

Leland P. McElhaney, Esq. [SB No. 39257]
BRUNICK, McELHANEY & KENNEDY PLC
1839 Commercenter West
P.O. Box 13130
San Bernardino, California 92423-3130

*Exempt from filing fee pursuant to
Gov't. Code Section 6103*

Telephone: (909) 889-8301
Facsimile: (909) 388-1889
E-Mail: lmcclhaney@bmkclawplc.com

Attorneys for Defendant\Cross-Complainant,
MOJAVE WATER AGENCY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

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

MOJAVE BASIN WATER CASES

CITY OF BARSTOW,

Plaintiff,

vs.

CITY OF ADELANTO, et al.,

Defendant.

AND RELATED CROSS ACTIONS

JCCP NO.: 5265 / CIV 208568

Dept. 1, Riverside Superior Court
Hon. Craig G. Riemer, Retired Judge sitting by
Assignment of the Chief Justice

**NOTICE OF SERVING THE COURT'S
AUGUST 14, 2026 ORDER GRANTING IN
PART THE WATERMASTER'S MOTION
(1) TO APPROVE PRODUCTION SAFE
YIELD CALCULATIONS AND (2) TO
ADJUST FREE PRODUCTION
ALLOWANCES FOR WATER YEAR 2026-
2027**

Hearing Date: August 12, 2026
Time: 10:00 a.m.
Dept.: 1

PLEASE TAKE NOTICE THAT defendant/cross-complainant, Mojave Water Agency, acting as Watermaster for the Mojave Basin Area, and pursuant to the Court's Order of August 14, 2026 hereby serves the Court's Order Granting in Part the Watermaster's Motion (1) to Approve Production Safe Yield Calculations and (2) to Adjust Free Production Allowances; Directions to Watermaster.

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1 A copy of the Court's August 14, 2026, Order is attached hereto as Exhibit A.

2 Dated: August 26, 2026

BRUNICK, McELHANEY & KENNEDY PLC

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4 By: 
5 Leland P. McElhaney
6 Attorneys for Defendant/Cross-complainant,
7 MOJAVE WATER AGENCY
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EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

CASE TITLE: Barstow v. Adelanto	Department 1	FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE
CASE NO.: CIV208568 / JCCP5265		AUG 14 2026
DATE: August 12, 2026		

PROCEEDINGS: Order Granting in Part the Watermaster's Motion (1) to Approve Production Safe Yield Calculations and (2) to Adjust Free Production Allowances; Board DB

The Watermaster's motion is granted in part and denied in part. In addition, the Court ordered the Watermaster to undertake various tasks. Specifically, the Court rules and orders as follows:

1. The Court approves the Watermaster's production safe yield (PSY) calculations for the purposes of the currently motion.
2. The Free Production Allowance (FPA) for the producers in Alto shall continue to be 50.4 percent of BAP.
3. The FPA for the producers in Baja shall continue to be 19.5 percent of BAP, as recommended by the Watermaster.
4. The FPA for the producers in Centro shall continue to be 56 percent of BAP.
5. The FPA for the producers in Este shall be reduced from 45 percent of BAP to 40 percent of BAP, as recommended by the Watermaster.
6. The FPA for producers in Oeste shall continue to be 45 percent of BAP.
7. The Court has not read and did not consider the Victorville Water District's reply to the oppositions of Newberry Springs Recreational Lakes Association and California Department of Fish and Wildlife.
8. The Court did not read or consider the declaration of Leffler in support of the Victorville Water District's reply.
9. The Court did not read or consider the declaration of Wagner submitted with the Watermaster's reply.
10. All evidentiary objections are overruled.
11. At this time, the Court declines to determine whether, and to what extent, the Watermaster has complied with the Court's 10-23-24 order. Accordingly, the Court denies the request of Golden State Water Company to order the Watermaster to "re-do the plan, provide the Parties with the notice and hearing procedures required by the Judgment, Watermaster's Regulations, and applicable Law, and submit the revised plan to the Court no later than October 16, 2026." That denial is without prejudice to the same or similar relief being sought by way of a properly noticed motion.

12. In any future motion to approve PSY, to adjust FPA, or both, the analysis of the evidence offered regarding the PSY of a particular subarea shall be consistent with the Judgment's definition of Production Safe Yield rather than with any simplified summary.
13. The Watermaster shall, and any other party may, file a motion for the adoption of a different hydrologic base period to be heard as soon as reasonably possible but in no event later than February 26, 2027, at 10:00 P.M. in Department 1 of this Court. The Clerk is directed to set a status conference on that date and time.
 - a. The Watermaster is ordered to meet and confer with all parties represented by counsel who appeared at the 8-12-26 hearing in an attempt to stipulate to the following dates: the filing of the motions; the filing of oppositions and replies; the hearing on the motions; and of any procedures that the Judgment, the Watermaster's rules, or other authority requires to be conducted prior to or after such motions.
 - b. All such motions shall be heard on the same day.
 - c. The Watermaster shall disclose its preferred base period to all other parties at least 14 days before the last day a motion to adopt a different base period may be filed.
 - d. Any such motion shall evaluate every possible base period that (1) meets the criteria specified in Department of Water Resources Bulletin #84 and (2) begins on or after 1990. A motion may propose a potential base period that begins before 1990 if the proponent demonstrates that the earlier beginning base period is more representative than any of those beginning on or after 1990.
 - e. Any such motion shall include a detailed analysis of representation. (See the Court's order filed 4-21-26, p. 4.)
 - f. Any proposed base period must be proposed to apply indefinitely rather than for only a limited number of years. (*Id.*, p. 3.)
14. The Watermaster shall make its best efforts to obtain the funding, permits, and agreements necessary to install a stream flow gage at Helendale as soon as possible. The nature, extent, and results of those efforts shall be described in the Watermaster's 2027 motion to adjust FPA.
15. The Watermaster shall make its best effort to convince the Mojave Water Agency to complete the Upper Mojave Basin Model currently under development as soon as possible. The nature, extent, and results of those efforts shall be described in the Watermaster's 2027 motion to adjust FPA, along with the Watermaster's or MWA's best estimate of when that model will be completed.
16. In the Watermaster's 2027 motion to adjust FPA, the Watermaster shall address each of the following questions:

Regarding Este:

- a. In discussing the PSY of Este, Mr. Wagner states both that the water budget shows a deficit and that the change in storage over the last 30 years is near zero. (Mtn., pp. 40-41.) a. Can both of those apparently contradictory statements be true? If so, how?
- b. If both cannot be true, why does the Watermaster rely on the historical water levels rather than the water budget?
- c. In calculating the PSY of Este, Mr. Wagner states: "Total production in Este Subarea has been in continuous decline since about 1996. In Water Year 2024-25, total pumping was 4,334 acre-feet. The average pumping during the period of record during which water levels have remained relatively constant (1996-2025) is 6,677 AFY. As noted, PSY can be defined as total pumping plus change in storage: $PSY = \text{Pumping} + \text{Change in Storage}$. Because water levels have remained relatively stable for several years, it is reasonable to conclude the change in storage is near zero. Therefore, Watermaster recommends Este PSY of 6,677 acre-feet (total pumping plus change in storage)." (Mtn., p. 41.) The amount of that decrease has been dramatic: from a high of over 10,000 acre-feet in 1995-1996 to 4,334 acre-feet in 2024-2025, a decrease of over 56%. (Mtn., p. 63.) If the production in Este has been steadily declining to such a degree over the last 30 years, would it be reasonable to expect the water level – the amount of storage – to increase to a similar degree, or at least to a significant degree?
- d. Since the storage has not increased despite the dramatic decrease in production, doesn't that suggest that PSY for Este is closer to the current level of production (4,334 acre-feet) rather than the 30-year average (6,677 acre-feet)?
- e. What is the average production for the period of 2015-2016 through 2024-2025?

Regarding the Definition of Production Safe Yield

Some of the terms used in the Judgment's definition of Production Safe Yield are not clear and are not themselves defined in the Judgment.

- a. What is meant by "applied water," and where is that factor reflected in Table C-1?
- b. What is mean by "return flows," and where is that factor reflected in Table C-1?

Regarding Other Issues

1. In Mr. Wagner's declaration, he states: "The conceptual model is predicated on the net 1931-1990 average annual water supply (adjusted for current cultural conditions) as applied to the 2024-25 cultural conditions." (Mtn., p. 38, ll. 1-3.) The references to both "current cultural conditions" and

“2024-2025 cultural conditions” in the same sentence are unclear. Are you comparing the cultural conditions in 1931-1990 to the cultural conditions in 2024-2025?

2. In Mr. Wagner’s declaration, he states: “Consumptive use values by phreatophytes are being evaluated by the California Department of Fish and Wildlife.” (Mtn., p. 40.) The figures in Table 5-1 are from the USGS. (Mtn., p. 72, fn. 16.)

a. When was the DF&W’s evaluation completed or expected to be completed?

b. In the current motion, is the Watermaster relying upon the results of the DF&W’s evaluation? If so, where is the evidence of those results?

c. If the Watermaster is not relying upon the results of the DF&W’s evaluation for purposes of this motion, is the Watermaster relying solely upon evidence from the USGS? If so, where is that evidence?

3. Table 5-1 includes entries for consumptive uses. The source of those figures is identified as a “Consumptive Use Analysis by Watermaster for Water Year 2024-2025.” (Mtn., p. 72, fn. 14.)

a. Has the Court been presented with evidence of the results of that analysis? If so, where is that evidence?

b. If that evidence has not been presented to the Court, how does the absence of that evidence affect the Watermaster’s analysis of PSY?

Analysis:

Documents Considered

The Court has read and considered the following:

- The Watermaster’s motion for approval (1) production safe yield classifications and (2) free production allowance modifications for water year 2026-2027, including the declaration of Wagner;
- Those portions of the Watermaster’s annual report for 2024-2025 to which any party cited in its brief;
- The City of Victorville’s and Victorville Water District’s brief in support of the Watermaster’s motion, and the declaration of Leffler;
- Golden State Water Company’s opposition to the Watermaster’s motion, and the declarations of Moore and Carlson;
- Newberry Springs Recreational Lakes Association’s opposition to the Watermaster’s motion, and the declarations of Gaastra and Laton;
- California Department of Fish and Wildlife’s response to the Watermaster’s motion, and the declarations of Johnson and Blanke;
- Victorville Water District’s evidentiary objections; and

- The Watermaster's reply.

