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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF RIVERSIDE**

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

14 MOJAVE BASIN WATER CASES

15 CITY OF BARSTOW, et al.,

16 Plaintiff,

17 vs.

18 CITY OF ADELANTO, et al.,

19 Defendant,

20
21
22
23 AND RELATED CROSS ACTIONS

JCCP NO.: 5265

Lead Case No.: CIV 208568

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

**DECLARATION OF ROBERT C.
WAGNER, P.E. IN SUPPORT OF
WATERMASTER'S OPPOSITION TO
GOLDEN STATE WATER COMPANY'S
MOTION TO ENFORCE JUDGMENT**

Assigned for All Purposes to:
Hon. Craig G. Riemer, Judge Presiding

DATE: October 2, 2024

TIME: 8:30 AM

DEPT: 1

Reservation ID: 562595011427

24
25 I, Robert C. Wagner, declare as follows:

26 I serve in the capacity of Engineer for the Mojave Basin Area Watermaster. I have personal
27 knowledge of the matters set forth herein and, if called as a witness, I could and would testify
28 competently thereto.

1 The Technical Memorandum (TM, September 17, 2024), prepared by me and under my
2 supervision and attached hereto as Exhibit 1, evaluates the Expert Report dated September 2024,
3 prepared by Aquilogic and submitted by Golden State Water Company with its motion to enforce the
4 Judgment.

5 The TM presents an analysis of the conditions of the Mojave River near Helendale Fault (HF),
6 presents estimates of flow across the HF over various time periods, documents the stability of water
7 levels at and near the HF, presents alternatives to the Aquilogic conclusion that diminished flow into
8 Centro from the Transition zone is the reason that Golden State Water Company wells are experiencing
9 water level declines and presents data and information of the normally dry stream channel conditions of
10 the Mojave River between the HF and Barstow.

11 The TM also includes information about Mojave Water Agency and Watermaster's efforts to
12 expand the Upper Mojave River Basin Model, improve data collection, installation of a stream gaging
13 station between the HF and Barstow, and performance of geophysical investigations.

14 In the furtherance of the foregoing, I have reviewed the water level hydrographs for the TZ. The
15 hydrographs are published by Watermaster annually in its Annual Report to the Court and are posted on
16 the Mojave Water Agency website and are also included herein as Exhibit A to the TM. The TZ
17 hydrographs support the Watermaster's conclusion that over time, the TZ water levels have been stable
18 indicating that there is limited change in storage with the TZ.

19 During dry periods, there is some depletion in storage due to consumptive use of water by riparian
20 habitat, domestic, municipal, recreation and a small amount of agricultural use. This depletion is
21 replaced when flow in the river increases in the fall and winter of each year and following storm events.
22 The amount of the depletion is equal to the consumptive uses; this is evidenced by the stability over time
23 of the water levels, within the TZ and at and near the HF. Thus, the changes in storage in the TZ are
24 cumulatively zero or near zero over time.

25 Consequently, the calculation of flow at HF for average flow from TZ to Centro based on the
26 equation $\text{Inflow} - \text{Outflow} = \text{Change in Storage}$, where Change in Storage is zero over a long time period,
27 is valid. Under the conditions identified in the TM, the average annual flow to Centro will be about
28 36,000 acre-feet, consistent with estimates made by others since the period 1936-1961.

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The expanded model will be a useful tool to estimate flow at boundaries like the TZ to Centro
and to predict water level changes into the future of basin management.

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

Dated: September 18, 2024

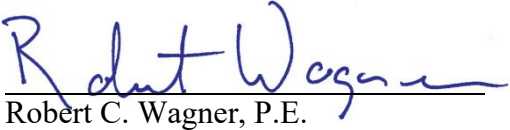

Robert C. Wagner, P.E.

EXHIBIT 1

Wagner & Bonsignore

Consulting Civil Engineers, A Corporation

Nicholas F. Bonsignore, P.E.
Robert C. Wagner, P.E.
Paula J. Whealen

Martin Berber, P.E.
Patrick W. Ervin, P.E.
David P. Lounsbury, P.E.
Vincent Maples, P.E.
Leah Orloff, Ph.D., P.E.
David H. Peterson, C.E.G., C.H.G.
Ryan E. Stolfus

TECHNICAL MEMORANDUM

To: Mr. Lee McElhaney
Attorney, Mojave Basin Area Watermaster
Brunick, McElhaney & Kennedy
lmcelhaney@bmklawplc.com

From: Robert Wagner, P.E., A. Leonardo Urrego-Vallowe

Date: September 17, 2024

Re: **Aquilogic Expert Report, September 2024**

This Technical Memorandum summarizes and responds to the statements and conclusions presented by Aquilogic in their Expert Report (September 2014) on behalf of Golden State Water Company (GSWC). In summary, the Expert Report provided opinions and recommendations from two experts, analyzed the water budgets prepared by Watermaster Engineer, and conducted a statistical analysis of water levels in Centro. The statistical analysis evaluated the Mann-Kendall(MK) correlation/trend tests for seventeen active GSWC wells for water levels versus time and water levels versus total pumping. Many of the issues raised in the Aquilogic Expert Report, are similar to or variations of the same arguments and analysis previously presented by Aquilogic on February 28, 2024.

Watermaster Engineer provided a detailed response to GSWC (Aquilogic) in a Technical Memorandum (TM) to Mr. Lee McElhaney Attorney, Mojave Basin Area Watermaster dated April 12, 2024. We provide additional details in this memorandum as well as incorporating by reference data and information in our April 12, 2024 TM.

Opinions Expressed by Aquilogic

The Expert Report presented several opinions prepared by Mr. Anthony Brown and Mr. Robert Abram, wherein they claim groundwater levels in Centro have been decreasing as a result of either excessive discharge (over pumping) and/or insufficient recharge in Centro. As explained herein the Expert Report does not consider other possible causes of water level decline in the GSWC wells.

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The Expert Report concluded that the decline in observed groundwater levels at the GSWC's production wells is not a result of over-pumping. Instead, the Expert Report indicated that it is more likely the result of decreased recharge to Centro from Alto.

Flow from Alto to Centro (Helendale Fault)

The Transition Zone, or TZ (area between the Alto and Centro Subareas) includes about 15 miles of Mojave River channel between the Lower Narrows, Mojave River, and the Helendale Fault; a geologic structure separating Alto and Centro Subareas. There is a United States Geological Survey (USGS) stream gage at the Lower Narrows. Surface flows across the Helendale Fault, that become recharge to the Centro subarea, are episodic, resulting from large infrequent storm events.

