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

12 Coordination Proceeding Special Title
13 (Cal. Rules of Court, rule 3.550)
14
15 MOJAVE BASIN AREA WATER CASES

JCCP NO.: 5265
Lead Case No. CIV208568

Assigned for All Purposes to the
Honorable Harold W. Hopp, Dept. 1

Honorable Craig G. Reimer, Judge
Presiding by assignment of the Chief
Justice

16 CITY OF BARSTOW, et al.,
17
18 Plaintiff,
19
20 v.
21 CITY OF ADELANTO, et al.,
22
23 Defendant.

**GOLDEN STATE WATER
COMPANY'S REQUEST TO
PRESENT ORAL TESTIMONY AT
HEARING ON MOTION TO
ENFORCE JUDGMENT**

[Filed concurrently with Notice of
Lodging of PowerPoint Presentation;
Declaration of Stephanie Osler Hastings;
Declaration of Anthony Brown]

Date: October 2, 2024
Time: 8:30 am
Dept.: 1
Judge: Hon. Craig G. Reimer

Reservation ID: 562595011427

1 **TO THE COURT, ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 **PLEASE TAKE NOTICE** that, on October 2, 2024 at 8:30 a.m., or as soon thereafter as
4 the matter may be heard before the Honorable Craig G. Reimer in Department 1 of the Riverside
5 Superior Court located at 4050 Main Street, Riverside, California pursuant to California Rules of
6 Court, rule 3.1306(b), Golden State Water Company (“**GSWC**”) seeks to introduce an oral
7 presentation via PowerPoint by GSWC’s expert, Mr. Anthony Brown of aquilogic, Inc.
8 (“**aquilogic**”), in support of GSWC’s Motion to Enforce the Judgment (“**Motion**”). The witness
9 GSWC proposes to offer to testify, and the nature of his presentation is described below. GSWC
10 estimates that the presentation will take no more than 20 minutes unless the Court has any questions.

11 **I. INTRODUCTION**

12 California Rules of Court, rule 3.1306(b) provides the Court with discretion to allow live
13 testimony at the hearing on GSWC’s pending Motion. In its July 3, 2024 Ruling on the
14 Watermaster’s Annual Motion to Adjust Free Production Allowance for Water Year 2024-2025
15 (“**FPA Order**”), this Court stated: “upon request the Court will reserve sufficient time on the
16 hearing date to allow the parties to review the evidence presented in an oral presentation via
17 PowerPoint or some similar means.” (FPA Order, p. 7 [GSWC 0182].)

18 Given the highly technical nature of the Expert Report of Anthony Brown (“**Expert**
19 **Report**”) (GSWC 0002-0161), submitted in support of GSWC’s Motion, GSWC requests the
20 opportunity for Mr. Brown to provide an oral and PowerPoint presentation of his analysis and
21 opinions, as described in the Expert Report, at the hearing on the Motion. (See also Notice of
22 Lodging of PowerPoint Presentation, filed concurrently herewith.)

23 Although the Declaration of Anthony Brown in Support of GSWC’s Motion to Enforce
24 Judgment and Mr. Brown’s Expert Report have already been submitted to the Court, GSWC
25 believes that it will be helpful to the Court if Mr. Brown has the opportunity to explain his opinions
26 orally and to answer any questions the Court may have of him. (Declaration of Stephanie Osler
27 Hastings (“**Hastings Decl.**”), ¶ 3.)

28 Mr. Brown will testify as to the following: (1) aquilogic’s assessment of the Mojave Basin

1 Watermaster’s (“**Watermaster**”) analysis of the water budgets for the Alto Subarea, including the
2 Transition Zone, and the Centro Subarea related to Watermaster’s 2024 Production Safe Yield
3 (“**PSY**”) update; (2) a summary of the statistical analysis of groundwater levels in GSWC wells;
4 and (3) aquilogic’s recommendations to improve Watermaster’s estimates and calculations for
5 administration of the Judgment.

6 Mr. Brown’s oral and PowerPoint presentation shall be based on the evidence already
7 submitted in support of GSWC’s Motion, including Mr. Brown’s Declaration in Support of
8 GSWC’s Motion, Mr. Brown’s Expert Report, other evidence included in GSWC’s Evidence in
9 Support of the Motion (GSWC 0001-0987), as well as other materials in the Court’s record. Mr.
10 Brown’s testimony is not expected to last more than 20 minutes unless the Court has additional
11 questions. (Hastings Decl., ¶ 6.)