For the reasons stated below, the Court has neither read nor considered the following documents:

- As intimated above, the Court does not ready the Watermaster's entire annual report. Instead, the Court reviews only those portions to which the parties cite in their respective briefs.
- The Victorville Water District's reply to the oppositions of Newberry Springs Recreational Lakes Association and California Department of Fish and Wildlife, for two reasons. First, the briefing of this motion is controlled by the Order on Stipulation re Briefing Schedule, filed 5-12-26. That order specifically authorizes the filing of a reply by the Watermaster and sets a deadline for doing so (p. 2, l. 8) but does not authorize the filing of a reply by any other party at any other time. Second, even if the order had been silent on who would be filing a reply, Victorville Water District would not be entitled to file a reply. A reply is a closing memorandum by a moving party. The only moving party in this instance is the Watermaster. The Victorville Water District did not join in the Watermaster's motion and did not file a motion of its own. Because the district is not a moving party, it is not entitled to file a reply.
- The declaration of Leffler in support of the Victorville Water District's unauthorized reply is not considered for the same reasons. If a reply is unauthorized, then a declaration in support of that reply is unauthorized. Besides, "[n]ew evidence is generally not permitted with reply papers." (*Valentine v. Plum Healthcare Group, LLC* (2019) 37 Cal.App.5th 1076, 1089.) New evidence should be considered only under exceptional circumstances and only after giving the opposing party an opportunity to respond. (*Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8.) The circumstances here are not exceptional and there is no time for either Newberry Springs or the DF&W to meet that new evidence prior to the stipulated hearing date.
- The Court does not consider the declaration of Wagner submitted with the Watermaster's reply. As noted above, new evidence submitted with a reply should be considered only under exceptional circumstances and only after giving the opposing party an opportunity to respond. (*Plenger v. Alza Corp.*, *supra*, 11 Cal.App.4th at p. 362, fn. 8.) Those criteria are not met here.

Victorville Water District's Evidentiary Objections

Evidentiary objections 1, 6, 7, and 8 are overruled because they are not directed to a declaration or other evidence. The remaining objections are overruled because they are not material to the Court's analysis.

Golden State's Request for Affirmative Relief

The Court does not address Golden State's contention that the Watermaster failed to comply with the Court's order of 1-23-24. The Watermaster's motion sought no determination that the Watermaster had complied with that order and Golden State had

filed no motion seeking a determination that the Watermaster had not complied or seeking relief for a lack of compliance. The Court does not grant requests for relief that are outside the scope of a motion and raised for the first time in a party's opposition to that motion.

Reliability of PSY Calculations

The Watermaster's recommendations regarding changes to FPA are based upon the revised PSY figures estimated by the Watermaster. A variety of factors lead the Court to question the reliability of those estimates.

First, the estimated PSYs are calculated on the basis of a hydrologic base period of 1931-1990. In the Court's order filed April 21, 2026, it denied two motions to adopt different hydrologic base periods, one by the Watermaster and another by Mitsubishi Cement Corporation, Robertson's Ready Mix, Ltd., and Calportland Company. It was undisputed that the 1931-1990 base period is no longer representative of current conditions in the basin. The Court nevertheless denied those motions because neither motion considered all alternatives and thus neither proved that the new base period proposed was the best alternative available.

As a result, the current FPA motion is based upon the original base period. The Watermaster opines that the 1931-1990 base period is six percent wetter than the conditions that have existed since 2000. Without having selected a new, representative base period, the exact degree to which those estimates overstate the actual PSY is not known, but it is undisputed that it overstates the water in the basin to a significant degree. In short, the accuracy of the PSY estimates is uncertain.

Second, it is unclear when a new, representative base period will be selected, and thus when that uncertainty regarding the accuracy of the PSY estimates will be reduced. In the order denying the motions to set a new base period, the Court noted: "The Watermaster discounted the representation of at least one alternative because the Mojave Water Agency's UMBM is not yet complete or not yet calibrated. To avoid such issues in the future, the parties may wish to refrain from any further motions to change the base period until after that model is both complete and calibrated."

At the time, the Court expected the model to be completed in the near future. In the motion heard on August 4, 2025, Mr. Wagner stated that the MWA was in the process of "finalizing" the model. (2025 Mtn., p. 73.) The reply to the 2025 motion expressed the Watermaster's "hopes" that the model would be completed, peer reviewed, and published by the time the Watermaster filed its annual report in 2026, although Mr. Wagner cautioned at the August 4, 2025, hearing that another 18-30 months might pass before the new model is completed, calibrated, and peer reviewed.

By contrast, in the current motion, the Watermaster offers no prediction whatsoever, saying only that the "completion date is unknown." (Mtn., p. 10, l. 12.) If the MWA cannot estimate when its model will be completed, and if the parties continue to defer further motions to determine the most representative base period until the model is complete, then accurate estimates of PSY may not be available for years. Indeed, at the 8-12-26 hearing, Mr. Wagner estimated that completion would not come until 18-30

months from that date, and a representative of MWA could neither confirm nor deny the accuracy of that very broad estimate.

Those two sources of uncertainty are compounded by the reliance for the first time on the Stamos study from 2001. The application of that study makes it unclear whether changes in PSY result from changes in facts or merely changes in analytical assumptions.

For all of these reasons, the Court declines to rely upon the new PSY estimates to justify increases in FPA, as the Watermaster has recommended for Alto and Oeste. As the Court has advised the parties in the past, it believes that the goals of the Physical Solution are best achieved by being quick to reduce FPA, but slow to raise it. That caution or skepticism is particularly appropriate this year. Given that the current base period overstates the amount of water in the basin, the increases in PSYs that might otherwise justify increases in FPAs are suspect. (Even if the Court were to increase those FPAs, it would not approve increases of the magnitude recommended – 6.9% for Oeste and 4.1% for Alto – in a single year.)

Baja

The Watermaster recommended leaving the FPA for Baja unchanged at 19.5% because of the potential adverse impact of additional free production on the resources at Camp Cady. The Court adopts the Watermaster's recommendation, but primarily because of the uncertainty described above regarding the degree to which the PSYs have been overstated. To the extent that refraining from increasing free production might avoid further damage to the resources at Camp Cady, that reinforces the Court's decision. Even if the Court were to increase Baja's FPA, as urged by Newberry Springs, it would not have increased it in a single year by the full 5% requested.

Centro

Rather than keep Centro at 56%, the Watermaster recommends a slight decrease to 55.8%. The Court is not inclined to make such minute changes at this time, especially given the uncertainty regarding the accuracy of the PSY.

Este

The Court suspects that the true PSY for Este is less than 6,677 acre-feet. However, because the current FPA far exceeds that figure, the Court adopts the Watermaster's recommendation to reduce the FPA for Este from 45% of BAP to 40% of BAP.

Definition of Production Safe Yield

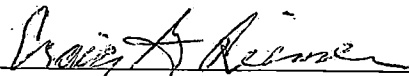
The Judgment defines Production Safe Yield as: "The highest average Annual Amount of water that can be produced from a Subarea: (1) over a sequence of years that is representative of long-term average annual natural water supply to the Subarea net of long-term average annual natural outflow from the Subarea, (2) under given patterns of Production, applied water, return flows and Consumptive Use, and (3) without resulting in a long-term net reduction of groundwater in storage in the Subarea." Nevertheless, Mr. Wagner states: "In summary, Table C-1 of the Judgment provides that $PSY = Total$

Production + Surplus / (Deficit). Stated another way, $PSY = \text{Total Production} + \text{Change in Storage}$." (Mtn., p. 30; accord, p. 41.)

In the Court's view, the two summary definitions offered by Mr. Wagner are not fair restatements of the definition prescribed by the Judgment. Those alternative definitions fail to consider such factors as applied water, return flows, and consumptive use, each of which the Judgment requires to be considered. Nor does the Court agree that Table C-1 supports the assertion that PSY may be defined as simply Total Production + Change in Storage. Table C-1 requires the analysis of the various aspects of consumptive use and makes no mention of changes in the amount of storage.

Notice:

The Watermaster shall serve copies of this order on all parties by mail forthwith and shall thereafter file a proof of service with the Court within seven days of the date of mailing.



Craig G. Riemer, Retired Judge of the
Riverside Superior Court, sitting by
Assignment of the Chief Justice

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.

August 26, 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:

NOTICE OF SERVING THE COURT'S AUGUST 14, 2026 ORDER GRANTING IN PART THE WATERMASTER'S MOTION (1) TO APPROVE PRODUCTION SAFE YIELD CALCULATIONS AND (2) TO ADJUST FREE PRODUCTION ALLOWANCES FOR WATER YEAR 2026-2027

 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 August 26, 2026 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Roberto Munoz
35250 Yermo, LLC
11273 Palms Blvd., Ste. D.
Los Angeles, CA 90066-2122

Attn: John McCallum
Abshire, David V.
PO Box # 2059
Lucerne Valley, CA 92356-2059

(blopez@adelantoca.gov;
dbuckingham@adelantoca.gov;
irisramos@percwater.com;)
Adelanto, City Of (via email)
11600 Air Expressway
Adelanto, CA 92301-1914

(adesdevon@gmail.com)
Ades, John and Devon (via email)

Attn: Pedro Dumaua
(pdumaua@ducommun.com)
Aerochem, Inc. (via email)
23301 S. Wilmington Ave
Carson, CA 90745-6209

Attn: Lori Clifton (lclifton@robar.com)
Agcon, Inc. (via email)
17671 Bear Valley Road
Hesperia, CA 92345-4902

Attn: Chun Soo and Wha Ja Ahn
(chunsooahn@naver.com)
Ahn Revocable Living Trust (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Attn: Simon Ahn (ssahn58@gmail.com)
Ahn Revocable Trust (via email)
29775 Hunter Road
Murrieta, CA 92563-6710

Attn: Chun Soo Ahn
(davidahnmd@gmail.com,
chunsooahn@naver.com;
davidahn0511@gmail.com)
Ahn, Chun Soo and David (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Attn: Chun Soo Ahn
(chunsooahn@naver.com)
Ahn, Chun Soo and Wha Ja (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Ake, Charles J. and Marjorie M.
2301 Muriel Drive, Apt. 67
Barstow, CA 92311-6757

Attn: Beinni Le
American States Water Company
160 Via Verde, Ste. 100
San Dimas, CA 91773-5121

Anderson, Ross C. and Betty J.
13853 Oakmont Dr.
Victorville, CA 92395-4832

Attn: Daniel B. Smith (avfcwd@gmail.com)
Apple Valley Foothill County Water District
(via email)
22545 Del Oro Road
Apple Valley, CA 92308-8206

Attn: Matthew Patterson
Apple Valley Heights County Water District
P. O. Box 938
Apple Valley, CA 92308-0938

Attn: Emely and Joe Saltmeris
Apple Valley View Mutual Water Company
P. O. Box 3680
Apple Valley, CA 92307-0072

Attn: Beatriz Torres
Apple Valley, Town Of
14955 Dale Evans Parkway
Apple Valley, CA 92307-3061

(ArchibekFarms@gmail.com;
Sandi.Archibek@gmail.com)
Archibek, Eric (via email)
41717 Silver Valley Road
Newberry Springs, CA 92365-9517