Flow at the Helendale Fault (HF) has been estimated by various researchers over time. Shown below are estimates of average annual flow at HF for different time periods:

California Department of Water Resources, (1967) for the period 1936-1961 = **35,500 AF**

USGS, (Stamos, 2001) for the period 1951-1999 = **35,819 AF**

Albert A. Webb and Associates (Webb, 2000) 1931-1990 = **36,700 AF**

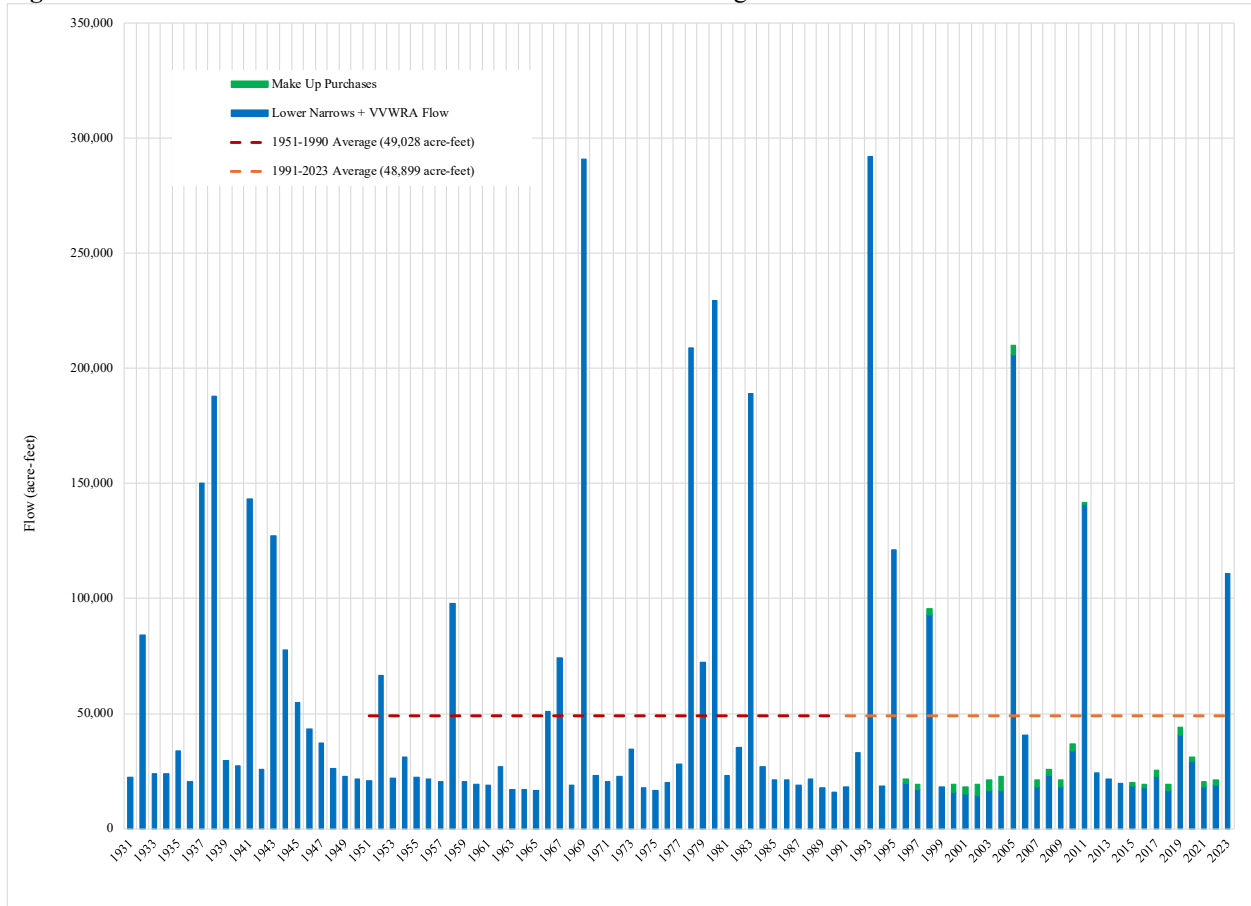
Watermaster (2024), 1991-2023 = 34,900 AF plus 2,305 AF Make Up water purchases = **37,205 AF**.

Thus, total average annual surface flows from the TZ into the Centro subarea, as estimated at Helendale Fault have not changed significantly since at least the period 1936-1961.

Measured Surface Flow into the TZ

Surface flow into the TZ is measured by USGS at the Mojave River Lower Narrows, near Victorville (measurements made weekly by USGS staff). Treated sewer effluent is measured and discharged by the Victor Valley Wastewater Reclamation Authority (VWVRA) into the TZ. Shown below as Figure 1 is a graph of the measured flow at Lower Narrows, and the measured VWVRA discharges since 1951. Treated effluent discharge to the river began in about 1981.

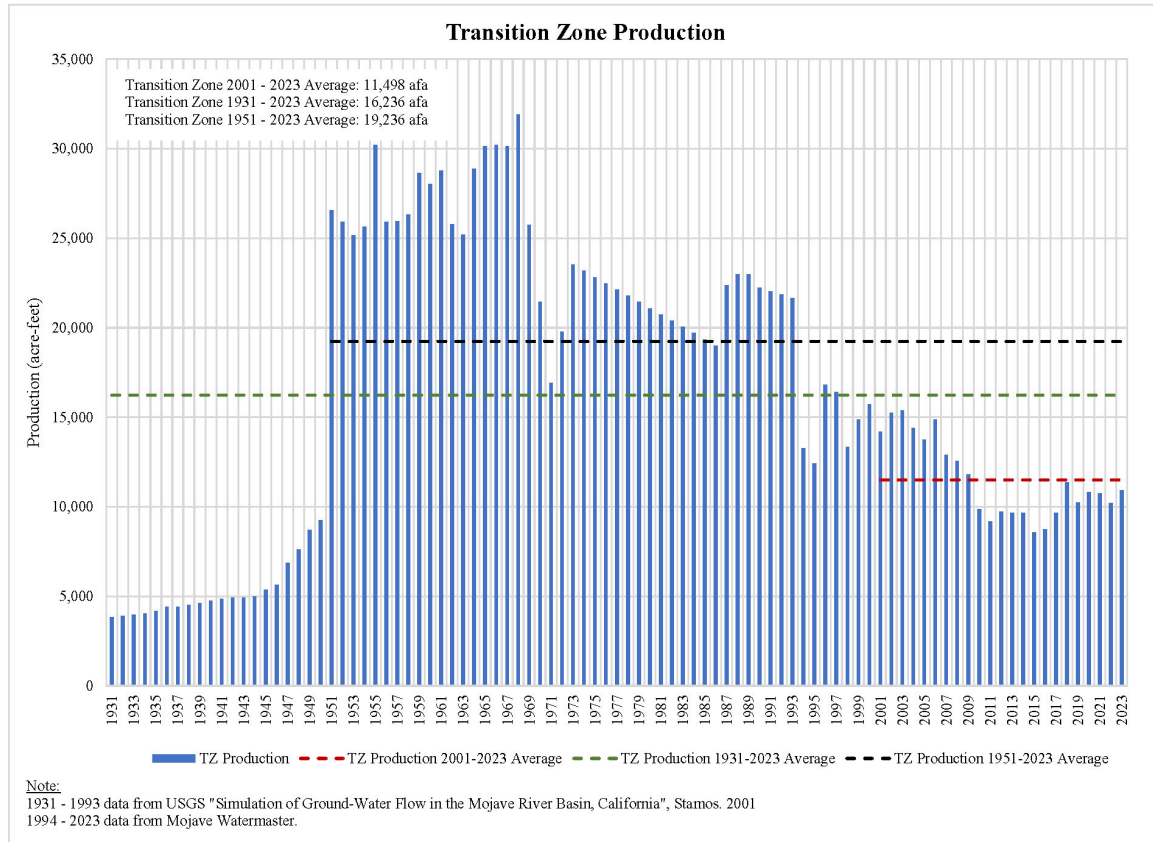
Figure 1. Total stream flows at Lower Narrows + VVWRA Discharge