12 **II. FACTUAL BACKGROUND**

13 **A. Concerns over Watermaster’s Water Budget Due to Declining Water Levels**
14 **in the Centro Subarea**

15 Since entry of the Judgment in 1996, water levels in the Centro Subarea have remained the
16 same or continued to decline, despite Centro Subarea Producers reducing pumping consistent with
17 the Free Production Allowance (“**FPA**”) and Alto Subarea Producers purportedly meeting their
18 Minimum Subarea Obligations, as Watermaster has reported in its Annual Reports.¹ (Motion, p.
19 8:13-16.) Concerned with falling water levels in the Centro Subarea and the corresponding impacts
20 to its operations, GSWC has requested further action by the Watermaster to evaluate the causes of
21 chronic water level decline, including Watermaster’s the Production Safe Yield (“**PSY**”) for the
22 Centro Subarea, in order to administer the Judgment in accordance with the Physical Solution.
23 (Motion, pp. 6:10-7:21, 9:1-15.)

24 For the Watermaster’s recent Production Safe Yield & Consumptive Use Update, dated
25 February 28, 2024 (“**2024 PSY Update**”), Brownstein Hyatt Farber Schreck LLP retained
26 aquilogic, on behalf of GSWC, to investigate the causes of chronically declining water levels in
27

28 ¹ All defined terms have the same meaning as set forth in the Judgment. All capitalized terms, not otherwise defined, are the same as the terms used in the Judgment.

1 production wells within the Centro Subarea and technical input on Watermaster’s water budgets
2 for the 2024 PSY Update. (Motion, p. 9:15-27; Hasting Decl. ¶ 2.) As explained in the Mr. Brown’s
3 Declaration in Support of GSWC’s Motion and his Expert Report, Mr. Brown’s analysis shows that
4 it is more likely than not that Watermaster’s water budgets for the Alto Subarea, including the
5 Transition Zone, and Centro Subarea contain significant uncertainties that likely result in
6 Watermaster overestimating inflows into the Centro Subarea and an inaccurate PSY calculation.

7 **III. LEGAL DISCUSSION**

8 **A. Legal Standard**

9 California Rules of Court, rule 3.1306(b) allows the introduction of oral testimony at the
10 hearing on a motion. The Court has discretion to receive such oral testimony. (*Rosenthal v. Great*
11 *Western Fin'l Secur. Corp.* (1996) 14 Cal.4th 394, 414; *Strauch v. Eyring* (1994) 30 Cal.App.4th
12 181, 184 [“Factual issues on motions are submitted on affidavits or declarations (or oral testimony
13 in the court's discretion)”].) Where the Court has reserved jurisdiction over the physical solution
14 (Judgment, ¶ 19), the Court has “a duty to admit evidence” relating pertaining to the physical
15 solution. (See *Hillside Memorial Park & Mortuary v. Golden State Water Co.* (2011) 205
16 Cal.App.4th 534, 538-539, 549 [finding Court erred in denying a motion to amend the judgment
17 without holding an evidentiary hearing related to the physical solution].) In the FPA Order, the
18 Court stated:

19 If the parties are interest[ed] in doing so, upon request the Court
20 will reserve sufficient time on the hearing date to allow the parties
21 to review the evidence in an oral presentation via PowerPoint or
22 some similar means. Any such PowerPoint slides shall be shared
with counsel for other represented parties at least five days in
advance of the hearing.

23 (FPA Order, p. 7.) GSWC’s request for Mr. Brown’s oral presentation via PowerPoint aligns with
24 California Rule of Court, rule 3.1306(b), and the Court’s FPA Order. GSWC filed its Notice of
25 Lodging of PowerPoint Presentation, together with the accompany declarations of Mr. Anthony
26 Brown and Ms. Stephanie Osler Hastings, and requested the Watermaster’s service of the same, on
27 or before September 26, 2024—more than five days before the October 2, 2024 hearing. (Hastings
28 Decl., ¶ 5.)