Avila, Angel and Evalia
1523 S. Visalia
Compton, CA 90220-3946

Attn: Sheré R. Bailey
(LegalPeopleService@gmail.com)
Bailey 2007 Living Revocable Trust, Sheré R.
(via email)
10428 National Blvd
Los Angeles, CA 90034-4664

Attn: Daniel Shaw (barhwater@gmail.com)
Bar H Mutual Water Company (via email)
PO Box 844
Lucerne Valley, CA 92356-0844

Attn: John Munoz
(barlenwater@hotmail.com;)
Bar-Len Mutual Water Company (via email)
P. O. Box 77
Barstow, CA 92312-0077

Attn: Curtis Palmer
Baron, Susan and Palmer, Curtis
141 Road 2390
Aztec, NM 87410-9322

Attn: Teddi Morad
Barstow Community Developers, LLC
24465 Stonechat Ct.
Valencia, CA 91355-3538

Attn: Jennifer Riley (hriley@barstowca.org)
Barstow, City of (via email)
220 East Mountain View Street -Suite A
Barstow, CA 92311

Bartels, Gwendolyn J.
1117 Meadow Lake Loop
Buhl, ID 83316-

Attn: Angelyn Bass
(angelyn bass@yahoo.com;
avbassenterprises@gmail.com)
Bass Trust, Newton T. (via email)
PO Box 22759
Santa Fe, NM 87502-2759

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Remo E. Bastianon
Bastianon Revocable Trust
9484 Iroquois Rd.
Apple Valley, CA 92308-9151

Attn: Mike Beinschroth
(Beinschroth@gmail.com)
Beinschroth Family Trust (via email)
18794 Sentenac Road
Apple Valley, CA 92307-5342

Beinschroth Trust, Andy
6719 Deep Creek Road
Apple Valley, CA 92308-8711

Attn: Chuck Bell (Chuckb193@outlook.com;
Chuckb193@outlook.com)
Bell, Charles H. Trust dated March 7, 2014
(via email)
P. O. Box 193
Lucerne Valley, CA 92356-0193

Best, Byron L.
21461 Camino Trebol
Lake Forest, CA 92630-2011

Attn: Deborah Stephenson
(stephenson@dmsnaturalresources.com;
Jason.Murray@bnsf.com;
Blaine.Bilderback@bnsf.com)
BNSF Railway Company (via email)
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-6483

Attn: Deborah Stephenson
(stephenson@dmsnaturalresources.com)
BNSF Railway Company (via email)
602 S. Ferguson Avenue, Suite 2
Bozeman, MT 59718-6483

Borja, Leonil T. and Tital L.
20784 Iris Canyon Road
Riverside, CA 92508-3526

Box, Geary S. and Laura
P. O. Box 402564
Hesperia, CA 92340-2564

Bredelis, Ronald C. and Jean
P. O. Box 92
Newberry Springs, CA 92365-0092

Attn: Marvin Brommer
Brommer House Trust
9435 Strathmore Lane
Riverside, CA 92509-0941

Attn: Paul Johnson
Brown Family Trust Dated August 11, 1999
26776 Vista Road
Helendale, CA 92342-9789

Brown, Jennifer
10001 Choiceana Ave.
Hesperia, CA 92345

Bruneau, Karen
19575 Bear Valley Rd.
Apple Valley, CA 92308-5104

Attn: Ian Bryant (irim@aol.com)
Bryant Family Trust dated May 9, 2007 (via
email)
17166 Sequoia Street
Hesperia, CA 92345-1842

Bubier, Diane Gail
46263 Bedford Rd.
Newberry Springs, CA 92365-9819

Attn: Noah Furie (noah@bfcloans.com)
Budget Finance Company (via email)
PO BOX 641339
Los Angeles, CA 90064-6339

Bunnell, Dick
8589 Volga River Circle
Fountain Valley, CA 92708-5536

(kjbco@yahoo.com)
Bush, Kevin (via email)
7768 Sterling Ave.
San Bernardino, CA 92410-4741

Attn: Karla Alarcon
(Karla.Alarcon@pcmineternet.com)
Calico Lakes Homeowners Association (via
email)
1285 Corona Pointe Ct. #101
Corona, CA 92878-

Attn: Donald Larson
(Donald.Larson@dot.ca.gov;
michael.lemke@dot.ca.gov)
California Department Of Transportation (via
email)
175 W. Cluster
San Bernardino, CA 92408-1310

Attn: Robert W. Bowcock
CalMat Company
405 N. Indian Hill Blvd.
Claremont, CA 91711-4614

Attn: Leanna East (least@calportland.com)
CalPortland Company - Agriculture (via email)
P. O. Box 146
Oro Grande, CA 92368-0146

Attn: Leanna East (least@calportland.com)
CalPortland Company - Oro Grande Plant (via
email)
P. O. Box 146
Oro Grande, CA 92368-0146

Attn: Tony Camanga
Camanga, Tony and Marietta
2309 Highland Heights Lane
Carrollton, TX 75007-2033

Attn: Myron Campbell II
Campbell, M. A. and Dianne
19327 Cliveden Ave
Carson, CA 90746-2716

Carlton, Susan
15524 Crenshaw Blvd.
Gardena, CA 90249-4526

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Stephanie Kaplan
Casa Colina Foundation
11981 Midway Avenue
Lucerne Valley, CA 92356

Attn: Danielle Stewart
(danielle.stewart@wildlife.ca.gov;
Richard.Kim@wildlife.ca.gov;
Alisa.Ellsworth@wildlife.ca.gov)
CDFW - Camp Cady (via email)
4775 Bird Farm Road
Chino Hills, CA 91709-3175

Attn: San Bernardino Co Regional Parks
CDFW - Mojave Narrows Regional Park
268 W. Hospitality Lane, Suite 303
San Bernardino, CA 92408-3241

Attn: Paco Cabral
(paco.cabral@wildlife.ca.gov;
askregion6@wildlife.ca.gov;
aaron.johnson@wildlife.ca.gov)
CDFW - Mojave River Fish Hatchery (via
email)
12550 Jacaranda Avenue
Victorville, CA 92395-5183

Attn: Jamie Nido (valorie.moore@cemex.com;
jamie.nido@cemex.com)
Cemex, Inc. (via email)
16888 North E. Street
Victorville, CA 92394-2999

Attn: Jennifer Cutler
Center Water Company
P. O. Box 616
Lucerne Valley, CA 92356-0616

Attn: Nancy Ryman
Chamisal Mutual Water Company
P. O. Box 1444
Adelanto, CA 92301-2779

Attn: Carl Pugh (talk2betty@aol.com;
cpugh3@aol.com)
Cheyenne Lake, Inc. (via email)
44660 Valley Center Rd.
Newberry Springs, CA 92365-

Attn: Byung Koo Chin
(JohnChinm3@gmail.com)
Chin Family Life Estate Trust (via email)
15648 Meridian Road
Lucerne Valley, CA 92356-9008

Choi, Yong Il and Joung Ae
34424 Mountain View Road
Hinkley, CA 92347-9412

(joan.chong7@gmail.com;
joancksp@hotmail.com)
Chong, Joan (via email)
1054 N. Antonio Circle
Orange, CA 92869-1966

Christison, Joel
PO Box 2635
Big River, CA 92242-2635

Attn: Hwa-Yong Chung
Chung, et al.
11446 Midway Ave.
Lucerne Valley, CA 92356-8792

Clark, Arthur
P. O. Box 4513
Blue Jay, CA 92317-4513

Attn: Manoucher Sarbaz
Club View Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Jaehwan Lee
Come Mission, Inc.
9965 Baker Road
Lucerne Valley, CA 92365-8490

Conner, William H.
11535 Mint Canyon Rd.
Agua Dulce, CA 91390-4577

Contratto, Ersula
13504 Choco Road
Apple Valley, CA 92308-4550

Attn: George Starke
Corbridge, Linda S.
8743 Vivero St
Rancho Cucamonga, CA 91730-

Cross, Sharon I.
P. O. Box 922
Lucerne Valley, CA 92356

Attn: Jay Hooper (jayho123@gmail.com)
Crown Cambria, LLC (via email)
9860 Gidley St.
El Monte, CA 91731-1110

Attn: Alessia Morris
Crystal Lakes Property Owners Association
P. O. Box 351
Yermo, CA 92398-0351

Attn: Renee Beaty (daggettsd@aol.com;
daggettsd@outlook.com;
daggettwater427@gmail.com)
Daggett Community Services District (via
email)
P. O. Box 308
Daggett, CA 92327-0308

Attn: Steve and Dana Rivett
Daggett Ranch, LLC
P. O. Box 112
Daggett, CA 92327-0112

Attn: Patty Renyut c/o Clearway Ennergy
(Patricia.Renyut@clearwayenergy.com)
Daggett Solar Power 3 LLC (via email)
11988 El Camino Real, Ste. 500
San Diego, CA 92130-3333

Darr, James S.
40716 Highway 395
Boron, CA 93516

Attn: Alan L. De Jong
De Jong Family Trust
46561 Fairview Road
Newberry Springs, CA 92365-9230

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Randy Wagner
Dennison, Quentin D. - Clegg, Frizell and Joke
44579 Temescal Street
Newberry Springs, CA 92365

Attn: Marie McDaniel
Desert Dawn Mutual Water Company
P. O. Box 392
Lucerne Valley, CA 92356-0392

Attn: Penny Zaritsky
(pennyzaritsky2000@yahoo.com)
Desert Girlz LLC (via email)
P. O. Box 709
Lucerne Valley, CA 92356-0709

Attn: Denise Courtney
Desert Springs Mutual Water Company
P. O. Box 396
Lucerne Valley, CA 92356-0396

Attn: Debby Wyatt
DLW Revocable Trust
13830 Choco Rd.
Apple Valley, CA 92307-5525

Attn: Judith Dolch-Partridge, Trustee
Dolch Living Trust Robert and Judith
4181 Kramer Lane
Bellingham, WA 98226-7145

Donaldson, Jerry and Beverly
16736 B Road
Delta, CO 81416-8501

Attn: Virginia Shaw
Dora Land, Inc.
PO Box 1405
Apple Valley, CA 92307-0026

Douglass, Tina
P.O. Box 1730
Lucerne Valley, CA 92356-

Dowell, Leonard
345 E Carson St.
Carson, CA 90745-2709

Evenson, Edwin H. and Joycelaine C.
P. O. Box 66
Oro Grande, CA 92368-0066

Attn: Kerry Evert
(KerryE@tillerconstructors.com)
Evert Family Trust (via email)
19201 Parker Circle
Villa Park, CA 92861-1302

Attn: David Rodriguez
(d8rodriguez@bop.gov)
Federal Bureau of Prisons, Victorville (via email)
P. O. Box 5400
Adelanto, CA 92301-5400