As shown above, the average inflow to the TZ between 1951 and 1990 (49,028 AF), and between 1991 and 2023 (48,899 AF) is little changed (-0.26%). The graphic (Figure 1) is based on measurements as reported by USGS and VVWRA, and not on any estimates made by Watermaster.

Further, pumping in the TZ has declined significantly from the past. The graphic below shows changes in pumping within the TZ:

Figure 2. Historic groundwater pumping in the Transition Zone.



Average annual pumping in the TZ declined by 40.2% from the period 1951-2023 to the 2001-2023 period. Pumping during 2023 was 10,039 AF, and consumptive use of pumping (losses) were about 6,859 AF. Phreatophyte use, which also contributes to losses in the TZ was about 5,702 AF in 2023.¹ If the future average annual flow into the TZ, is similar to the past (about 48,899 AF) and consumptive uses are about the same as they are now, *average annual* outflow to Centro will be about 36,338 AF.

The average annual water supply into the TZ has remained constant over time, and the water demands have fallen. This has resulted in stable water levels in the TZ, allowing storms to pass to Centro; consequently, the estimated flow across the HF is about the same now as in the past. This condition is reflected in the TZ water levels as presented in the Watermaster’s Annual

¹ Phreatophytes consumptive use is calculated by Watermaster on an annual basis based on values reported in "Evapotranspiration Water use Analysis of Saltcedar and Other Vegetation in the Mojave River Flood plain, 2007 and 2010, Mojave Water Agency Water Supply Management Study, Phase I Report". Values are adjusted to annual climatological conditions.

Report (Figures 3-7, 3-8 and 3-9). The compilation of hydrographs in the TZ are included herein as Exhibit A.

The change in storage in the TZ over time has been relatively constant, meaning water levels show limited variability over time. The Centro Subarea hydrographs shown in Exhibit B show the sites located in the vicinity of the TZ in the Centro subarea (downstream of the Helendale Fault). These hydrographs show groundwater elevations to be relatively stable over time (08N04W21M-01-04 [Exhibit C], 08N04W12Q01 [Exhibit D], 08N03W04A07 [Exhibit E]). Exhibits A, B, C, D, and E all show stability of the groundwater levels within the TZ. Specifically, wells located in the Centro subarea closest to the TZ, as reflected in Exhibits C, D, and E indicate stable water levels, also the average surface inflow to the TZ (Figure 1) has not changed from 1951 to 2023. This confirms that the historical flows to the Centro Subarea have not been significantly reduced. Therefore, we conclude that the flow across the Helendale Fault has remained consistent as evidenced by these exhibits.

Importantly, the river reach between the HF and Barstow is normally a dry channel. Figure 3 is an aerial image showing the extent of the river reach between the HF and Barstow; the photo is dated August 22, 1969. Notably water year 1969 was an extreme flow event on the Mojave River. The flow at Barstow that year was reported by USGS to be (146,000 AF). Figure 4 shows the same reach of the river in 2022 following several years of drought. As noted, the channel in the photo is dry. This is the normal condition of the channel between the HF and Barstow (a distance of about 20 miles). There is only continuity of surface flow between the HF and Barstow during extreme storm events. During dry periods, sometime lasting many years, there is no flow in this reach of the river.

The statistical analysis presented by Aquilogic, intending to correlate pumping and water level change, and concluding that diminished flow into Centro must be the reason for declining water level in the GSWC wells, ignores time and distance, in its conclusion. As indicated above the average annual flow at HF is about 36,000 AF per year and has not significantly changed over time. In any given year, the flow will be substantially less than or greater than 36,000 AF, and in fact, it is likely to be low in some years. But the limited variability in water levels in the TZ as reflected in the hydrographs indicates little if any change in storage within the TZ over time; hence storms pass through the TZ in much the same way as they have in the past.

