdown, raise funding, or match speculative 2050s conditions. (*Id.*)

15 The Watermaster Reply also strays beyond the Watermaster Board’s request by asking the
16 Court to approve 2001-2020 “at least for Water Year 2026-2027.” (Watermaster Reply 10:18-20.)
17 That is not the recommendation staff presented, and it is not the action the Board adopted.
18 Watermaster cannot use the public process to obtain a generic (though unenthusiastic 3-2 vote)
19 endorsement of 2001-2020 and then, after that process closes, materially change the rationale for
20 that recommendation and narrow the requested recommendation. This Court has observed that
21 review of the hydrologic Base Period should likely not occur more than once in a decade.
22 Movants have proceeded through the public process in good faith under that direction.

23 The purpose of the workshop, written comments, public hearing, and Board vote was to
24 enable affected parties to evaluate and respond to Watermaster’s actual reasons for recommending
25 2001-2020. If Watermaster is permitted to alter those reasons after the process is complete, the
26 process ceases to serve its intended function. Parties were entitled to respond to the basis the
27 Watermaster actually put forward. They were not required to anticipate that Watermaster would
28 later recast its recommendation as a device to force more imported water or as an exercise in

1 matching a speculative mid-century forecast.

2 The Court should not make a determination of the hydrologic Base Period based upon
3 Watermaster rationalizations and rationales that materially depart from those presented in public
4 process. At a minimum, Watermaster’s new Reply theories should be disregarded.

5 **IV. CONSIDERING “CLIMATIC DISRUPTION” CORROBORATES**
6 **REPRESENTATIVENESS AND MOVANTS’ BASE PERIOD**
7 **RECOMMENDATION; IT DOES NOT DRIVE BASE PERIOD SELECTION OR**
8 **AUTHORIZE SPECULATIVE FORECAST-MATCHING**

9 Watermaster’s treatment of considering “climatic disruption” has also shifted over the
10 course of this process. Watermaster previously described the Court’s direction in narrower and
11 more accurate terms. Watermaster said the Court had asked it to *consider* a drier and more recent
12 hydrologic planning period. (Movants Motion ¶ 16:21-17:3.) Watermaster introduced no evidence
13 in its public process or in its Motion regarding how “climatic disruption” might occur, to what
14 extent, or how it would affect the long-term average annual water supply. Movants Motion
15 introduced DWR forecasts for 2030, the best available science in California, that further
16 *corroborate* the recommended 1995-2024 hydrologic Base Period as representative of long-term
17 conditions. The Watermaster Reply reaches far beyond its original presentation and now claims
18 that a hydrologic Base Period should be determined based upon a particular forecast reaching
19 more than twenty years into the future. (Watermaster Reply ¶ 3:18-24.)

20 Watermaster argues that both sides are attempting to “manage” the Basin to future
21 predicted drier conditions, and that Watermaster’s proposal is preferable because it takes a longer
22 view. (Watermaster Reply ¶ 3:15-28; 4:1-6.) Watermaster then says it is “entirely appropriate” to
23 approve a drier Base Period in order to remediate the effects of those predicted future conditions.
24 (Watermaster Reply ¶ 5:1-7.) Watermaster’s new arguments are not “considering climate
25 disruption” to help corroborate representativeness. Rather, Watermaster is arguing for the
26 hydrologic Base Period based upon its preferred future forecast.

27 The Court’s instruction to consider climatic disruption did not authorize tying the
28 hydrologic Base Period to any specific forecast, much less to speculative 2050s projections.
Consideration of climatic disruption may help corroborate the Court’s assessment of whether a

1 proposed period is reasonably representative of hydrologic conditions for the Mojave Basin. It
2 does not replace the Judgment’s representativeness inquiry with a forecast-matching exercise.

3 That distinction matters here. Watermaster’s earlier materials did not present 2001-2020 as
4 a 2050-alignment exercise. The Watermaster Reply’s new theory is materially different. It asks the
5 Court to choose 2001-2020 because it allegedly aligns with speculative mid-century conditions.
6 (Watermaster Reply ¶ 4:1-6.) That is a new and improper rationale. Moreover, Watermaster’s
7 future projection does not fully account for the impacts of its own wet year projections.
8 (Declaration of Anona Dutton in support of Movant’s Reply, ¶ 10-18.)