1 **B. Good Cause Exists to Allow GSWC’s Expert to Make an Oral Presentation**
2 **and Answer the Court’s Questions About Its Opinions Regarding the**
3 **Watermaster’s Water Budgets and 2024 PSY Update**

4 The Court’s FPA Order also makes clear that:

5 [a]ny expert opinions offered either in support of or in opposition to
6 any motion shall be limited to opinions that (a) are stated to be
7 more likely than not true and (b) are supported by such analysis and
8 evidence to allow a finder of fact to understand the reasons for that
9 opinion. (FPA Order, p. 7 ¶ 3.)

10 In his oral and PowerPoint presentation, Mr. Brown will explain that, based on an analysis
11 of the hydrology of the Mojave Basin (“**Basin**”) and available data, it is more likely than not that
12 Watermaster’s current water budgets do not accurately describe the hydrology of the Basin or
13 explain observed chronically declining water levels, and likely overestimates inflows into the
14 Centro Subarea from the Transition Zone. (GSWC 0014.) Mr. Brown also will explain that there
15 are significant uncertainties with the Watermaster’s water budget estimate for the Alto Subarea,
16 including the Transition Zone, and Centro Subarea because both water budgets rely on too many
17 potentially inaccurate assumptions and estimates. (GSWC 0014, 0034; Hastings Decl., ¶ 4.)
18 Lastly, Mr. Brown will explain further the bases for his recommendations to address the
19 aforementioned uncertainties and improve administration of the Judgment. (GSWC 0034-0038;
20 Hastings Decl., ¶ 4.)

21 Mr. Brown’s oral and PowerPoint presentation shall be based on the evidence already
22 submitted in support of GSWC’s Motion, including Mr. Brown’s Declaration in Support of
23 GSWC’s Motion, Mr. Brown’s Expert Report, other evidence included in GSWC’s Evidence in
24 Support of the Motion (GSWC 0001-0987), as well as other materials in the Court’s record. (See
25 Declaration of Anthony Brown, ¶¶ 7-24.)

26 **IV. CONCLUSION**

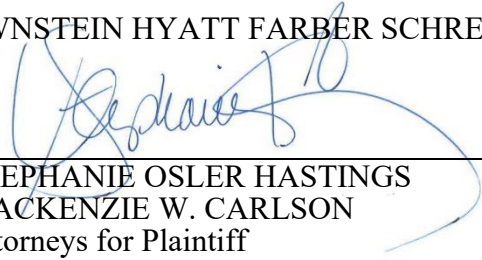
27 GSWC respectfully requests that the Court allow its hydrology expert, Mr. Brown, to
28 provide oral testimony and a PowerPoint presentation to explain his conclusions and opinions to
29 the satisfaction of the Court.

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Dated: September 26, 2024

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:



STEPHANIE OSLER HASTINGS
MACKENZIE W. CARLSON
Attorneys for Plaintiff
GOLDEN STATE WATER COMPANY

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within-entitled action. I am employed in Santa Barbara County, California. My business address is Brownstein Hyatt Farber Schreck, LLP, 1021 Anacapa Street, 2nd Floor, Santa Barbara, California 93101-2711. My electronic service address is Meldridge@bhfs.com. On September 26, 2024, I served a copy of the following document(s):

GOLDEN STATE WATER COMPANY'S REQUEST TO PRESENT ORAL TESTIMONY AT HEARING ON MOTION



BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) listed above to be sent to the persons at the e-mail addresses listed below

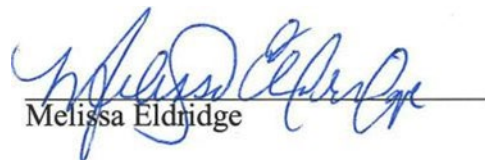
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Mojave Basin Area Watermaster

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 26, 2024, at Santa Barbara, California.


Melissa Eldridge

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 30, 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:

GOLDEN STATE WATER COMPANY'S REQUEST TO PRESENT ORAL TESTIMONY AT HEARING ON 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 30, 2024 at Apple Valley, California.



Jeffrey D. Ruesch

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Mojave Basin Area Watermaster Service List as of September 30, 2024

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Mojave Basin Area Watermaster Service List as of September 30, 2024

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Mojave Basin Area Watermaster Service List as of September 30, 2024

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Mojave Basin Area Watermaster Service List as of September 30, 2024

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