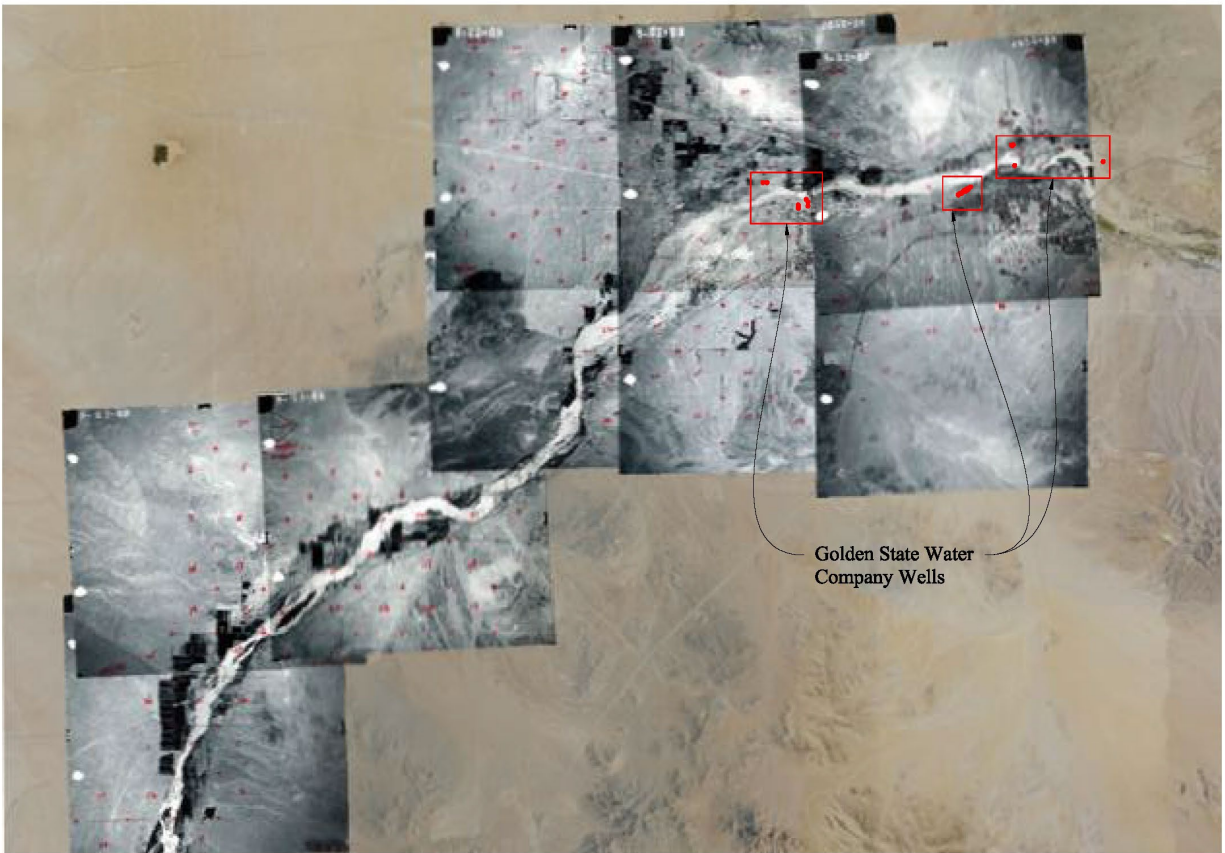


Figure 3. Aerial imagery of the area of interest taken in 1969 with the 2022 background image.

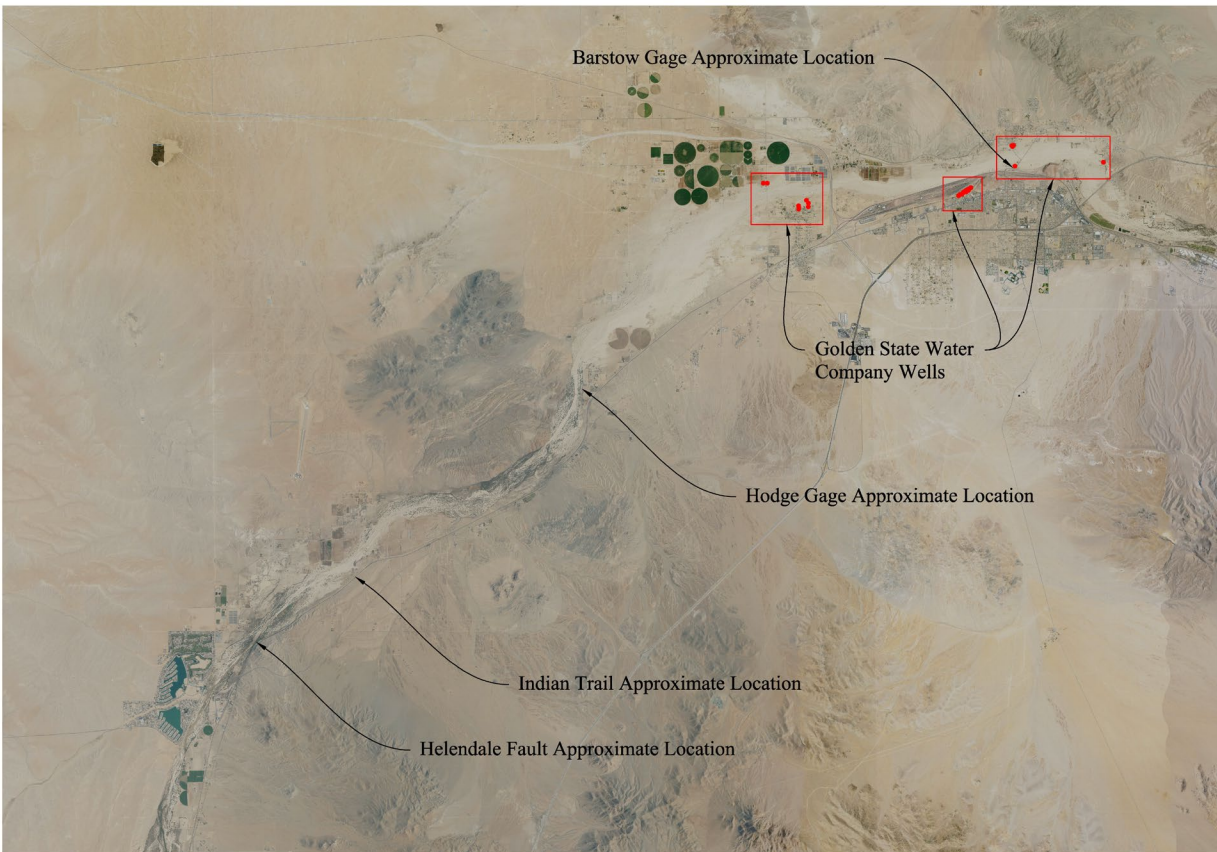


Figure 4. Aerial imagery of the area of interest taken in 2022.

Statistical Analysis From Expert Report

Section 5 of the Expert Report is the analysis of water levels in the GSWC production wells. The figures shown in the Expert Report contain monthly Mojave River flows, measured at the Lower Narrows stream gage. The Expert Report provides a qualitative analysis of the relationship of stream flows and depth to water by stating that depth to water generally decreases during and after large storm events, (i.e., groundwater levels rise when Mojave River flows are higher). However, this does not support the Expert Report conclusion that the flow that enters Centro from the Transition Zone has been declining over the years. The correlation between groundwater level rise and flows in the Mojave River is well known and is not disputed by the Watermaster. What is not addressed by the Expert Report is that the portion of streamflow that can eventually reach GSWC's extraction wells depends on a complex set of processes that a simple correlation cannot capture. These processes include but are not limited to flow-impeding faults, frequency and intensity of the storms, prior state of the basin (due to dry conditions and past pumping patterns), groundwater flow patterns and transmissivity distribution (ability of the

sediments to transmit water). An intense and fast-moving storm might generate less recharge and generate more surface outflow from Centro to Baja. Also, as noted above, the normally dry channel between HF and Barstow will induce more recharge in that area.

The Expert Report's statistical analysis of depth to water versus pumping is based on the hypothesis that if chronic water level decline is due to over-pumping alone, there should be a correlation between pumping and depth to water. Similarly to the explanation given in the previous paragraph, this approach overlooks the complexity of the aquifer system and the processes that determine water levels. Also, the correlation presented by the Expert Report are calculated using pumping rate from the well where the water level is measured. Such an approach overlooks the fact that a well can be influenced by pumping from other wells in the basin or even the same wellfield. Even with this approach the results are not convincingly conclusive as 5 out of 17 wells are indicated to have statistically significant correlations/trends that show depth to water decreasing (water level rises) as pumping magnitude increases which shows that the aquifer system has more complexity than this simplified method can capture. Ultimately the lack of a clear correlation between water levels and pumping does not prove that chronic decline of water levels in the GSWC wells is due to a decline of inflow into Centro. Other explanations that take into account the complexity of the basin should be considered. As an example, a well-calibrated model is a much better tool for this type of study as it incorporates the actual physical laws of groundwater flow, surface geology, and hydro-stratigraphy (geometry and extent of aquifers).

