EXHIBIT 2

William J. Brunick, Esq. (State Bar No 46289)
Leland P. McElhaney, Esq. (State Bar No. 39297)
BRUNICK, McELHANEY& KENNEDY PLC
1839 Commercenter West
San Bernardino, California 92408-3303

MAILING:
P.O. Box 13130
San Bernardino, California 92423-3130

Telephone: (909) 889-8301
Facsimile: (909) 388-1889

Attorneys for Defendant/Cross-Complainant
MOJAVE WATER AGENCY

NO FEE PER GOV'T. CODESEC. 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.,

Plaintiff,

vs.

CITY OF ADELANTO, et al.,

Defendant,

AND RELATED CROSS ACTIONS

CASE NO. CIV 208568

NOTICE OF MOTION AND MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR WATER YEAR 2015-2016; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF ROBERT C. WAGNER IN SUPPORT THEREOF

Assigned for All Purposes to:
Judge Gloria Connor Trask
Dept. 3

DATE: 5-29-15
TIME: 8:30 a.m.
DEPT: 1

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

Please take notice that on 5-29-15, 2015 at 8:30 a.m., or as soon thereafter as counsel may be heard, in Department 1 of the above entitled court located at 4050 Main Street, Riverside, California, Defendant/Cross-Complainant, Mojave Water Agency, acting in its capacity as

the Mojave Basin Area Watermaster, will respectfully move, pursuant to paragraph 24(o) and Exhibit H of the Judgment in the above entitled case, for the court's approval of the Watermaster's recommendation in its 21st Annual Report to adjust the Free Production Allowance (FPA) for each of the five (5) Subareas (Alto, Baja, Centro, Este and Oeste) of the Mojave Basin as set forth herein for the 2015-16 Water Year.

This motion is based upon this notice, the Memorandum of Points and Authorities, the 21st Annual Report of the Watermaster lodged with the court concurrently with this motion, the Declaration of Robert C. Wagner, the pleadings, papers and records on file and upon such other further evidence, both oral and documentary, that may be presented at the hearing on this motion.

Dated: April 14, 2015

BRUNICK, McELHANEY & KENNEDY PLC

BY: _____

WILLIAM J. BRUNICK, ESQ.
LELAND P. McELHANEY, ESQ.
Attorneys for Defendant/Cross-Complainant,
MOJAVE WATER AGENCY

MEMORANDUM OF POINTS AND AUTHORITIES

I.

BACKGROUND

The original complaint was filed by the City of Barstow et al. on May 30, 1990 and alleged that the cumulative water production upstream of the City of Barstow had over drafted the Mojave River System and it requested that the Mojave Water Agency (MWA) be ordered to obtain and provide supplemental water for use within the Mojave Basin Area (Basin). MWA filed its First Amended Cross-Complaint naming substantially all producers of water within the Basin, including parties downstream of the City of Barstow, and requested a determination of all of the water production from whatever source within the Basin.

After extensive negotiations, parties representing over 80% of the verified water production in the Basin agreed to a stipulated Judgment which established a physical solution to the water supply problems. A trial of the claims of non-stipulating parties was held and the final Judgment after trial adopted the physical solution set forth in the stipulated Judgment.

The Cardozo Group of the non-stipulating parties appealed the Judgment that was entered by the Superior Court. Following opinions by the Court of Appeal and Supreme Court, the Judgment as to the stipulating parties was affirmed but reversed as to the Cardozo Group of non-stipulating parties. This essentially excluded the Cardozo Group from the stipulated Judgment, including the assessment provisions. As of August 23, 2002, Jess Ranch Water Co. (JRWC), previously a non-stipulating party, entered into a settlement agreement in which it stipulated to the Judgment. An amendment to the Judgment was filed on December 5, 2002 which incorporated the changes with respect to the Cardozo Group and JRWC.

II.

THE JUDGMENT'S PHYSICAL SOLUTION

On January 10, 1996 the court entered a Judgment which addressed the overdraft situation existing in the Basin by the creation of a physical solution for the Basin's five distinct, but hydrologically interrelated, Subareas (Alto, Baja, Centro, Este, and Oeste). The court determined that

all five Subareas of the Basin had been in a state of overdraft since at least the 1950's, that the economy and population overlying the Basin had dramatically grown in reliance upon the overdraft, and that all producers had contributed to the overdraft. The court's physical solution established a limit on the amount of water each Subarea could produce in one year before having to purchase replacement water. This is known as the Free Production Allowance (FPA). The Judgment also established each producer's Base Annual Production (BAP). A producer's BAP is based upon that producer's highest year of water production during the base period of 1986-1990. A producer's BAP serves as the basis for the producer's Base Annual Production Right (BAPR). BAPR is the right of each producer to a percentage of the FPA within a given Subarea.

