

Jackie Gray

From: Bryanne Bennett <bryanne@boscolegal.org>
Sent: Wednesday, October 16, 2024 10:40 AM
To: Jackie Gray
Subject: RE: Newberry Springs - Riverside Central-RUSH-efiling ASAP today please

I had to use a different portal for this submission. So it may look different but here you go 😊

Filing Title
CITY OF BARSTOW vs CITY OF ADELANTO
Status
Submitted to Court
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Filed By
Bryanne Bennett
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CIV208568
Case Name
CITY OF BARSTOW vs CITY OF ADELANTO
Case Type
Civil
Case Category
Unlimited Civil Other Complaint
Matter Number
11999578-BB
Estimated Amount
\$11.35
Final Amount
\$0

From: Jackie Gray <jgray@carlonilaw.com>
Sent: Wednesday, October 16, 2024 10:35 AM
To: Bryanne Bennett <bryanne@boscolegal.org>
Subject: RE: Newberry Springs - Riverside Central-RUSH-efiling ASAP today please

CAUTION: External sender

Thank you. May I please get your efiling confirmation page so I can serve the other parties?

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7
8
9 Attorneys for NEWBERRY SPRINGS RECREATIONAL LAKES ASSOCIATION

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE – CENTRAL DISTRICT**

12 **MOJAVE BASIN AREA WATER CASES**

JCCP NO.: 5265
Lead Case No. CIV 208568

13 CITY OF BARSTOW, et al.

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

14 Plaintiffs,

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

15 vs.

16 CITY OF ADELANTO, et al.

REPLY BY NEWBERRY SPRINGS
RECREATIONAL LAKES ASSOCIATION
TO GOLDEN STATE WATER COMPANY'S
MOTION TO ENFORCE JUDGMENT

17 Defendants,

18 AND RELATED CROSS-ACTIONS.
19

Hearing Information:

Date: October 22, 2024

Time: 1:30 pm

Dept: M302 – Menifee Justice Center

20
21
22
23
24 NEWBERRY SPRINGS RECREATIONAL LAKE ASSOCIATION, hereinafter referred
25 to solely as “NEWBERRY”, replies and supports the motion of Golden State Water Company, in
26 its effort to secure orders of additional data studies.
27

28 REPLY BY NEWBERRY SPRINGS RECREATIONAL LAKES ASSOC. TO GSWC'S MOTION TO ENFORCE
JUDGMENT PAGE 1

1 **PRELIMINARY STATEMENT**

2 NEWBERRY further underscores that the relief requested is simply a request that the
3 Court order further investigation and review of the science, forthwith, based upon the evidence
4 provided by all experts.
5

6 In review of the information provided by the various experts and argument of the
7 Watermaster Counsel and others, certain matters are agreed upon:

- 8 a. The conceptual water balance in place proposes various water obligations to
9 downstream areas.
- 10 b. The Alto Subarea has an obligation to the Transition Zone , water flowing through the
11 Transition Zone is ultimately, for the benefit of the Centro Subarea.
- 12 c. In the conceptual water balance, the Transition Zone is seen as a Water Bridge, the
13 premise being that its water levels are stable and the excess flows across the Zone’s
14 eastern boundary into the Centro Area.
- 15 d. Excluding subsurface flow, the *average annual surface water flow* as defined in the
16 judgment should be 21,000 acre feet.
- 17 e. The amount of 21,000 acre feet should not be viewed as an annual water obligation
18 and in fact the measurements have shown that only 12,000 to 16,000 acre feet in fact
19 have been flowing into Centro subarea, annually- which is blamed upon drought
20 years.
- 21 f. All experts mention the *hydrogeologic* features at the Transition Zone/Centro subarea
22 boundary, which demonstrates that annually, the water bridge model may need to be
23 studied to see if it is working in accordance with the conceptual water balance.
- 24
- 25
- 26
- 27

1 g. The Watermaster Engineer appears to be working on an update groundwater flow
2 model which it claims will be completed by December 2024.