Importantly, there are many other possible reasons for water level declines in the GSWC wells other than the conclusion in the Expert Report, i.e. that the only possible reason is reduced outflow to Centro from Alto. For example:

- 1) The conclusion is incorrect based on the correlation; 5 of 17 wells indicate water level increases with pumping
- 2) Pumping by other wells in the area influence the GSWC water level measurements
- 3) Recharge between the HF and Barstow due to its dry channel characteristics and decades of pumping between 1950 and 1990
- 4) Export of domestic return flow to the Barstow WWTP located downstream near the Baja Centro boundary
- 5) Concentrated pumping within the narrow cross section, fault bounded area near GSWC's production wells and others
- 6) Pumping by nearby Agricultural interest that purchase excess Free Production Allowance from GSWC
- 7) Recharge lost to the north around Iron Mountain and through the Hinkely Gap, both toward Harper Lake

Table 4-3 of the Expert Report, Aquilogic described the various components of the estimated water budget for the Transition Zone. On this table, Aquilogic marked some entries as “Assumed”. The “assumed” entries include the subsurface outflows (2,000 AFY), and the Consumptive Use by phreatophytes (6,000 AFY). Subsurface outflows are not assumed. This value was established by the parties to the Judgment. The Consumptive Use by phreatophytes was determined by the Lines and Bilhorn study from 1996 and is considered representative of long-term conditions in the area. These amounts were agreed to by the parties and California Department of Fish and Wildlife.

The Expert Report states that Watermaster’s calculations of the amount of consumptive use by agriculture and phreatophytes are based on outdated studies and techniques and recommend the use of satellite remote sensing data to redefine the estimates of ET. The Expert Report recommends Watermaster consider installing a new stream gage near the Helendale Fault. If this is determined to be infeasible, the Expert Report recommends the use of remote sensing to approximate the Mojave River flow discharge, and the approximations can be calibrated with stream gage measurements at the existing USGS gages (Lower Narrows, Hodge, and Barstow).

In response to these recommendations, Watermaster has not refused and is not opposed to use of remote sensing technologies to improve and/or update estimates of consumptive use by agriculture and phreatophytes. Watermaster is working on studying the riparian vegetation using satellite-based remote sensing tools to update consumptive use values for Phreatophytes.

We note that making reliable measurements in wide sandy unstable channels like the Mojave River is challenging as the channel geometry, a critical element in stream flow calculation is constantly changing. Furthermore, the episodic occurrence of flow makes direct measurements, upon which reliable stream gage calculations also depend, hard to collect, as predicting when to mobilize staff to make a measurement is dependent on the episodic nature of the flow in the river. Static measurements (staff gage) or remote sensing techniques, will be highly unreliable in such environments. Regarding the use of remote sensing to approximate the Mojave River flow discharge, Watermaster will study this recommendation and implement this as appropriate or necessary.

Watermaster has met with representatives of GSWC several times in the past in a series of meetings that were interrupted by the Covid pandemic:

- June 11, 2019, MWA Office 1-3 p.m. (MWA staff and GSWC staff and attorney)
- October 23, 2019, MWA Office, 1:30 – 3:30 p.m. (MWA staff and GSWC staff and attorney)
- February 10, 2022, Helendale Field Trip, (Allison Febbo/Tony Winkle, Dave Peterson, WBE, with Toby Moore and GSWC staff)

Among issues raised by GSWC, were the installation of an additional stream gaging station, and geophysical investigations.

Subsequently, MWA, installed a stream gage at Hinkley Road near Hodge, upstream of the GSWC wells. MWA also conducted extensive geophysical investigations (approximately \$150,000) in the area of Helendale.

MWA also imported 1,994 AF of water in 2022 to address impacts to GSWC wells due to drought. That water was delivered to the Lenwood recharge site that benefits the area where GSWC wells are located. During 2023 MWA imported 9,229 AF to the Hodge and Lenwood recharge sites near GSWC wells. The total amount imported to the Mojave Basin Area was 94,690 AF.

MWA is also working to expand its current Upper Mojave River Basin Model which will include the TZ, Centro, and Baja subareas. In June of 2024 we informed the Court that this work was in progress and scheduled to be completed by the end of 2024 (The Mojave Regional Groundwater Model). The model expansion will inform the estimates of flow into the Centro subarea, the water balance in the TZ, and provide tools for evaluating recharge and pumping scenarios for optimal basin management.

Enclosures:

Exhibit A – Alto Transition Zone Hydrographs 2024

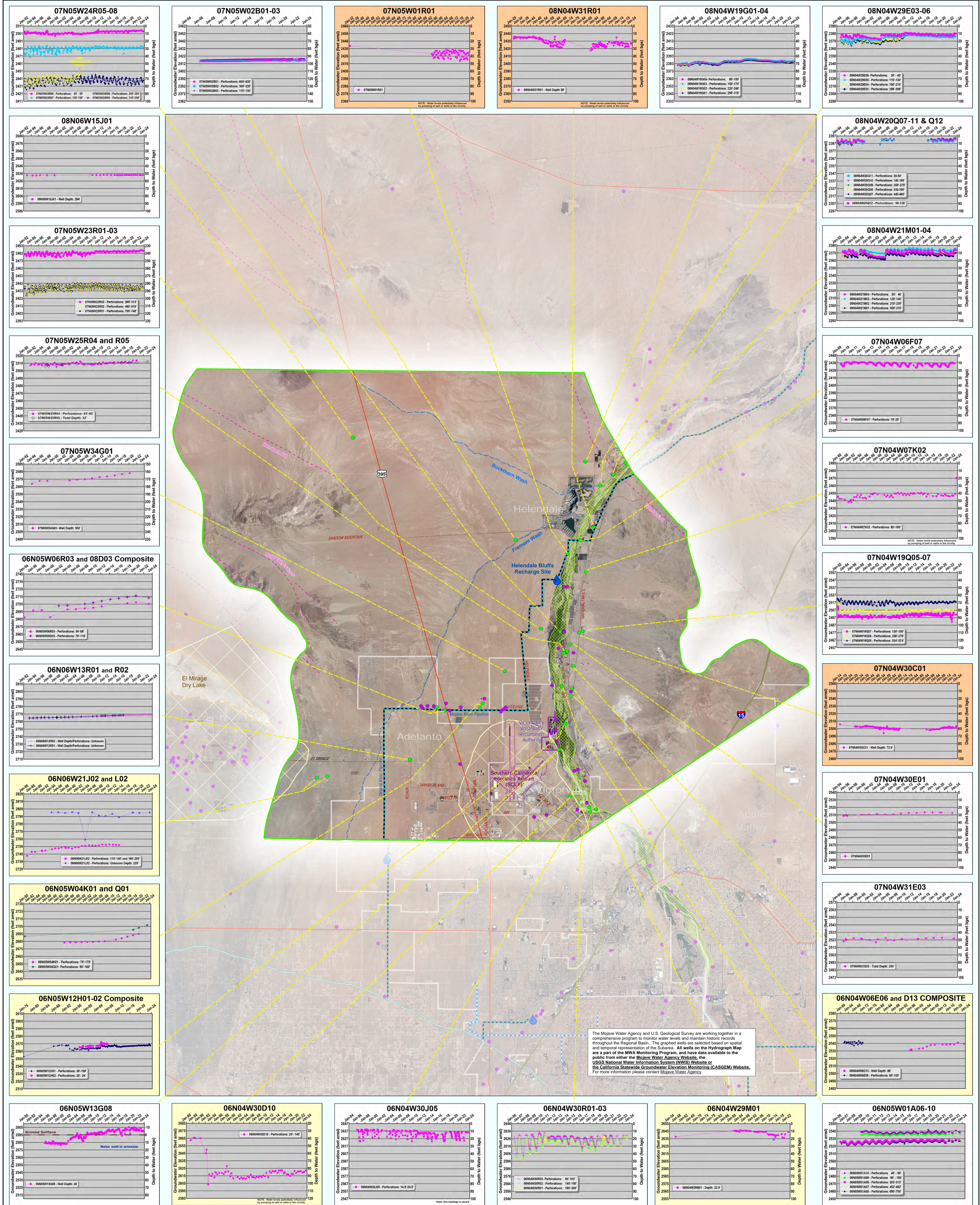
Exhibit B – Centro Subarea Hydrographs 2024