(purplebuny@juno.com)
Fejfar, Monica Kay (via email)
34080 Ord Street
Newberry Springs, CA 92365-9791

(wwcc0626@gmail.com)
Feng, Jinbao (via email)
33979 Fremont Road
Newberry Springs, CA 92365-9136

Ferro, Dennis and Norma
1311 1st Ave. N
Jacksonville Beach, FL 32250-3512

(ropingmom3@yahoo.com)
Finch, Jenifer (via email)
9797 Lewis Lane
Apple Valley, CA 92308-8357

Attn: Alex and Jerrica Liu
(alexliu1950@gmail.com;
alexroseanneliu@yahoo.com)
First CPA LLC (via email)
46669 Valley Center Rd
Newberry Springs, CA 92365-

Attn: Carl Fischer (carlsfischer@hotmail.com;
fischer@fischercompanies.com)
Fischer Revocable Living Trust (via email)
1372 West 26th St.
San Bernardino, CA 92405-3029

Attn: Jerome Fisher
Fisher Trust, Jerome R.
7603 Hazeltine Ave
Van Nuys, CA 91405-1423

Attn: Richard Bruce Fitzwater
(rickfitzwater@gmail.com)
Fitzwater, Survivor's Trust (via email)
12372 E Parks Road
Athol, ID 83801-5362

Attn: Gary Jatco
Foothill Estates MHP, LLC
9454 Wilshire Blvd., Ste. 920
Beverly Hills, CA 90212-2925

Attn: Jin Hyung Kim
Fourfree USA, Inc.
35000 Indian Trail
Helendale, CA 92342-9782

(cfrates@renewablegroup.com)
Frates, D. Cole (via email)
RRG CM, 926 N Sycamore Ave Ste 725
Los Angeles, CA 90038-2382

Attn: Deborah A. Friend
Friend, Joseph and Deborah
P. O. Box 253
Barstow, CA 92312-0253

Attn: Mark Asay (bettybrock@ironwood.org;
waltbrock@ironwood.org)
Fundamental Christian Endeavors, Inc. (via email)
49191 Cherokee Road
Newberry Springs, CA 92365

Gabrych Family Trust dated October 9, 2007
2006 Old Highway 395
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
Lucerne Valley, CA 92356-8273

Attn: Jay Storer
Gaeta, Trinidad
10551 Dallas Avenue
Lucerne Valley, CA 92356

Mojave Basin Area Watermaster Service List as of August 26, 2026

Garcia, Daniel
223 Rabbit Trail
Lake Jackson, TX 77566-3728

Attn: Sang Hwal Kim
Gardena Mission Church, Inc.
P. O. Box 304
Lucerne Valley, CA 92356-0304

Garg, Om P.
530 Technology Drive, Suite 100
Irvine, CA 92618-1350

Attn: Brent Peterson
Gayjikian, Samuel and Hazel
34534 Granite Road
Lucerne Valley, CA 92356-

Attn: Jeffrey Edwards
(jedwards@fbremediation.com)
GenOn California South, LP (via email)
P. O. Box 337
Daggett, CA 92327-0337

Attn: Toby Moore (toby.moore@gswater.com)
Golden State Water Company (via email)
160 Via Verde, Ste. 100
San Dimas, CA 91773-5121

Attn: Manoucher Sarbaz
Golf Investments LLC
9903 Santa Monica Blvd., #541
Beverly Hills, CA 90212-1606

Attn: Scot Gasper
Gordon Acres Water Company
P. O. Box 1035
Lucerne Valley, CA 92356-1035

Gray, George F. and Betty E.
975 Bryant
Calimesa, CA 92320-1301

Attn: Brian E. Bolin
Green Acres Estates
P. O. Box 29
Apple Valley, CA 92307-0001

Attn: Eric Archibek
Green Hay Packers LLC
41717 Silver Valley Road
Newberry Springs, CA 92365-9517

Attn: Nick Grill (Nick.terawatt@gmail.com)
Grill, Nicholas P. and Millie D. (via email)
35350 Mountain View Rd
Hinkley, CA 92347-9613

Gubler, Hans
P. O. Box 3100
Landers, CA 92285

Attn: Tamara J. Gulbranson
(TamaraMcKenzie@aol.com)
Gulbranson, Merlin (via email)
511 Minnesota Ave W
Gilbert, MN 55741-9062

Gutierrez, Jose and Gloria
24116 Santa Fe
Hinkley, CA 92347

Attn: Bryan C. Haas and Mary H. Hinkle
(resrvc4you@aol.com)
Haas, Bryan C. and Hinkle, Mary H. (via email)
14730 Tigertail Road
Apple Valley, CA 92307-5249

Attn: Edward E. Hackbarth
(hackbarthoffice@gmail.com)
Hackbarth, Edward E. (via email)
13312 Ranchero Rd, STE 241
Oak Hills, CA 92344-4812

Attn: Alexandra Lioanag
(sandra@halannagroup.com)
Halanna Equities III (via email)
220 Montgomery Street, Suite PH-10
San Francisco, CA 94104-3433

Attn: Doug and Cheryl Hamilton
Hamilton Family Trust
19945 Round Up Way
Apple Valley, CA 92308-8338

(hammackhay@gmail.com)
Hammack, Mitchell (via email)
34650 Minneola Road
Newberry Springs, CA 92365-9146

Attn: William Handrinis
Handrinis, Nicole A.
1140 Parkdale Rd.
Adelanto, CA 92301-9308

Hang, Phu Quang
645 S. Shasta Street
West Covina, CA 91791-2818

Attn: Donald F. Hanify
Hanify, Michael D., dba - White Bear Ranch
PO BOX 1021
Yermo, CA 92398-1021

Attn: Matt Wood
(Matthew.wood@martinmarietta.com)
Hanson Aggregates WRP, Inc. (via email)
P. O. Box 1115
Corona, CA 92878-1115

Attn: Mary Jane Hareson
Hareson, Nicholas and Mary
1737 Anza Avenue
Vista, CA 92084-3236

Attn: Kenny Harmsen (harmsewcow@aol.com)
Harmsen Family Trust (via email)
23920 Community Blvd.
Hinkley, CA 92347-9721

Harter, Joe and Sue
11407 Herr Court
Klamath Falls, OR 97603-8993

(harvey1.92356@gmail.com)
Harvey, Lisa M. (via email)
P. O. Box 1187
Lucerne Valley, CA 92356-

Haskins, James J.
11352 Hesperia Road, #2
Hesperia, CA 92345-2165

Hass, Pauline L.
P. O. Box 273
Newberry Springs, CA 92365-

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Craig Carlson (gm@helendalecsd.org;
ccarlson@helendalecsd.org)
Helendale Community Services District (via
email)
P. O. Box 359
Helendale, CA 92342-0359

Attn: Kelly Henderson
Helendale School District
P. O. Box 249
Helendale, CA 92342-0249

Attn: Jeff Gallistel
Hendley, Rick and Barbara
P. O. Box 972
Yermo, CA 92398-0972

Hensley, Mark P.
35523 Mountain View Rd
Hinkley, CA 92347-9613

Attn: Isaac Ortiz (IsaacOrtiz@hesperiaca.gov)
Hesperia - Golf Course, City of (via email)
9700 Seventh Avenue
Hesperia, CA 92345-3493

Attn: Janie Martines
(janiemartines@gmail.com)
Hesperia Venture I, LLC (via email)
10 Western Road
Wheatland, WY 82201-8936

Attn: Isaac Ortiz
(IsaacOrtiz@cityofhesperia.us)
Hesperia Water District (via email)
9700 7th Avenue
Hesperia, CA 92345-3493

Attn: Isaac Ortiz (issacortiz@hesperiaca.gov)
Hesperia, City of (via email)
9700 Seventh Avenue
Hesperia, CA 92345-3493

Attn: Carabeth Carter ()
Hettinga Revocable Trust (via email)
P. O. Box 455
Ehrenberg, AZ 85334-0455

Attn: Lisset Sardeson
Hi Desert Mutual Water Company
23667 Gazana Street
Barstow, CA 92311

(leehiett@hotmail.com)
Hiett, Harry L. (via email)
P. O. Box 272
Daggett, CA 92327-0272

Attn: Robert W. Bowcock
High Desert Associates, Inc.
405 North Indian Hill Blvd.
Claremont, CA 91711-4614

Attn: Lori Clifton (lclifton@robar.com)
Hi-Grade Materials Company (via email)
17671 Bear Valley Rd
Hesperia, CA 92345-4902

Attn: Lori Clifton (lclifton@robar.com)
Hi-Grade Materials Company (via email)
17671 Bear Valley Road
Hesperia, CA 92345-4902

Attn: Gregory Hilarides
Hilarides 1998 Revocable Family Trust
35070 Newberry Road
Newberry Springs, CA 92365

Attn: Katherine Hill (Khill9@comcast.net)
Hill Family Trust and Hill's Ranch, Inc. (via
email)
84 Dewey Street
Ashland, OR 97520-

Attn: Anne Roark
Hitchin Lucerne, Inc.
PO Box 749
Lucerne Valley, CA 92356-0749

Ho, Ting-Seng and Ah-Git
P.O. Box 20001
Bakersfield, CA 93390-0001

Attn: Joan Rohrer
Hollister, Robert H. and Ruth M.
22832 Buendia
Mission Viejo, CA 92691-

Holway, Jeffrey R
1401 Wewatta St. #1105
Denver, CO 80202-1348

Attn: Weiya Noble
Holy Heavenly Lake, LLC
10111 Choiceana Avenue
Hesperia, CA 92345-5361

Attn: May Hong
Hong, Paul B. and May
16641 Parlay Circle
Huntington Beach, CA 92649-3615

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

Attn: Barry Horton
Horton Family Trust
47716 Fairview Road
Newberry Springs, CA 92365-9258

Horton, Kell A.
PO Box 52
Newberry Springs, CA 92365-0052

Attn: Ester Hubbard
Hubbard, Ester and Mizuno, Arlean
47722 Kiloran St.
Newberry Springs, CA 92365-9529

Attn: Paul Johnson
Huerta, Hector
25684 Community Blvd
Barstow, CA 92311-

(huntconnie56@gmail.com)
Hunt, Connie (via email)
39392 Burnside Loop
Astoria, OR 97103-8248

Attn: Ralph Hunt
Hunt, Ralph M. and Pennuy Sue
P. O. Box 603
Yermo, CA 92398-0603

Attn: Brenda Hyatt
(calivolunteer@verizon.net)
Hyatt, James and Brenda (via email)
31726 Fremont Road
Newberry Springs, CA 92365

Mojave Basin Area Watermaster Service List as of August 26, 2026

Irvin, Bertrand W.
3224 West 111th Street
Inglewood, CA 90303-

Attn: James Jackson Jr.
Jackson, James N. Jr Revocable Living Trust
1245 S. Arlington Avenue
Los Angeles, CA 90019-3517