9 **V. MOVANTS’ LIMITED OBJECTION TO THE NEW REPLY THEORIES**

10 Movants object to Watermaster’s Reply to the extent it advances new theories that were
11 not fairly presented through the public process, Watermaster’s Motion, and are not consistent with
12 the Judgment’s required order of analysis. Watermaster has introduced these theories and reliance
13 on USBR for the first time in its reply brief. The general rule of motion practice is that new
14 evidence is not permitted with reply papers. (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522,
15 1537; *Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8.) The inclusion of additional
16 evidentiary matter with the reply “should only be allowed in the exceptional case.” and if
17 permitted, the opposing party must be given the opportunity to respond. (*Plenger v. Alza*
18 *Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8.) Watermaster’s new theory that the hydrologic Base
19 Period itself may be selected as a management device to drive lower PSY and additional
20 Supplemental Water purchases should be disregarded. (Watermaster Reply ¶ 2:8-13; 3:1-14; 5:15-
21 22.) Watermaster’s new theory that 2001-2020 should be selected because it aligns with predicted
22 2050s conditions should likewise be disregarded. (Watermaster Reply ¶ 3:15-28; 4:1-6; 5:1-7.)
23 Further, Watermaster’s request for approval of 2001-2020, at least for Water Year 2026-2027,
24 should not be treated as though it were the product of the public process, because the Board
25 narrowly adopted 2001-2020 without that limitation. (Movants Opposition ¶ 8:21-9:2.)

26 To the extent Watermaster relies on the Wagner declaration for bare conclusions that a
27 shorter or drier period is a better “management tool,” or that far-horizon forecasts justify
28 excluding other candidate periods and selecting 2001-2020 now, Movants preserve and renew


1 their foundation and speculation objections. Those objections have already been made and need
2 not be repeated here at length.

3 **VI. CONCLUSION**

4 Watermaster’s Reply confirms the defect in its position. The hydrologic Base Period is not
5 a management tool to drive imported-water purchases. It is a foundational technical element in
6 calculating PSY. Watermaster reverses the order by starting with its desired management outcome
7 and then selecting the Base Period that will produce it. Watermaster also improperly asks the
8 Court to credit rationales that materially depart from the rationale presented through the public
9 process and to elevate speculative 2050s forecasts as a basis for selection. The Court should
10 sustain Movants’ objections, disregard new Watermaster Reply theories, deny Watermaster’s
11 motion, and grant Movants Motion to establish 1995-2024 as the hydrologic Base Period.

12
13 Dated: April 15, 2026

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PROOF OF SERVICE

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

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Fresno, State of California. My business address is 8080 N Palm Avenue, Third Floor, Fresno, CA 93711.

On April 15, 2026, I served true copies of the following document(s) described as:

MOVANTS SUR-REPLY TO WATERMASTER’S REPLY BRIEF IN SUPPORT OF MOTION FOR

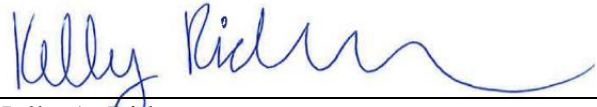
on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address kridenour@fennemorelaw.com to the persons at the e-mail addresses listed in the Service List.

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

Dated April 15, 2026.



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**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 April 15, 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:

Movants Sur-Reply to 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 April 15, 2026 at Apple Valley, California.



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Contratto, Ersula
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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Gabrych Family Trust dated October 9, 2007
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Fallbrook, CA 92028

Gabrych Family Trust dated October 9, 2007
2006 Old Highway 395
Fallbrook, CA 92028-8816

Gaeta, Miguel and Maria
9366 Joshua Avenue
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Attn: Jay Storer
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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Johnston, Harriet and Johnston, Lawrence W.
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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Mojave Basin Area Watermaster Service List as of April 15, 2026

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Mojave Basin Area Watermaster Service List as of April 15, 2026

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