Exhibit C – Centro Subarea 08N04W21M01_04 Hydrographs

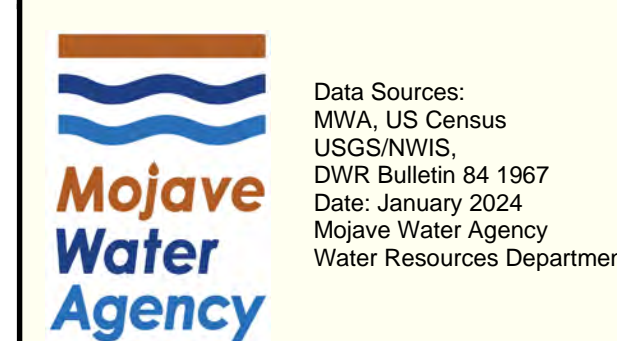
Exhibit D – Centro Subarea 08N4W12Q01 Hydrograph

Exhibit E – Centro Subarea 08N03W04A07 Hydrograph

EXHIBIT A



The Mojave Water Agency and U.S. Geological Survey are working together in a comprehensive program to monitor water levels and maintain historic records throughout the Regional Basin. The graphed wells are selected based on spatial and temporal representation of the Subarea. All wells on the Hydrograph Map are a part of the MWA Monitoring Program, and have data available to the public from either the Mojave Water Agency Website, the USGS National Water Information System (NWIS) Website or the California Statewide Groundwater Elevation Monitoring (CASGEM) Website. For more information please contact Mojave Water Agency.

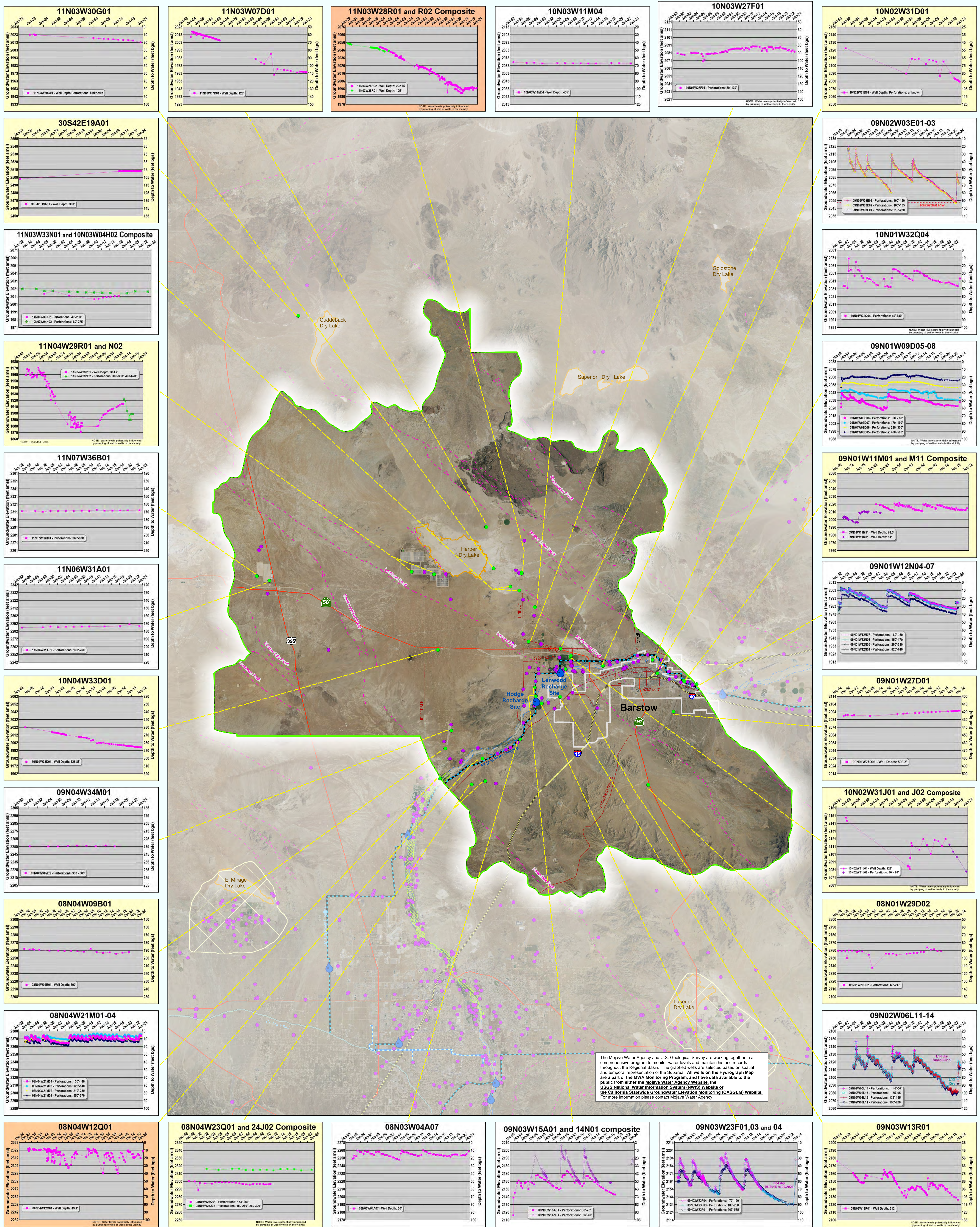


- Graphed Wells
- MWA Monitoring Program Wells
- CA Geologic Faults (CGS, USGS)
- USGS Perched Water Table
- MWA Potable Pipeline
- MWA Recharge Pipeline