Attn: Lawrence Dean (ldean28296@aol.com)
Jackson, Ray Revocable Trust No. 45801 (via email)
P.O. Box 8250
Redlands, CA 92375-1450

Attn: Audrey Goller
(audrey.goller@newportpacific.com)
Jamboree Housing Corporation (via email)
15940 Stoddard Wells Rd - Office
Victorville, CA 92395-2800

Attn: Tomas Janovsky
(virginiajanovsky@yahoo.com;
tomjanovsky@yahoo.com)
Janovsky Revocable Trust No. 1 (via email)
17241 Bullock Street
Encino, CA 91316-1437

Attn: Bobby Boytor
(bboytorjrw@outlook.com;)
Jess Ranch Water Company (via email)
PO Box 542
Trabuco Canyon, CA 92678-0542

Attn: Cynthia Mahoney
(cyndisue87@yahoo.com)
Johnson, Carlean F. Trust Dated 10/29/2004
(via email)
8626 Deep Creek Road
Apple Valley, CA 92308-8769

Attn: Paul Johnson
(johnsonfarming@gmail.com)
Johnson, Paul - Industrial (via email)
10456 Deep Creek Road
Apple Valley, CA 92308-8330

Johnson, Ronald
1156 Clovis Circle
Dammeron Valley, UT 84783-5211

Attn: Lawrence W. Johnston
Johnston, Harriet and Johnston, Lawrence W.
P. O. Box 401472
Hesperia, CA 92340-1472

Attn: Magdalena Jones
(mygoldenbiz9@gmail.com)
Jones Trust dated March 16, 2002 (via email)
35424 Old Woman Springs Road
Lucerne Valley, CA 92356-7237

Attn: Paul Jordan
Jordan Family Trust
1650 Silver Saddle Drive
Barstow, CA 92311-2057

Attn: Ray Gagné
Jubilee Mutual Water Company
P. O. Box 1016
Lucerne Valley, CA 92356

Attn: Jilin Xiao
Jujube Valley Farm, Inc.
19 Pembroly
Irvine, CA 92603-3452

Attn: Cherie Casey (ccasey@jrcwd.org)
Juniper Riviera County Water District (via email)
P.O. Box 618
Lucerne Valley, CA 92356-0618

Kanesaka, Kenji and Yukari
33 Ocaso Street
Rancho Mission Viejo, CA 92694-1601

Attn: Ash Karimi
Karimi, Hooshang
1254 Holmby Ave
Los Angeles, CA 90024-

Attn: Robert R. Kasner
(Robertkasner@aol.com)
Kasner Family Limited Partnership (via email)
11584 East End Avenue
Chino, CA 91710-

Attn: Robert R. Kasner
(Robertkasner@aol.com)
Kasner, Robert (via email)
11584 East End Avenue
Chino, CA 91710-1555

Attn: Martin A and Mercedes Katcher
Katcher, August M. and Marceline
12928 Hyperion Lane
Apple Valley, CA 92308-4565

Kemp, Robert and Rose
48441 National Trails Highway
Newberry Springs, CA 92365

Attn: Peggy Shaughnessy
Kemper Campbell Ranch
10 Kemper Campbell Ranch Road - Office
Victorville, CA 92395-3357

Kim, Jin S. and Hyun H.
419 Sara Jane Ln
Placentia, CA 92870-5137

Attn: Alan and Annette De Jong
Kim, Joon Ho and Mal Boon Revocable Trust
46561 Fairview Road
Newberry Springs, CA 92365-9230

(juskim67@yahoo.com)
Kim, Ju Sang (via email)
1225 Crestview Dr
Fullerton, CA 92833-2206

Kim, Seon Ja
34981 Piute Road
Newberry Springs, CA 92365-9548

Attn: Richard Koering
Koering, Richard and Koering, Donna
40909 Mountain View Road
Newberry Springs, CA 92365-9414

Attn: Ryan Gross
(rgross@lakearrowheadcsd.com)
Lake Arrowhead Community Services District
(via email)
P. O. Box 700
Lake Arrowhead, CA 92352-0700

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Claire Cabrey
(HandleWithClaire@aol.com;
mike@jaynes.net)
Lake Jodie Property Owners Association (via email)
8581 Santa Monica Blvd., #18
West Hollywood, CA 90069-4120

(PhillipLam99@gmail.com)
Lam, Phillip (via email)
864 Sapphire Court
Pomona, CA 91766-5171

Attn: Robert Lawrence Jr.
Lawrence, William W.
P. O. Box 98
Newberry Springs, CA 92365

Lee, Doo Hwan
P. O. Box 556
Lucerne Valley, CA 92356-0556

Lenhert, Ronald and Toni
4474 W. Cheyenne Drive
Eloy, AZ 85131-3410

Attn: Michael Reese
(Michael.Reese@libertyutilities.com)
Liberty Utilities (Apple Valley Ranchos Water) Corp. (via email)
P. O. Box 7005
Apple Valley, CA 92307

Attn: Robert Fimbres (rfimbres@terra-gen.com)
Lockhart Land Holding, LLC (via email)
43880 Harper Lake Road
Hinkley, CA 92347-

Attn: Michael Lua
Lua, Michael T. and Donna S.
18838 Aldridge Place
Rowland Heights, CA 91748-4890

Attn: Manoucher Sarbaz
Lucerne Valley Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Nancy Lan
Lake Waikiki
230 Hillcrest Drive
La Puente, CA 91744-4816

(jlangley@rigelcap.com)
Langley, James (via email)
12277 Apple Valley Road, Ste. #120
Apple Valley, CA 92308-1701

Lawson, Barbara
20277 Rock Springs Road
Apple Valley, CA 92308-8740

Attn: Sepoong & Woo Poong Lee
Lee, et al., Sepoong and Woo Poong
#6 Ensueno East
Irvine, CA 92620-

Attn: Brad Francke
LHC Alligator, LLC
P. O. Box 670
Upland, CA 91785-0670

Attn: James Lin
Lin, Kuan Jung and Chung, Der-Bing
2026 Turnball Canyon
Hacienda Heights, CA 91745-

Attn: Patricia Miranda
Lopez, Baltazar
12318 Post Office Rd
Lucerne Valley, CA 92356-

Attn: Parviz Omidvar
(pomidvar@roadrunner.com)
Lucerne Valley 26, LLC (via email)
PO Box 7930
Beverly Hills, CA 90212-7930

Attn: Bradley Strain
Lucerne Valley Unified School District
8560 Aliento Road
Lucerne Valley, CA 92365-8133

Attn: Timothy Rohm (ljm9252@aol.com;
timrohmbuilding@gmail.com)
Lake Wainani Owners Association (via email)
2812 Walnut Avenue, Suite A
Tustin, CA 92780-7053

Attn: Vanessa Laosy
Lavanh, et al.
18203 Yucca St.
Hesperia, CA 92345-

Attn: Anna K. Lee (kimyung830@gmail.com;
aklee219@gmail.com)
Lee, Anna K. and Eshban K. (via email)
10979 Satsuma St
Loma Linda, CA 92354-6113

Lee, Vin Jang T.
42727 Holcomb Trl
Newberry Springs, CA 92365

Attn: Billy Liang
Liang, Yuan - I and Tzu - Mei Chen
4192 Biscayne St
Chino, CA 91710-3196

Attn: Manshan Gan
Lo, et al.
5535 N Muscatel Ave
San Gabriel, CA 91776-1724

Attn: Dean Low (lowgo.dean@gmail.com)
Low, Dean (via email)
3 Panther Creek Ct.
Henderson, NV 89052-

Attn: Gwen L. Bedics
Lucerne Valley Mutual Water Company
P. O. Box 1311
Lucerne Valley, CA 92356

Attn: Sherri Brown
Lucerne Vista Mutual Water Company
P. O. Box 677
Lucerne Valley, CA 92356-0677

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Eugene R. & Vickie R. Bird
M Bird Construction
1613 State Street, Ste. 10
Barstow, CA 92311-4162

Attn: Maria Martinez
M.B. Landscaping and Nursery, Inc.
6831 Lime Avenue
Long Beach, CA 90805-1423

Attn: Robert Saidi
Mahjoubi, Afsar S.
46622 Fairview Road
Newberry Springs, CA 92365

Manning, Sharon S.
19332 Balan Road
Rowland Heights, CA 91748-4017

Attn: Allen Marcroft
Marcroft, James A. and Joan
P. O. Box 519
Newberry Springs, CA 92365

Attn: Matt Bachman
(gm@marianaranchoscwd.org; gm@mrcwd.org
; gmmrcwd@gmail.com)
Mariana Ranchos County Water District (via
email)
9600 Manzanita Street
Apple Valley, CA 92308-8605

Markley, Carmen and Price, Aric
PO Box 1407
Barstow, CA 92312-1407

Marshall, Charles
32455 Lakeview Road
Newberry Springs, CA 92365-9482

Attn: Rod Sexton
McCollum, Charles L.
15074 Spruce St
Hesperia, CA 92345-2950

McKinney, Paula
144 East 72nd
Tacoma, WA 98404-1060

Attn: Olivia L. Mead
Mead Family Trust
31314 Clay River Road
Barstow, CA 92311-2057

Attn: David I. Milbrat
Milbrat, Irving H.
P. O. Box 487
Newberry Springs, CA 92365-0487

Attn: Donna Miller
Miller Living Trust
6124 Parsonage Circle
Milton, FL 32570-8930

Attn: Freddy Garmo (freddy@garmolaw.com)
Minn15 LLC (via email)
5464 Grossmont Center Drive, #300
La Mesa, CA 91942-3035

Attn: Erik Gruber
(erik.gruber@mitsubishicement.com)
Mitsubishi Cement Corporation (via email)
5808 State Highway 18
Lucerne Valley, CA 92356-8179

Attn: Philip Mizrahie
Mizrahie, et al.
4105 W. Jefferson Blvd.
Los Angeles, CA 90016-4124

Attn: Thomas A. Hrubik (tahgolf@aol.com)
MLH, LLC (via email)
P. O. Box 2611
Apple Valley, CA 92307-0049

Attn: Janie Thai (mlkj8888llc@gmail.com)
MLKJ8888 LLC (via email)
300 W Valley Blvd, #1933
Alhambra, CA 91803-3333

Attn: Sarah Bliss
Mojave Desert Land Trust
60124 29 Palms Highway
Joshua Tree, CA 92252-4130

Attn: Mahnaz Ghamati
(mahnaz.ghamati@atlantica.com)
Mojave Solar, LLC (via email)
42134 Harper Lake Road
Hinkley, CA 92347-9305

Attn: Doug Kerns
(tmccarthy@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307-4377

Attn: Doug Kerns (dkerns@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307-4377