Although the serious nature of the overdraft warranted an immediate reduction for all water production within the Basin, the Court approved a gradual reduction in production in order to soften the economic impact upon producers. Therefore, the Judgment sets forth the terms for a gradual reduction or Rampdown of the FPA for all parties. After the first five years of the Judgment, the FPA for all parties was set at eighty percent (80%) of their original BAP. The Judgment also provides that the court can review and adjust, as necessary, the FPA for each Subarea on an annual basis.

MWA was appointed as the initial Watermaster by the court to administer the Judgment and physical solution set forth therein.

III.

NECESSITY FOR ADJUSTMENT

Pursuant to the gradual Rampdown required in the Judgment, by the 1997-98 Water Year, each producer's FPA was set at eighty percent (80%) of that producer's BAP specified by the Judgment. Exhibit H of the Judgment requires Watermaster to recommend a decrease in the FPA for a Subarea when that Subarea's FPA exceeds its estimated Production Safe Yield (PSY) by five percent (5%) or more. Pursuant to paragraph 24(o) of the Judgment, the Watermaster is required to make a recommendation to the Court for adjusting the FPA of each Subarea, if necessary. The Watermaster retained the Engineering firm of Albert A. Webb Associates (Webb), to conduct a consumptive water use study for the purpose of updating the elements of Table C-1 of the Judgment. The Webb study was

presented to the Watermaster in February 2000 and provided the basis for the Watermaster's proposed adjustments for the 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2015-16 Water Years. Pursuant to Exhibit H of the Judgment, the Watermaster has filed its motions to adjust the FPA for prior Water Years and also provided certain alternatives to Rampdown at the court's request.

On July 16, 2014, the court entered its order granting the Watermaster's Motion to Adjust FPA for Water Year 2014-15 (attached as Exhibit A). As a result, FPA for Water Year 2014-15 was set as follows:

Subarea	**2014-15 FPA**
Alto - Agricultural	80% of BAP
Alto - Municipal and Industrial	60% of BAP
Centro	80% of BAP
Este[1]	80% of BAP
Oeste - Agriculture	80% of BAP
Oeste - Municipal and Industrial[2]	60% of BAP
Baja	55% of BAP

1. FPA to be set at 80% of Base Annual Production for the 2014-15 Water Year. The Este Subarea may be subject to future rampdown to 65% immediately if water use conditions change.
2. FPA to be set at 80% of BAP for Agriculture and 60% of BAP for Municipal and Industrial Producers for 2014-15 with the reduction held in abeyance (at 80%) and, FPA shall not be reduced until water production exceeds 3,921 acre-feet. Watermaster shall review annually conditions in Oeste and continue to report to the Court and make recommendations as appropriate.

The table on page 34, Ch. 5 of the 21st Annual Report of the Mojave Basin Area Watermaster shows the BAP, the FPA for 2014-15, the estimated PSY, the difference between them as a percentage of BAP as well as the 2013-14 Verified Production for each Subarea. FPA is greater than PSY by more than 5% of BAP in each of the Subareas except for Alto.

IV.

RECOMMENDED ADJUSTMENTS TO FPA FOR WATER YEAR 2015-16

The Watermaster conducted public hearings on March 25, 2015 and adopted the FPA recommendations for the five Subareas for Water Year 2015-16, as required by the Judgment and consistent with previous direction from the court as follows:

Subarea	2015-16 FPA Recommendation
Alto - Agriculture	80% of BAP
Alto - Municipal & Industrial	60% of BAP
Centro	80% of BAP
Este[1]	80% of BAP
Oeste - Agriculture	80% of BAP
Oeste - Municipal & Industrial[2]	60% of BAP
Baja[3]	50% of BAP

1. FPA to be set at 80% of Base Annual Production for the 2015-16 Water Year. The Este Subarea may be subject to future Rampdown to 65% immediately if water use conditions change.
2. FPA to be set at 80% of BAP for Agriculture and 60% of BAP for Municipal and Industrial Producers for 2015-16 with the reduction held in abeyance (at 80%) and, FPA shall not be reduced until water production exceeds 3,921 acre-feet. Watermaster shall review annually conditions in Oeste and continue to report to the Court and make recommendations as appropriate.
3. FPA to be set at 50% of BAP for Water Year 2015-16 and continue reduction in 5% increments as required by the Judgment until FPA is within 5% of PSY. This is expected to occur in 2018-19.