Alto Subarea Transition Zone Hydrographs 2024

- Recent record
- Long-term record (begins ~1950 to ~1980)
- Very long-term record (begins ~1920)

EXHIBIT B



Mojave Water Agency
 Data Sources:
 MWA, US Census
 USGS/NWIS
 DWR Bulletin 64 1967
 Date: January 2024
 Mojave Water Agency
 Water Resources Department

● Graphed Wells
● MWA Monitoring Program Wells
● MWA Recharge Site
— CA Geologic Faults (CGS, USGS)
— MWA Potable Pipeline
— MWA Recharge Pipeline
 Exhibit H Riparian Habitat Area
 USGS Perched Water Table

Centro Subarea Hydrographs 2024

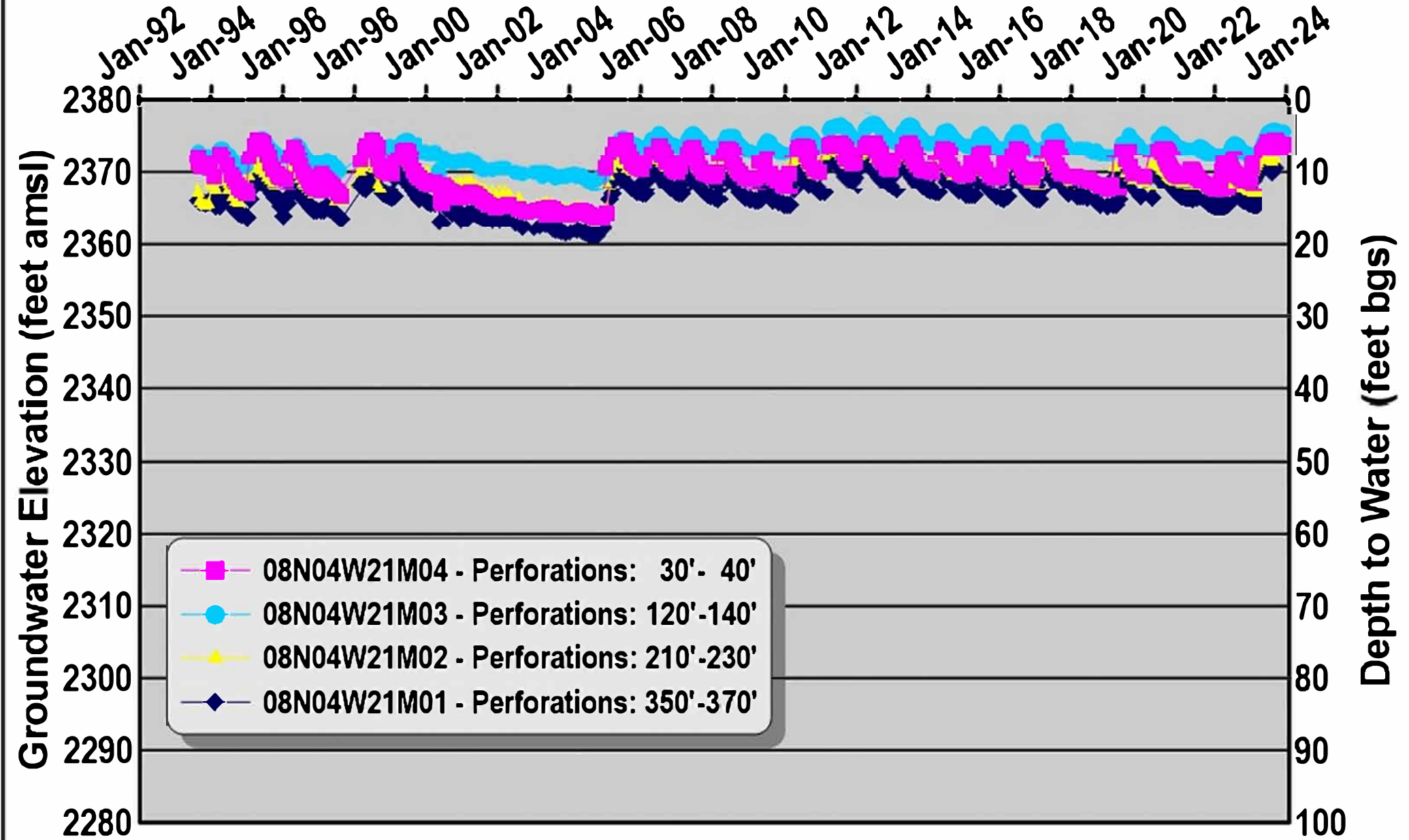
 Recent record
 Long-term record (begins ~1950 to ~1980)
 Very long-term record (begins ~1920)

