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8 SHADOW MOUNTAIN RANCH, LLC

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF RIVERSIDE

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

13  
14 MOJAVE BASIN WATER CASES

15  
16 THE MOJAVE WATER AGENCY, AS THE  
MOJAVE BASIN AREA WATERMASTER,

17 Plaintiff,

18 vs.

19 All persons who are not presently parties to the  
20 comprehensive groundwater adjudication in *City*  
*of Barstow, et al., v. City of Adelanto, et al.*,  
21 Riverside Superior Court Case No. CIV208568,  
and are either producing more than 10 acre-feet  
22 of Basin groundwater annually, or using Basin  
groundwater for unlawful purposes, and Does 1  
23 through 2,000,

24 Defendants.

JCCP5265  
CIV208568 (LEAD CASE NUMBER)

Dept. 1, Riverside Superior Court  
Hon. Harold W. Hopp, Judge Presiding

Case No. CIVSB 2218461

**DECLARATION OF ALISON K.  
TOIVOLA IN SUPPORT OF  
DEFENDANT SHADOW MOUNTAIN  
RANCH, LLC'S DEMURRER TO  
MOJAVE WATER AGENCY'S FIRST  
AMENDED COMPLAINT**

*[Filed concurrently with:*

- 1. Demurrer; and*
- 2. Proposed Order.]*

Date: August 9, 2024

Time: 8:30 a.m.

Dept.: 1

**RESERVATION NO.: 668225533612**

Action Filed: May 30, 1990

**DECLARATION OF ALISON K. TOIVOLA**

I, Alison K. Toivola, declare as follow:

1. I am an attorney at law licensed to practice in the State of California. I am an attorney with Best Best & Krieger LLP, attorneys of record for Defendant Shadow Mountain Ranch, LLC (“SMR”). I have personal knowledge of the facts set forth herein and if called and sworn as a witness, could and would testify competently thereto.

2. SMR has repeatedly warned Plaintiff Mojave Water Agency (“MWA”) of the fatal defects inherent in MWA’s First Amended Complaint (“FAC”).

3. Our firm has communicated with Lee McElhaney, counsel for MWA, at various times and informed him of these deficiencies.

4. On April 2, 2024, SMR filed its Opposition to MWA’s motion for leave to file the FAC, identifying several of these deficiencies.

5. On February 2, 2024, SMR filed its Objections to MWA’s improper introduction of evidence on reply (e.g., MWA’s procedurally improper attempt to request leave to file the FAC via reply briefing), which also identified several of these deficiencies.

6. Many of the same underlying facts and legal arguments were presented in SMR’s initial November 2, 2023, motion requesting interpretation of the Judgment. Counsel for the parties discussed these facts and legal arguments on several phone calls in 2023.

7. Accordingly, MWA and its legal counsel have been aware of the fatal defects in MWA’s FAC for many months.

8. I called Mr. McElhaney on July 1, 2024, to confer once more regarding the Demurrer. We engaged in subsequent e-mail correspondence. The parties were unable to resolve their disagreements concerning the FAC, and SMR properly proceeded to file the Demurrer.

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

Executed this 9th day of July 2024, at Bend, Oregon.

By:   
Alison K. Toivola

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**PROOF OF SERVICE**

I, Vanessa Guillen-Becerra, declare:

I am a citizen of the United States and employed in San Bernardino County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2855 E. Guasti Road, Suite 400, Ontario, California 91761. On July 9, 2024, I served a copy of the within document(s):

**DECLARATION OF ALISON K. TOIVOLA IN SUPPORT OF DEFENDANT SHADOW MOUNTAIN RANCH, LLC'S DEMURRER TO MOJAVE WATER AGENCY'S FIRST AMENDED COMPLAINT**


- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Ontario, California addressed as set forth below.
- by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a \_\_\_\_\_ agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

*Please see attached Service List.*

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on July 9, 2024, at Fontana, California.

  
\_\_\_\_\_  
Vanessa Guillen-Becerra

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**Service List**

*In re Mojave Water Agency v. All Persons who are not Presently Parties to the Judgment  
San Bernardino County Superior Court, Case No. CIVSB 2218461*

**Via E-Mail**

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*Attorneys for* CITY OF VICTORVILLE

## PROOF OF SERVICE

STATE OF CALIFORNIA     }  
COUNTY OF SAN BERNARDINO}

I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 13846 Conference Center Drive, Apple Valley, California 92307.

On July 10, 2024, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing each document being served, to each Party or its designee according to the official service list, a copy of which is attached hereto, and which shall be maintained by the Mojave Basin Area Watermaster pursuant to Paragraph 37 of the Judgment. Served documents will be posted to and maintained on the Mojave Water Agency's internet website for printing and/or download by Parties wishing to do so.

Document(s) filed with the court and served herein are described as follows:

### **Declaration of Allison K. Toivola in Support of Defendant Shadow Mountain Ranch, LLC's Demurrer to Mojave Water Agency's First Amended Complaint**

  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 July 10, 2024 at Apple Valley, California.



---

David Seielstad

## Mojave Basin Area Watermaster Service List as of July 10, 2024

Attn: Roberto Munoz  
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Chuckb193@outlook.com)  
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Attn: Daisy Cruz  
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Frates, D. Cole (via email)  
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Attn: Deborah A. Friend  
Friend, Joseph and Deborah  
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Attn: Mark Asay (bettybrock@ironwood.org;  
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Fundamental Christian Endeavors, Inc. (via email)  
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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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9366 Joshua Avenue  
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Attn: Jay Storer  
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10551 Dallas Avenue  
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223 Rabbit Trail  
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Attn: Jeffrey Edwards  
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Handrinos, Nicole A.  
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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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Attn: Jeff Gallistel  
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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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Attn: Nick Higgs  
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## Mojave Basin Area Watermaster Service List as of July 10, 2024

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