The recommended FPA for Alto, Centro, Este and Oeste remains unchanged from the FPA ordered by the Court for Water Year 2014-15. The FPA for Baja is recommended to be set at 50% of BAP for 2015-16 and that Rampdown continue until FPA is within 5% of Production Safe Yield, as required by the Judgment (this is expected to occur in Water Year 2018-19). However, Watermaster requested that the legal counsel representing Watermaster urge the court to strongly consider differential Rampdown in Baja.

The conditions in each Subarea are described in more detail below. For Alto, Centro and Este, the pumping and water use is sustainable under the current hydrologic conditions. The conditions in Baja and Oeste are not sustainable (Wagner Declaration, Exhibit B). In Oeste, problems associated with over-pumping in the west-southwest portion will become more severe in time. Data indicates a long-term decline in water levels.

Long-term net natural water supply in Baja is approximately 11,400 acre-feet (total inflow less gaged outflow and phreatophytes). The problem of sustained overdraft is critical and can be summarized as follows:

a) There has been a loss of groundwater storage due to overdraft of 1,100,000 acre-feet as of 1999 (USGS, Stamos 2001).

b) Since 1996, the loss of groundwater in storage in Baja to be an additional 328,000 acre-feet.

c) Loss of riparian habitat. According to USGS, as of 1963 riparian habitat accounted for about 8,000 acre-feet of water use (Hardt 1971). According to USGS and California Department of Fish & Wildlife (DFW) riparian habitat consumes about 2,000 acre-feet in Baja (Lines and Bilhorn, 1996). Currently, there may be substantially less than that amount of riparian habitat water use. Water consumption by riparian plants is an indication of the health and extent of the habitat.

d) Reports by minimal producers and others indicate loss of well performance and wells going dry. Data and analysis provided to the court in 2008 indicated substantial loss of wells in the future as water levels continued to decline. Current analysis indicates that wells 250 deep or less will experience problems within about 20 years. There are about 1,113 wells less than 250 feet in depth.

e) Water level decline is documented by hydrographs throughout the Baja Subarea (Figure 3-13 of the 21st Annual Report). Water levels are declining at about 2 feet per year. The loss of an additional 328,000 acre-feet in the last 18 years impairs the operational flexibility needed to sustain water supply during extended dry periods.

Alto Subarea:

Alto's FPA is within 5% of Production Safe Yield (PSY); water levels within Alto are relatively stable; the Transition Zone water levels are also stable. Conservation, importation of State Water Project water, MWA's R-cubed program, and implementation of the Judgment have resulted in hydrologic balance in Alto. Under the conditions existing at this time Rampdown is unnecessary. The relative balanced condition between supply and demand is indicated by water levels as shown on the water level hydrographs (Figures 3-10, 3-11, and 3-12 of the 21st Annual Report). The water supply conditions in Alto Subarea are sustainable.

Centro Subarea:

It is recommended that FPA in Centro remain 80% of BAP. Water levels in areas of pumping decline during dry periods and have recovered during wet periods (see Figure 3-14 of the 21st Annual Report). This pattern is expected to continue. Water production in Centro has declined from a high of 38,700 acre-feet in 1995-96 to about 19,600 acre-feet in 2013-14. In the 18 years following the 1995-96 Water Year, water production has averaged 23,400 acre-feet or a reduction of 40% since entry of Judgment. The reduced demand is the reason the Centro Subarea is in a balanced state. Watermaster will re-evaluate conditions in Centro annually and may recommend Rampdown in the future.

Este Subarea:

Water levels have remained relatively stable over the past 15 years in Este (Figure 3-15 of the 21st Annual Report). For purposes of evaluating trends in water levels and water production we have separated Este into two broad areas; Lucerne Valley and Fifteen Mile Valley. Water levels are trending slightly upward in the area of Lucerne Valley, and slightly downward in the area of Fifteen Mile Valley. Water production in Este last year (5,712 acre-feet) was about 5% less than the average for the past 10 years.