0 1 2 4
 Miles

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EXHIBIT C

08N04W21M01-04

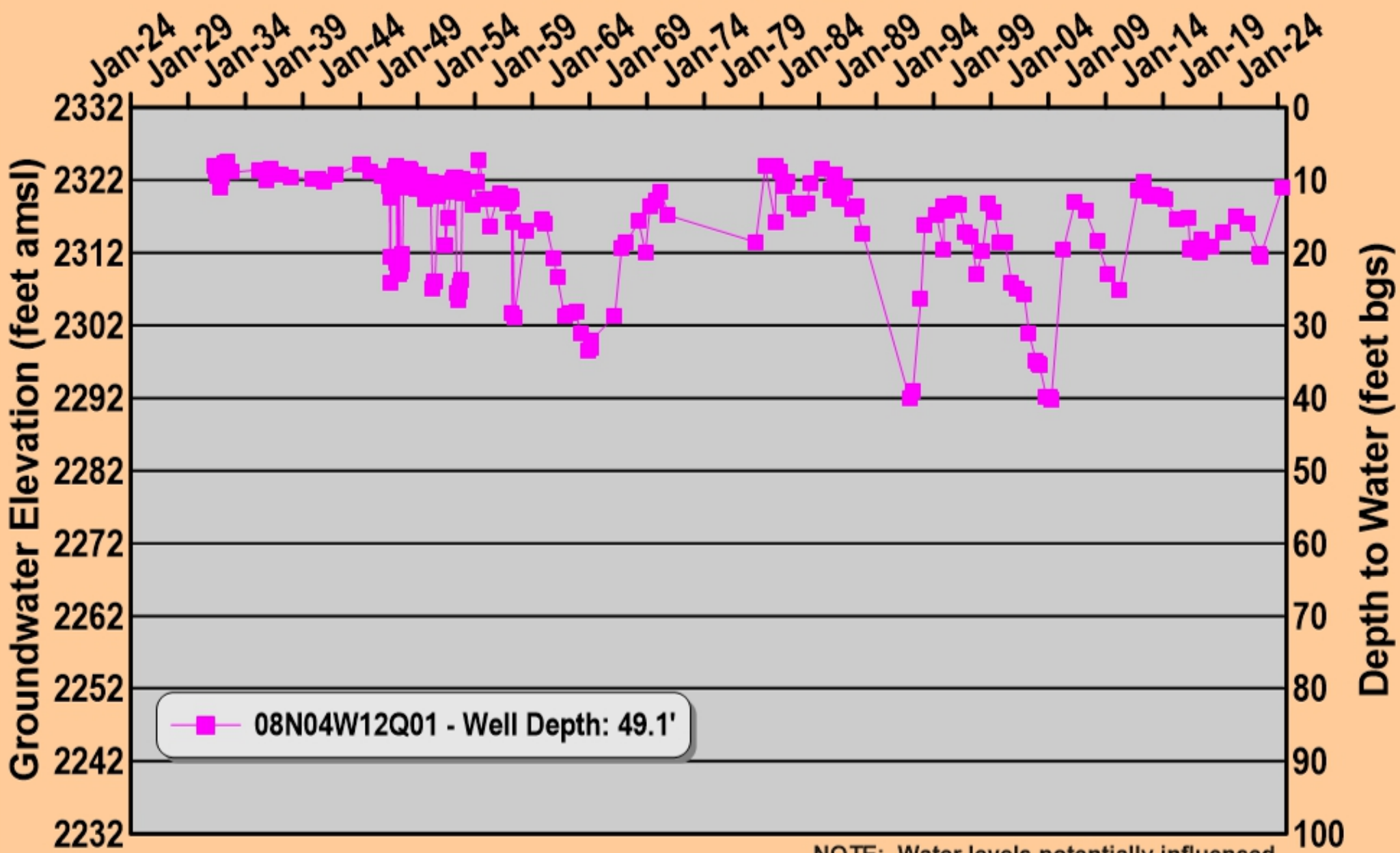


At or near the Helendale Fault

Exhibit C

EXHIBIT D

08N04W12Q01



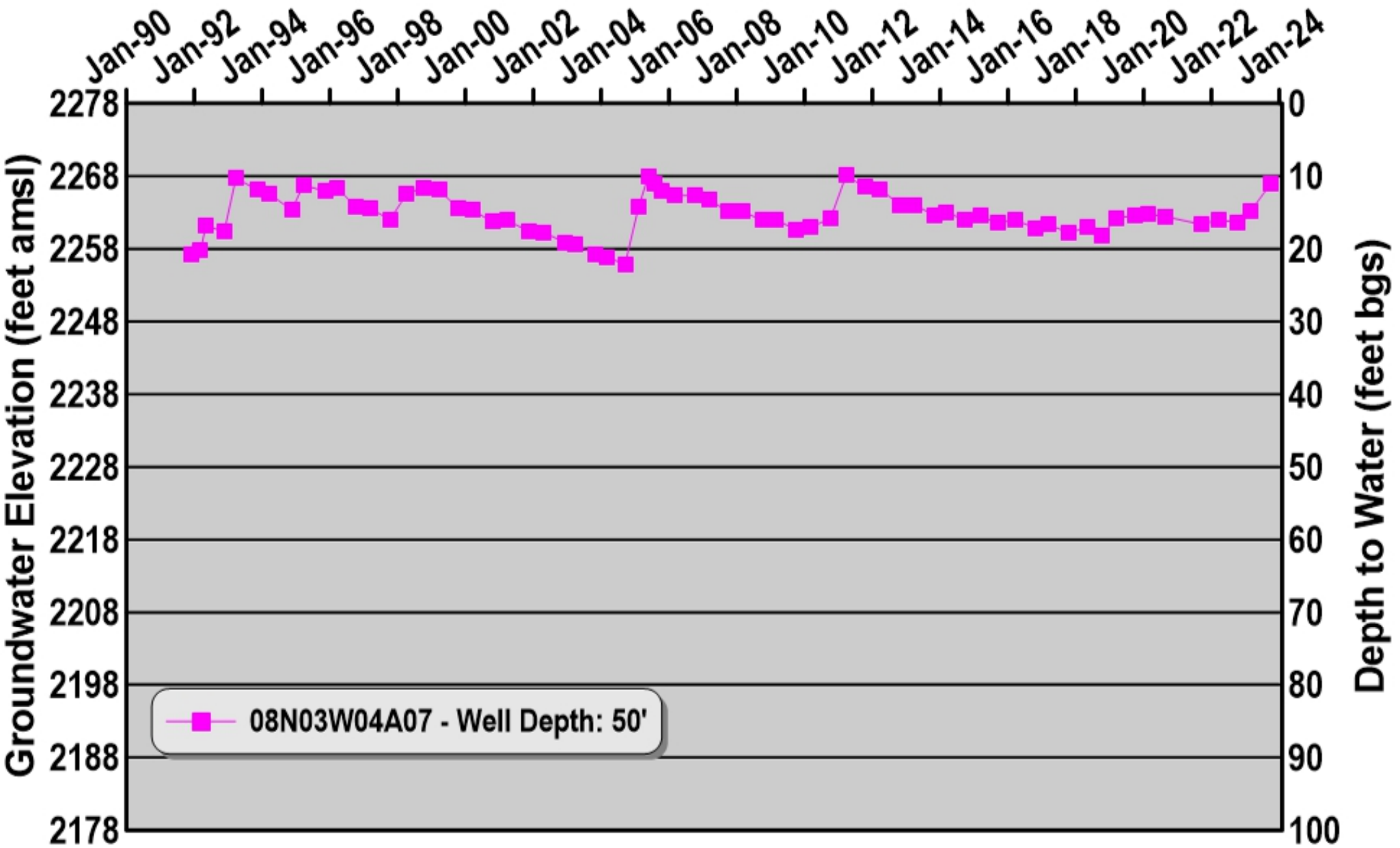
NOTE: Water levels potentially influenced by pumping of well or wells in the vicinity

About 4.5 miles downgradient from the Helendale Fault

EXHIBIT D

EXHIBIT E

08N03W04A07



At or near the Helendale Fault

EXHIBIT E

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 September 18, 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 ROBERT C. WAGNER, P.E. IN SUPPORT OF WATERMASTER'S OPPOSITION TO GOLDEN STATE WATER COMPANY'S MOTION TO ENFORCE JUDGMENT

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

Executed on September 18, 2024 at Apple Valley, California.



Jeffrey D. Ruesch

Mojave Basin Area Watermaster Service List as of September 18, 2024

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Attn: John Munoz
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P. O. Box 77
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Attn: Curtis Palmer
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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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Mojave Basin Area Watermaster Service List as of September 18, 2024

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