Attn: Doug Kerns
(aanabtawi@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307-4377

Attn: Manoucher Sarbaz
Monaco Investment Company
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Ken Elliot (ken@elliotsplace.com)
Morris Trust, Julia V. (via email)
7649 Cypress Dr.
Lanexa, VA 23089-9320

Moss, Lawrence W. and Helen J.
38338 Old Woman Springs Road Spc# 56
Lucerne Valley, CA 92356-8116

Attn: Bradford Ray Most
Most Family Trust
39 Sundance Circle
Durango, CO 81303-8131

Attn: Dennis Hills
Mulligan, Robert and Inez
35575 Jakobi Street
Saint Helens, OR 97051-1194

Murphy, Jean
46126 Old National Trails Highway
Newberry Springs, CA 92365-9025

(z.music5909@gmail.com;
zajomusic@gmail.com)
Music, Zajo (via email)
43830 Cottonwood Rd
Newberry Springs, CA 92365-8510

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Michael Sweitzer (msweitzer@mail.com)
Navajo Mutual Water Company (via email)
P.O. Box 392
Apple Valley, CA 92307-0007

Attn: Billy Liang (flossdaily@hotmail.com;
asaliking@yahoo.com)
New Springs Limited Partnership (via email)
4192 Biscayne St.
Chino, CA 91710-3196

Attn: Jodi Howard
Newberry Community Services District
P. O. Box 220
Newberry Springs, CA 92365-0220

Attn: Jeff Gaastra (jeffgaastra@gmail.com)
Newberry Springs Recreational Lakes
Association (via email)
32935 Dune Road, Space 10
Newberry Springs, CA 92365-

Attn: Mary Ann Norris
Norris Trust, Mary Ann
29611 Exeter Street
Lucerne Valley, CA 92356-8261

Attn: Kenton Eatherton
(keatherton@verizon.net)
NSSLC, Inc. (via email)
9876 Moon River Circle
Fountain Valley, CA 92708-7312

Núñez, Luis Segundo
9154 Golden Seal Court
Hesperia, CA 92345-0197

Attn: Pearl or Gail Nunn
Nunn Family Trust
P. O. Box 2651
Apple Valley, CA 92307-0010

Attn: Jeff Gaastra (jeffgaastra@gmail.com;
andy@seesmachine.com;
bbswift4044@cox.net)
O. F. D. L., Inc. (via email)
32935 Dune Road, #10
Newberry Springs, CA 92365-9175

Attn: Chun Soo Ahn
(chunsooahn@naver.com)
Oasis World Mission (via email)
P. O. Box 45
Apple Valley, CA 92307-0001

Odessa Water District
220 E. Mountain View Street, Suite A
Barstow, CA 92311-2888

Attn: Dorothy Ohai
Ohai, Reynolds and Dorothy
13450 Monte Vista
Chino, CA 91710-5149

Attn: Farzad, Ezami c/o Registered Agents Inc
(Fezami@gmail.com)
Olivier Holdings LLC (via email)
14201 21st St., Ste. R
Sacramento, CA 95811-5226

Attn: Craig Maetzold
(craig.maetzold@omya.com)
Omya California, Inc. (via email)
7225 Crystal Creek Rd
Lucerne Valley, CA 92356-8646

Attn: John P. Oostdam
Oostdam Family Trust, John P. and Margie K.
24953 Three Springs Road
Hemet, CA 92545-2246

Attn: Nick Higgs
Oro Grande School District
P. O. Box 386
Oro Grande, CA 92368-0386

Attn: Taghi Shoraka
P and H Engineering and Development
Corporation
1423 South Beverly Glen Blvd. Apt. A
Los Angeles, CA 90024-6171

Attn: Jessica Balders (J4Dx@pge.com)
Pacific Gas and Electric Company (via email)
22999 Community Blvd
Hinkley, CA 92347-9592

Pak, Kae Soo and Myong Hui Kang
P. O. Box 1835
Lucerne Valley, CA 92356-1835

Patino, José
3914 W. 105th Street
Inglewood, CA 90303-1815

(wndrvr@aol.com)
Paustell, Joan Beinschroth (via email)
10275 Mockingbird Ave.
Apple Valley, CA 92308-8303

Pearce, Craig L.
127 Columbus Dr
Punxsutawney, PA 15767-1270

Perko, Bert K.
P. O. Box 762
Yermo, CA 92398-0762

Pettigrew, Dan
285 N Old Hill Road
Fallbrook, CA 92028-2571

Attn: Sean Wright (swright@pphcsd.org;
dbartz@pphcsd.org; llowrance@pphcsd.org)
Phelan Piñon Hills Community Services
District (via email)
4176 Warbler Road
Phelan, CA 92371-8819

Attn: John Poland
Poland, John R. and Kathleen A.
778 23rd St SW
Loveland, CO 80537-7200

Porter, Timothy M.
34673 Little Dirt Road
Newberry Springs, CA 92365-9646

Attn: Carin McKay
Precision Investments Services, LLC
791 Price Street, #160
Pismo Beach, CA 93449-2529

Pruett, Andrea
P. O. Box 37
Newberry Springs, CA 92365

(s_quakenbush@yahoo.com)
Quakenbush, Samuel R. (via email)
236 Iris Drive
Martinsburg, WV 25404-1338

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Ron Herrmann
Quiros, Fransisco J. and Herrmann, Ronald
35969 Newberry Rd
Newberry Springs, CA 92365-9438

Attn: Elizabeth Murena
(waterboy7F8@msn.com; etminav@aol.com)
Rancheritos Mutual Water Company (via email)
P. O. Box 348
Apple Valley, CA 92307

Attn: Kanwal P. Randhawa
(Firstamerican20@gmail.com)
Randhawa Energy CO of CA, LLC (via email)
26029 Chateau Court
Moreno Valley, CA 92555-1772

Attn: Brian C. Vail (bvail@river-west.com)
Reido Farms, LLC (via email)
2410 Fair Oaks Blvd., Suite 110
Sacramento, CA 95825-7666

(LucerneJujubeFarm@hotmail.com)
Rhee, Andrew N. (via email)
11717 Fairlane Rd, #989
Lucerne Valley, CA 92356-8829

Attn: Kelly Rice
Rice, Henry C. and Diana
31823 Fort Cady Rd.
Newberry Springs, CA 92365-

Attn: Josie Rios
Rios, Mariano V.
P. O. Box 1864
Barstow, CA 92312-1864

Rivero, Fidel V.
612 Wellesley Drive
Corona, CA 92879-0825

(RayRizvi@Yahoo.com)
Rizvi, S.R Ali (via email)
4054 Allyson Terrace
Freemont, CA 94538-4186

Attn: Jackie McEvoy (jackiem@rrmca.com)
Robertson's Ready Mix (via email)
PO Box 3600
Corona, CA 92878-3600

Attn: Susan Sommers (sommerssqz@aol.com)
Rossi Family Trust, James Lawrence Rossi
and Naomi (via email)
P. O. Box 120
Templeton, CA 93465-0120

Attn: Robert Vega
Royal Way
2632 Wilshire Blvd., #480
Santa Monica, CA 90403-4623

Attn: Sam Marich
Rue Ranch, Inc.
42704 Edelweiss Drive
Big Bear Lake, CA 92315-2074

Attn: Dale W. Ruisch
Ruisch Trust, Dale W. and Nellie H.
10807 Green Valley Road
Apple Valley, CA 92308-3690

Attn: Taghi Shoraka
S and B Brothers, LLC
1423 S. Beverly Glen Blvd., Ste. A
Los Angeles, CA 90024-6171

Attn: Jafar Rashid
(jr123realestate@gmail.com)
S and E 786 Enterprises, LLC (via email)
3300 S. La Cienega Blvd.
Los Angeles, CA 90016-3115

Attn: Kanoe Barker
(kanoebarker@yahoo.com)
Sagabeen-Barker, Kanoeolokelani L. (via email)
42224 Valley Center Rd
Newberry Springs, CA 92365

(BILLU711@Yahoo.com)
Samra, Jagtar S. (via email)
10415 Edgebrook Way
Northridge, CA 91326-3952

San Bernardino Co Barstow - Daggett Airport
268 W. Hospitality Lane, Suite 302
San Bernardino, CA 92415-0831

Attn: Jared Beyeler
(jared.beyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County - High Desert
Detention Center (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0415

Attn: Jared Beyeler
(jared.beyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 29 (via email)
222 W. Hospitality Lane, 2nd Floor (Spec
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(jared.beyeler@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 42 (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(jared.beyeler@sdd.sbcounty.gov;
ssamaras@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 64 (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0450

Attn: Jared Beyeler
(jared.beyeler@sdd.sbcounty.gov;
ssamaras@sdd.sbcounty.gov;
waterquality@sdd.sbcounty.gov)
San Bernardino County Service Area 70J (via email)
222 W. Hospitality Lane, 2nd Floor - SDW
San Bernardino, CA 92415-0450

Attn: Michelle Scray (mcsgray@gmail.com)
Scray, Michelle A. Trust (via email)
16869 State Highway 173
Hesperia, CA 92345-9381

Attn: Rod Sexton
Sexton, Rodney A. and Sexton, Derek R.
P.O. Box 155
Rim Forest, CA 92378-

Attn: Joseph Tapia
Sheep Creek Water Company
P. O. Box 291820
Phelan, CA 92329-1820

Mojave Basin Area Watermaster Service List as of August 26, 2026

Sheng, Jen
5349 S Sir Richard Dr
Las Vegas, NV 89110-0100

Attn: Dan Sheppard
(dsheppard15@yahoo.com,
gloriasheppard14@gmail.com)
Sheppard, Thomas and Gloria (via email)
11806 Preston St.
Grand Terrace, CA 92313-5231

Short, Jerome E.
P. O. Box 1104
Barstow, CA 92312-1104

Attn: Carlos Banuelos
(cbanuelos@silverlakesassociation.com)
Silver Lakes Association (via email)
P. O. Box 179
Helendale, CA 92342-0179

Attn: Nepal Singh (NepalSingh@yahoo.com)
Singh, et al. (via email)
4972 Yearling Avenue
Irvine, CA 92604-2956

Attn: Denise Smith (ddgogo72@yahoo.com)
Smith, Denise dba Amerequine Beauty, Inc
(via email)
13313 Newmire Ave.
Norwalk, CA 90650-2168

Smith, Porter and Anita
8443 Torrell Way
San Diego, CA 92126-1254

Attn: Steve Kim (stevekim1026@gmail.com)
Snowball Development, Inc. (via email)
P. O. Box 2926
Victorville, CA 92393-2926

Attn: Chan Kyun Son
Son's Ranch
P. O. Box 1767
Lucerne Valley, CA 92356

Attn: Christopher Quach
(Christopher.Quach@sce.com)
Southern California Edison Company (via
email)
2244 Walnut Grove Ave
Rosemead, CA 91770-3714

