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8

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

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

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

JCCP NO.: 5265
Lead Case No: CIV 208568

13 **MOJAVE BASIN WATER CASES**

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

14 **CITY OF BARSTOW,**

15 Plaintiff,

16 vs.

17 **CITY OF ADELANTO, et al.,**

18 Defendant.

**WATERMASTER'S OBJECTION TO
NEWBERRY SPRINGS RESPONSE TO
GOLDEN STATE'S MOTION TO
ENFORCE JUDGMENT**

Date: October 2, 2024

Time: 8:30 a.m.

Dept.: 1

Reservation ID: 562595011427

19 **AND RELATED CROSS ACTIONS**
20

Hon. Craig G. Riemer, Judge Presiding By
Assignment

21
22 Watermaster submits this Objection to the recently filed Response by Newberry Springs
23 Recreations Lakes Association to Golden State Water Company's motion to enforce judgment
24 ("Newberry Springs Response"), and the supporting Declaration of Dr. W. Richard Laton
25 attached thereto.

26 ///

27 ///

28 **WATERMASTER'S OBJECTION TO NEWBERRY SPRINGS RESPONSE**

1 Watermaster objects to the Newberry Springs Response and Dr. Laton's declaration on
2 the following grounds and for the following reasons:

3 (1) Newberry Springs Response was filed on September 18, 2024, i.e., only 9 court days
4 before the scheduled hearing on October 2, 2024. However, the time period of 9 court days prior
5 to the scheduled hearing date is solely reserved for "All papers **opposing** a motion" (Code of
6 Civil Procedure §1005). Newberry Springs purported "Response" does not "oppose" Golden
7 State's motion, but is, in substance, its own motion; in pertinent part, it states, "NEWWBERRY
8 does not oppose this motion, in fact, it had desired (since 2021) to make such a motion itself"
9 (Response, 2:4-5).

10 As a consequence, Watermaster has not had an adequate opportunity to respond to what
11 is essentially Newberry Springs own motion – which was not filed and served at least 16 court
12 days prior to the scheduled hearing date.

13 (2) Remarkably, Newberry Springs Response also contends that the Judgment entered in this
14 action decades ago should now be amended – which, among other things, would clearly the
15 basis for a separate motion, with adequate time afforded to all Parties to respond to the motion
16 to amend the Judgment. In this connection, on pages 3 and 4 of its purported Response,
17 Newberry Springs alludes to its understanding of assumptions that led to the "compromise" and
18 "settlement" upon which the Judgment is based. It then states, "Based upon the ongoing decline
19 in water levels in the wells of the Golden State Water Company . . . , the **projected** 'spill' into
20 Centro appears not to have happened" (3:26-4:2, emphasis added) and, "therefore the settlement
21 [upon which the Judgment was based] is flawed and **should be amended**" (4:22-24, emphasis
22 added).

23 While Golden State's motion may be somewhat a reflection of "buyer's remorse" as to
24 the terms of the compromise settlement Golden State entered into decades ago with the other
25 Parties to the Judgment, unlike Newberry Springs, its pending motion does not go so far as to
26 expressly state or request that the Judgment should be amended. Nonetheless, that is the position
27 taken by Newberry Springs in its purported "Response" to Golden State's motion. This
28

1 demonstrates further that Newberry Springs Response is more like its own “motion,” rather than
2 anything else, and it should be held to the filing and service deadlines mandated in Code of Civil
3 Procedure 1005.


4 (3) Like the Aquilogic report (which provides the foundation for Golden State’s motion), Dr.
5 Layton’s supporting declaration also contains numerous references to the discredited “Wild
6 Crossings” gage as a basis for his conclusions. The error of relying on data from the Wild
7 Crossing gage is demonstrated in Watermaster’s Opposition brief.

8 (4) Dr. Layton’s declaration suggesting the installation of additional stream gages was signed
9 by him in June 2021, i.e., more than three years ago. Subsequent thereto, in 2022, as indicated
10 in Watermaster’s Opposition brief, Watermaster installed an additional stream gage at Hodge,
11 and has also delivered large quantities of supplemental water to the Centro Subarea. Therefore,
12 Dr. Laton’s declaration is, itself, very much out of date.

13 For the foregoing reasons, Watermaster respectfully submits the Court should sustain
14 these objections to the Newberry Springs Response, and give it no weight.

15 Date: September 25, 2024

BRUNICK, McELHANEY & KENNEDY PLC

16
17 By: 
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19 Leland P. McElhaney
20 Attorneys for Mojave Basin Area Watermaster
21
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PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO}

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

On September 25, 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:

WATERMASTER'S OBJECTION TO NEWBERRY SPRINGS RESPONSE TO GOLDEN STATE'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 25, 2024 at Apple Valley, California.



Jeffrey D. Ruesch

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San Pedro, CA 90732-4557

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Newberry Springs, CA 92365-9258

Attn: Ester Hubbard
Hubbard, Ester and Mizuno, Arlean
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Mojave Basin Area Watermaster Service List as of September 25, 2024

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Mojave Basin Area Watermaster Service List as of September 25, 2024

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Mojave Basin Area Watermaster Service List as of September 25, 2024

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Mojave Basin Area Watermaster Service List as of September 25, 2024

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Mojave Basin Area Watermaster Service List as of September 25, 2024

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Mojave Basin Area Watermaster Service List as of September 25, 2024

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