3 The time is ripe for consideration of this motion and the various methods being proposed,
4 in addition to that testing that the Watermaster Engineer may already have determined to do.
5 The current motion and the supporting expert declarations seek an order requiring the collection
6 of further data, only, to fill the data gaps in the conceptual water balance currently being used
7 and to determine why the water levels of Golden State Water Company water wells are
8 declining.
9

10 After thirty years of recorded data since the Stipulated Judgment, one would think that a
11 challenge to the original assumptions, either to prove them valid or expose needed additional
12 areas of study, would be welcomed by the Watermaster Board, its staff, scientists and experts.
13 One would also think that the Mission Statement of the Watermaster, which specifically includes
14 “conducting studies” and that of the Mojave Water Agency which specifically includes
15 management of water for the stable and sustained use of the citizens “we serve”, would be
16 supporting measures to the granting of this motion.
17
18

19 **RESTATEMENT OF RELIEF REQUESTED.**

20 Based upon the opinions and conclusions of our Expert, Dr. Laton, it is apparent that
21 there is little to no data on the water flowing from the Transition Zone to the Centro subarea,
22 which is the very place that Moving Party and Newberry believe the conceptual water balance is
23 suffering deficiencies. This can be cured, tested, verified or new methodology secured through
24 the additional installation of stream gauges and key monitoring wells at specific locations for
25 more accurate water monitoring and measuring at the Transition Zone/Centro subarea border.
26
27

1 The "water bridge" may well be flawed science as it does not take into account the
2 hydrogeologic features at the Helendale Fault which is near the Transition Zone/Centro subarea
3 boundary, as well. This also constitutes a data gap that additionally needs to be filled.
4

5 Lastly additional studies on the baseline conditions which were assumptions at the time
6 of the original Judgment vs. current conditions, now thirty years later, all need to be re-visited
7 with current data.

8 **CONCLUSION**

9 NEWBERRY contends that these multiple factors support the need to challenge the
10 existing scientific methodology to ascertain if it is still the best science available. The motion
11 does not seek to up-end or, at present, change or amend the judgment. It seeks to fill the data-
12 gaps which are necessary to assess any change. As set forth in the motion by Golden State
13 Water Company and the declaration of Dr. Laton filed concurrently herewith, the issue is ripe
14 and the requested relief, if ordered, would benefit all parties.
15

16
17 Dated: October 15, 2024

Diana J. Carloni

18 _____
19 DIANA J. CARLONI, ATTORNEY
20 FOR NEWBERRY SPRINGS
21 RECREATIONAL LAKES
22 ASSOCIATION
23
24
25
26
27

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO**

3 I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not
4 a party to the within action. My business address is 21001 N. Tatum Blvd., Suite 1630-455, Phoenix, AZ
85050.

5 On October 16, 2024, I served the within documents described as:

6 **REPLY BY NEWBERRY SPRINGS RECREATIONAL LAKES ASSOCIATION TO**
7 **GOLDEN STATE WATER COMPANY’S MOTION TO ENFORCE JUDGMENT,**
on the interested parties in this action, as follows:

8 **By email or electronic transmission to the Watermaster and its counsel** at the e-mail addresses listed
9 below, and I did not receive, within a reasonable time after the transmission, any electronic message or
other indication that the transmission was unsuccessful; and

10 By messenger service to the Watermaster, the documents referred to hereinabove were personally
11 delivered to the Watermaster by Rapid Attorney Service, a professional Service of Process/messenger
service; A Declaration of Messenger will subsequently be filed; and Via, Watermaster to all parties to the
12 action, pursuant to the Judgment of this case and the Mojave Basin Area Watermaster's Rules and
Regulations paragraph 8.B which provides that service to be the responsibility of the Watermaster and
13 paragraph 10.D, which provides that a party's service obligation is satisfied upon delivery of a copy of
the conformed documents as filed with the Court. As of today, the Watermaster has not set a service fee.
Per the Watermaster's request, I will cause a check to be delivered to Watermaster upon being notified of
14 the Watermaster's service costs.

15 Mojave Basin Area Watermaster
16 c/o Valerie L. Wiegenstein,
Watermaster Services Manager
13846 Conference Center Drive Apple Valley, CA 92307-4377
17 watermaster@mojavewater.org
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18 jruesch@MojaveWater.org

19 William J. Brunick Leland P. McElhaney
20 Brunick, McElhaney & Kennedy PLC
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21 San Bernardino, CA 92423-3130
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22 lmcelhaney@bmklawplc.com

23
24 **(State)** I declare under penalty of perjury pursuant to the laws of the State of California that the
above is true and correct.

25 Executed on October 16, 2024, at Hesperia, California.

26
27 By:  _____
28 Jackie J. Gray

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 October 16, 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:

**REPLY BY NEWBERRY SPRINGS RECREATIONAL LAKES ASSOCIATION 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 October 16, 2024 at Apple Valley, California.



Jeffrey D. Ruesch

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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(Nereida.Gonzalez@gswater.com,
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160 Via Verde, Ste. 100
San Dimas, CA 91773-5121

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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2026 Turnball Canyon
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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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Mojave Basin Area Watermaster Service List as of October 16, 2024

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