Attn: Christian Preciado
(CPreciad@socalgas.com)
Southern California Gas Company (via email)
28901 Fort Cady Rd.
Newberry Springs, CA 92365

Attn: Jose Garcia
(jose.garcia@mineralstech.com)
Specialty Minerals, Inc. (via email)
P. O. Box 558
Lucerne Valley, CA 92356-0558

Sperry, Wesley
P. O. Box 303
Newberry Springs, CA 92365-0303

Spillman, James R. and Nancy J.
12132 Wilshire
Lucerne Valley, CA 92356-8834

Attn: Eric Miller (emiller@svla.com;
alogan@svla.com;)
Spring Valley Lake Association (via email)
SVL Box 7001
Victorville, CA 92395-5107

Attn: Joe Trombino
Spring Valley Lake Country Club
7070 SVL Box
Victorville, CA 92395-5152

Attn: Father Sarapamon
St. Antony Coptic Orthodox Monastery
P. O. Box 1989
Barstow, CA 92312-1989

Attn: Paul Cramer ()
Star Milling Company (via email)
23901 Water Street
Perris, CA 92570-9094

(chiefgs@verizon.net)
Starke, George A. and Jayne E. (via email)
8743 Vivero Street
Rancho Cucamonga, CA 91730-1152

Storm, Randall
51432 130th Street
Byars, OK 74831-7357

Sudmeier, Glenn W.
14253 Highway 138
Hesperia, CA 92345-9422

Attn: Alexandra Lioanag
(sandra@halannagroup.com)
Summit Valley Ranch, LLC (via email)
220 Montgomery Street, Suite PH-10
San Francisco, CA 94104-3433

Attn: Alex Vienna (alexviennarn@gmail.com;
sundownmark@gmail.com)
Sundown Lakes, Inc. (via email)
P.O. Box 364
Newberry Springs, CA 92365-

Attn: Stephen H. Douglas
(sdouglas@centaurusenergy.com;
mdoublesin@centcap.net;
cre.notices@clenera.com)
Sunray Land Company, LLC (via email)
1717 West Loop South, Suite 1800
Houston, TX 77027-3049

Attn: Venny Vasquez
(vvasquez@SYNAGRO.com)
Synagro-WWT, Inc. (dba Nursury Products,
LLC) (via email)
P. O. Box 1439
Helendale, CA 92342-1429

Attn: Russell Szykowski
Szykowski, Ruth J.
46750 Riverside Rd.
Newberry Springs, CA 92365-9738

Attn: Bill and Elizabeth Tallakson
(billtallakson@sbcglobal.net)
Tallakson Family Revocable Trust (via email)
11100 Alto Drive
Oak View, CA 93022-9535

Mojave Basin Area Watermaster Service List as of August 26, 2026

Tapie, Raymond L.
73270 Desert Greens Dr N
Palm Desert, CA 92260-1206

Taylor, Sharon L.
14141 State Hwy 138
Hesperia, CA 92345-9339

(jerryteisan@gmail.com)
Teisan, Jerry (via email)
P. O. Box 2089
Befair, WA 98528-2089

Attn: John Henry Tellez
(JohnnyMelissaTellez@gmail.com)
Tellez, et al. (via email)
43774 Cottonwood Road
Newberry Springs, CA 92365-9277

Attn: Daryl or Lucinda Lazenby
Thayer, Sharon
P. O. Box 845
Lucerne Valley, CA 92356-

Attn: Stephen Thomas
Thomas, Stephen and Lori
4890 Topanga Canyon Bl.
Woodland Hills, CA 91364-4229

Attn: Lynnette L. Thompson
Thompson Living Trust, James A. and Sula B.
22815 Del Oro Road
Apple Valley, CA 92308

Attn: Rodger Thompson
Thompson Living Trust, R.L. and R.A.
9141 Deep Creek Road
Apple Valley, CA 92308-8351

Thrasher, Gary
14024 Sunflower Lane
Oro Grande, CA 92368-9617

Attn: Doug Heinrichs
(gm@thunderbirdcwg.org;
office@thunderbirdcwg.org)
Thunderbird County Water District (via email)
P. O. Box 1105
Apple Valley, CA 92307-1105

Attn: Mike Troeger (mjtroeger@yahoo.com)
Troeger Family Trust, Richard H. (via email)
P. O. Box 24
Wrightwood, CA 92397

Turner, Terry
PO Box 881
Peach Springs, AZ 86434-0881

Attn: Aurelio Ibarra (aibarra@up.com;
powen@up.com)
Union Pacific Railroad Company (via email)
HC1 Box 33
Kelso, CA 92309-

(gagevaage23@gmail.com)
Vaage, Gage V. (via email)
47150 Black Butte Road
Newberry Springs, CA 92365-9698

Vaca, Andy and Teresita S.
5550 Avenue Juan Bautista
Riverside, CA 92509-5613

Attn: Dean Van Bastelaar
Van Bastelaar, Alphonse
45475 Martin Road
Newberry Springs, CA 92365-9625

Attn: Glen and Jennifer Van Dam
(gvandam@verizon.net)
Van Dam Family Trust, Glen and Jennifer (via email)
3190 Cottonwood Avenue
San Jacinto, CA 92582-4741

Attn: Jacob Bootsma
Van Leeuwen Trust, John A. and Ietie
44128 Silver Valley Road
Newberry Springs, CA 92365-9588

Attn: John Driscoll
Vernola Trust, Pat and Mary Ann
P. O. Box 2190
Temecula, CA 92593-2190

Attn: Estela Wansten
Victor Valley Community College District
18422 Bear Valley Road, Bldg 10
Victorville, CA 92395-5850

Attn: Claudia Betancourt
(claudia.betancourt@dignitymemorial.com)
Victor Valley Memorial Park (via email)
17150 C Street
Victorville, CA 92395-3330

Attn: Arnold Villarreal
(avillarreal@victorvilleca.gov;
ccun@victorvilleca.gov)
Victorville Water District, ID#1 (via email)
P. O. Box 5001
Victorville, CA 92393-5001

Attn: Arnold Villarreal
(avillarreal@victorvilleca.gov;
kmetzler@victorvilleca.gov;
snawaz@victorvilleca.gov)
Victorville Water District, ID#1 (via email)
PO Box 5001
Victorville, CA 92393-5001

Attn: Arnold Villarreal
(sashton@victorvilleca.gov;
avillarreal@victorvilleca.gov;
dmathews@victorvilleca.gov)
Victorville Water District, ID#2 (via email)
PO Box 5001
Victorville, CA 92393-5001

Vogler, Albert H.
17612 Danbury Ave.
Hesperia, CA 92345-7073

Attn: Joan Wagner
Wagner Living Trust
22530 Calvert Street
Woodland Hills, CA 91367-1704

Attn: Christian Joseph Wakula
Wakula Family Trust
11741 Ardis Drive
Garden Grove, CA 92841-2423

Mojave Basin Area Watermaster Service List as of August 26, 2026

(Jlow3367@gmail.com)
Wang, Steven (via email)
2551 Paljay Avenue
Rosemead, CA 91770-3204

Ward, Raymond
P. O. Box 358
Newberry Springs, CA 92365-0358

Attn: Alicia Weems
Weems, Lizzie
4418 Stephanie Park Ln
Conroe, TX 77304-2990

Weeraisinghe, Maithri N.
P. O. Box 487
Barstow, CA 92312-0487

(andrewwerner11@gmail.com)
Werner, Andrew J. (via email)
1718 N Sierra Bonita Ave
Los Angeles, CA 90046-2231

Attn: Cindy Sacks
West End Mutual Water Company
P. O. Box 1732
Lucerne Valley, CA 92356

West, Howard and Suzy
9185 Loma Vista Road
Apple Valley, CA 92308-0557

West, Jimmie E.
P. O. Box 98
Oro Grande, CA 92368-0098

Attn: Nick Gatti (ngatti@atlas-water.com)
Western Development and Storage, LLC (via email)
5701 Truxtun Avenue, Ste. 201
Bakersfield, CA 93309-0402

Attn: Chung Cho Gong
Western Horizon Associates, Inc.
P. O. Box 397
Five Points, CA 93624-0397

Attn: Jessica Zavella, Leasing Office
Westland Industries, Inc.
22838 Bear Valley Road, Office
Apple Valley, CA 92308-

Attn: Thomas G. Ferruzzo
(tferruzzo@ferruzzo.com)
Wet Set, Inc. (via email)
44505 Silver Valley Road, Lot #05
Newberry Springs, CA 92365-9565

Wiener, Melvin and Mariam S.
1626 N. Wilcox Avenue
Los Angeles, CA 90028-6234

Attn: Manoucher Sarbaz
Wilshire Road Partners
9903 Santa Monica Blvd., PMB #541
Beverly Hills, CA 90212-1671

Attn: Connie Tapie
(praisethelord77777@yahoo.com)
Withey, Connie (via email)
P. O. Box 3513
Victorville, CA 92393-3513

Witte, E. Daniel and Marcia
31911 Martino Drive
Daggett, CA 92327-9752

Attn: Geoffrey Schmid
WLSR, Inc.
12678 Cabezon Place
San Diego, CA 92129-

Attn: David A. Worsey
Worsey, Joseph A. and Revae
P. O. Box 422
Newberry Springs, CA 92365-0422

(thechelseaco@yahoo.com)
Yang, Zilan (via email)
428 S. Atlantic Blvd #205
Monterey Park, CA 91754-3228

Attn: Robert Hensley, Esq.
(rhensley@awattorneys.com)
Aleshire & Wynder, LLP (via email)
3880 Lemon Street
Suite 520
Riverside, CA 92501-

Attn: Pam Lee, Esq. (plee@awattorneys.com)
Aleshire & Wynder, LLP (via email)
3880 Lemon Street
Suite 520
Riverside, CA 92501-

Attn: Christine M. Carson, Esq.
(ccarson@awattorneys.com)
Aleshire & Wynder, LLP (via email)
3880 Lemon Street
Suite 520
Riverside, CA 92501-

Attn: Alison Paap (apaap@agloan.com)
American AgCredit (via email)
42429 Winchester Road
Temecula, CA 92590-2504

Attn: Wesley A. Miliband, Esq.
(wes.miliband@mwaterlaw.com)
Atkinson, Andelson, Loya, Ruud & Romo (via email)
2151 River Plaza Drive
Suite 300
Sacramento, CA 95833-

Attn: W.W. Miller, Esq. (bmiller@aalrr.com)
Atkinson, Andelson, Loya-Ruud & Romo (via email)
3612 Mission Inn Avenue, Upper Level
Riverside, CA 92501

Attn: Christopher L. Campbell, Esq.
(ccampbell@bakermanock.com)
Baker, Manock & Jensen (via email)
5260 N. Palm Avenue, 4th Floor
Fresno, CA 93704-2209

Attn: Piero C. Dallarda, Esq.
(piero.dallarda@bbklaw.com)
Best, Best & Krieger LLP (via email)
P.O. Box 1028
Riverside, CA 92502-

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Eric L. Garner, Esq.
(eric.garner@bbklaw.com)
Best, Best & Krieger LLP (via email)
3750 University Avenue
3rd Floor
Riverside, CA 92502-1028

Attn: Aloson Toivola, Esq.
(alison.toivola@bbklaw.com)
Best, Best & Krieger LLP (via email)
300 South Grand Avenue
25th Floor
Los Angeles, CA 90071

Attn: Mackenzi W. Carlson, Esq.
(Mcarlson@bhfs.com)
Brownstein Hyatt Farber Schreck, LLP (via email)
1020 State Street
Santa Barbara, CA 93101-2711

Attn: Stephen Puccini
(stephen.puccini@wildlife.ca.gov)
California Department of Fish and Wildlife
(via email)
,

Attn: Jeffery L. Caufield, Esq.
(Jeff@caufieldjames.com)
Caufield & James, LLP (via email)
2851 Camino Del Rio South, Suite 410
San Diego, CA 92108-

Attn: Maria Insixiengmay
(Maria.Insxiengmay@cc.sbcounty.gov)
County of San Bernardino, County Counsel
(via email)
385 N. Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140

Attn: Ernestina Provencio
(Ernestina.Provencio@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013-1230

Attn: Derek Hoffman, Esq.
(dhoffman@fennemorelaw.com)
Fennemore LLP (via email)
550 East Hospitality Lane
Suite 350
San Bernardino, CA 92408-4206

Attn: Michele Hinton, Ms.
(mhinton@fennemorelaw.com)
Fennemore LLP (via email)
2185 N California Boulevard
Suite 240
Walnut Creek, CA 94596-

Attn: Christopher Pisano, Esq.
(christopher.pisano@bbklaw.com)
Best, Best & Krieger LLP (via email)
300 South Grand Avenue
25th Floor
Los Angeles, CA 90071

Attn: Melissa A. Eldridge
(meldridge@bhfs.com)
Brownstein Hyatt Farber Schreck, LLP (via email)
1020 State Street
Santa Barbara, CA 93101-2711

Attn: William J. Brunick, Esq.
(bbrunick@bmklawplc.com)
Brunick, McElhaney & Kennedy PLC (via email)
1839 Commercenter West
P.O. Box 13130
San Bernardino, CA 92423-3130

Attn: Alexander Devorkin, Esq.
California Department of Transportation
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702

Attn: Andrew L. Jared, Esq.
(ajared@chwlaw.us)
Colantuono, Highsmith & Whatley, PC (via email)
790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101-2109

Attn: Carol A. Z. Boyd, Dep
(Carol.Boyd@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013-1230

Attn: Noah GoldenKrasner, Dep
(Noah.GoldenKrasner@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013-1230

Attn: Kelly Ridenour, Ms.
(kridenour@fennemorelaw.com)
Fennemore LLP (via email)
550 East Hospitality Lane
Suite 350
San Bernardino, CA 92408-4206

Attn: Marlene Allen Murray, Esq.
(mallenmurray@fennemorelaw.com)
Fennemore LLP (via email)
550 East Hospitality Lane
Suite 350
San Bernardino, CA 92408-4206

Attn: Vanessa Guillen-Becerra
(Vanessa.Becerra@bbklaw.com)
Best, Best & Krieger LLP (via email)
,

Attn: Stephanie Osler Hastings, Esq.
(SHastings@bhfs.com; mcarlson@bhfs.com)
Brownstein Hyatt Farber Schreck, LLP (via email)
1020 State Street
Santa Barbara, CA 93101-2711

Attn: Terry Caldwell, Esq.
Caldwell & Kennedy
15476 West Sand Street
Victorville, CA 92392

Attn: Nancy McDonough
(NMcDonough@cfbf.com)
California Farm Bureau Federation (via email)
2300 River Plaza Drive
Sacramento, CA 95833

Attn: Matthew T. Summers, Esq.
(msummers@chwlaw.us)
Colantuono, Highsmith & Whatley, PC (via email)
790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101-2109

Attn: Eric M. Katz, Dep
(Eric.Katz@doj.ca.gov)
Department of Justice (via email)
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013-1230

Attn: James S. Heiser, Esq.
Ducommun, Inc.
23301 S. Wilmington Avenue
Carson, CA 90745

Attn: Darien Key, Esq.
(dkey@fennemorelaw.com)
Fennemore LLP (via email)
2185 N California Boulevard
Suite 240
Walnut Creek, CA 94596-

Attn: Thomas G. Ferruzzo, Esq.
(tferruzzo@ferruzzo.com)
Ferruzzo & Ferruzzo, LLP (via email)
3737 Birch Street, Suite 400
Newport Beach, CA 92660

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Toby Moore, PhD, PG, CHG
(TobyMoore@gswater.com)
Golden State Water Company (via email)
160 W. Via Verde, Suite 100
San Dimas, CA 91773-

Attn: Michelle McCarron, Esq.
(mmccarron@gdblawoffices.com;
andre@gdblawoffices.com)
Green de Bortnowsky, LLP (via email)
30077 Agoura Court, Suite 210
Agoura Hills, CA 91301-2713

Attn: Andre de Bortnowsky, Esq.
(andre@gblawoffices.com)
Green de Bortnowsky, LLP (via email)
30077 Agoura Court, Suite 210
Agoura Hills, CA 91301-2713

Attn: Calvin R. House, Esq.
Gutierrez, Preciado & House
3020 E. Colorado BLVD
Pasadena, CA 91107-3840

Attn: Curtis Ballantyne, Esq.
Hill, Farrer & Burrill
300 S. Grand Avenue, 37th Floor
1 California Plaza
Los Angeles, CA 90071

Attn: Michael Turner, Esq.
(mtturner@kasdancdlaw.com)
Kasdan, LippSmith Weber Turner, LLP (via email)
19900 MacArthur Blvd., Suite 850
Irvine, CA 92612-

Attn: Mitchell Kaufman, Esq.
(mitch@kmcmlp.com)
Kaufman McAndrew LLP (via email)
16633 Ventura Blvd., Ste. 500
Encino, CA 91436-1835

Attn: Thomas S. Bunn, Esq.
(TomBunn@lagerlof.com)
Lagerlof, Senecal, Gosney & Kruse, LLP (via email)
301 N. Lake Avenue, 10th Floor
Pasadena, CA 91101-5123

Attn: Peter J. Kiel, Esq.
(pkiel@cawaterlaw.com)
Law Office of Peter Kiel PC (via email)
PO Box 422
Petaluma, CA 94953-0422

Attn: Vince Goble, Esq.
(vgoble@cawaterlaw.com)
Law Office of Peter Kiel PC (via email)
,

Attn: Fred J. Knez, Esq.
Law Offices of Fred J. Knez
3890 10 St., Riverside
Riverside, CA 92501-3520

Attn: Robert C. Hawkins, Esq.
Law Offices of Robert C. Hawkins
14 Corporate Plaza, Suite 120
Newport, CA 92660

Attn: Arthur G. Kidman, Esq.
(akidman@kidmanlaw.com)
McCormick, Kidman & Behrens (via email)
8 Corporate Park
Suite 300
Irvine, CA 92606-5196

Attn: Jeffrey D Ruesch
(watermaster@mojavewater.org)
Mojave Basin Area Watermaster (via email)
13846 Conference Center Drive
Apple Valley, CA 92307

Attn: Adnan Anabtawi
(aanabtawi@mojavewater.org)
Mojave Water Agency (via email)
13846 Conference Center Drive
Apple Valley, CA 92307

Attn: Frederic A. Fudacz, Esq.
(ffudacz@nossaman.com)
Nossaman LLP (via email)
777 South Figueroa Street, 34th Floor
Los Angeles, CA 90017-

Attn: Kieth Lemieux
(KLemieux@omlola.com)
Olivarez Madruga Lemieux O'Neill, LLP (via email)
500 South Grand Avenue, 12th Floor
Los Angeles, CA 90071-2609

Attn: Betsy Brunswick (bmb7@pge.com)
Pacific Gas and Electric Company (via email)
77 Beale Street, B28P
San Francisco, CA 94105-1814

Attn: Steven B. Abbott, Esq.
(sabbott@redwineandsherrill.com;
fluna@redwineandsherrill.com)
Redwine and Sherrill (via email)
3890 Eleventh Street
Suite 207
Riverside, CA 92501-

Attn: Joesfina M. Luna, Esq.
(fluna@redwineandsherrill.com)
Redwine and Sherrill (via email)
3890 Eleventh Street
Suite 207
Riverside, CA 92501-

Attn: Stephanie D. Nguyen, Esq.
(snguyen@reedsmith.com)
Reed Smith LLP (via email)
1901 Avenue of the Stars, Suite 700
Los Angeles, CA 90076-6078

Attn: Henry R. King, Esq.
(hking@reedsmith.com)
Reed Smith LLP (via email)
506 Carnegie Center, Suite 300
Princeton, NJ 08540-

Attn: James L. Markman, Esq.
Richards, Watson & Gershon
1 Civic Center Circle
P.O. Box 1059
Brea, CA 92822-1059

Attn: Marisol Martinez
(mmartinez@rutan.com)
Rutan & Tucker (via email)
18575 Jamboree Road, 9th Floor
Irvine, CA 92612-

Attn: Jeremy Jungreis, Esq.
(jjungreis@rutan.com)
Rutan & Tucker (via email)
18575 Jamboree Road, 9th Floor
Irvine, CA 92612-

Attn: Randall R. Morrow, Esq.
Sempra Energy Law Department
Office of the General Counsel
555 West Fifth Street, Suite 1400
Los Angeles, CA 90013-1011

Attn: Shannon Oldenburg, Esq.
(shannon.oldenburg@sce.com)
Southern California Edison Company
Legal Department (via email)
P.O. Box 800
Rosemead, CA 91770

Mojave Basin Area Watermaster Service List as of August 26, 2026

Attn: Rick Ewaniszyk, Esq.
The Hegner Law Firm
14350 Civic Drive
Suite 270
Victorville, CA 92392

Attn: Agnes Vander Dussen Koetsier
(beppeauk@aol.com)
Vander Dussen Trust, Agnes & Edward (via
email)
P.O. Box 5338
Blue Jay, CA 92317-

Attn: Robert C. Wagner, P.E.
(rcwagner@wbecorp.com)
Wagner & Bonsignore
Consulting Civil Engineers (via email)
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833-4133

Attn: Jim Blanke
(jblanke@woodardcurran.com)
Woodard & Curran (via email)

,