Water levels in Este indicate that recharge from tributary streams and washes, mountain front recharge, direct precipitation, imports from BBARWA, and return flow from all uses (total inflow) is approximately equal to the average pumping (6,000 acre-feet) plus the subsurface outflow (total

outflow). At this time, it is recommended that FPA in Este remain at 80% of BAP and the Court ordered stay on Rampdown remain in effect.

Oeste Subarea:

Last year the Court adopted the following for Oeste:

> "FPA shall remain at 80% of BAP for Agricultural Producers" and; 2) "Rampdown shall remain at 60% of BAP for Municipal and Industrial producers for 2014-15 with the reduction held in abeyance (at 80%) and, FPA shall not be reduced until water production exceeds 3,921 acre-feet. Watermaster shall review annually conditions in Oeste and continue to report to the Court and make recommendations as appropriate."

Water production in Oeste during 2013-14 was 3,421 acre-feet (excluding Well 14) which is less than the amount (3,921 acre-feet) agreed to by PPHCSD and Watermaster as a trigger for not imposing a reduction in FPA to 60% or less as necessary. Well 14, subject to litigation in the Antelope Valley, produced 799 acre-feet in 2013-14. If Well 14 is included in Oeste, the Oeste Subarea production would exceed the 3,921 acre-feet limit to avoid the reduction in FPA for Municipal and Industrial Producers. Well 14, located in Los Angeles County immediately adjacent to the San Bernardino County line, is beyond the Mojave Basin Area Adjudication limits.

Water levels in two wells (05N08W25H01 and 13R01) which are located about 2 miles north of the PPHCSD's Los Angeles County production show continuous water level decline over the period of record. As of 2012, Well 05N08W25H01 is reported as obstructed and well 13R is dry. Total amount of water produced by PPHCSD from Wells 10, 11, 12, and 14 in 2013-14 was 1,740 acre-feet. Water level decline in well 10 and the monitoring wells since the 1960's is a result of long term groundwater extraction exceeding recharge to the area. The water level is falling in the area of concentrated pumping.

Data for Well 10 reported to Watermaster by PPHCSD or its predecessor in the form of pump efficiency tests reflect standing water level on the various dates that pump efficiency tests are made. Data available to Watermaster from MWA Ordinance 8 indicates water level as of 1992. The water

level as indicated by the pump tests has declined between 1992 and 2010 about 70 feet in 18 years, or 3.9 feet per year. As of September 2014, the water level was about 50 feet below the 1992 level.

Continued overdraft will impact water supplies to Oeste. As indicated by water levels, the agreed upon pumping limitation (3,921 acre-feet) to forestall Rampdown in Oeste will not achieve groundwater sustainability. A primary reason for the agreement to forestall Rampdown by Watermaster is the lack of a recharge basin or the facilities necessary to import water to Oeste. Consequently, water levels will continue to fall as water is depleted from groundwater storage. This condition will not be resolved until pumping is reduced or water is imported. However, for the coming water year, imposition of the 60% Rampdown will not produce additional supply or prevent further loss of storage. As noted, the condition is not sustainable. Given the foregoing and the consideration that a recommendation for continued Rampdown might be considered for 2016-17, it is recommended that the Court adopt the same FPA for 2015-16 as the Court approved for 2014-15.

Baja Subarea:

Pursuant to the Judgment additional Rampdown in Baja is warranted. FPA exceeds the Production Safe Yield (PSY) by more than 5% of BAP and current water production and consumptive use exceeds the average net long-term supply in Baja. Water levels continue to decline as much as two (2) feet or more per year in places. Baja remains in overdraft and the current conditions are unsustainable.

Water production by parties to the Judgment in Baja during 2013-14 (27,858 acre-feet) decreased from 28,405 acre-feet in 2012-13; a decrease of 1.9%. There are about 180 parties to the Judgment in Baja and about 1,328 minimal producers (MWA, 2007). Total production including minimal producers is about 30,000 acre-feet. The population of Baja is about 4,575 people (MWA, 2013; based on data from CA Department of Finance data for cities and San Bernardino County data for unincorporated areas). Agricultural producers pump 23,155 acre-feet. Private recreational lakes and other lake owners named in Table B-2 of the Judgment, whose water use is primarily evaporation, pump 2,528 acre-feet (excluding re-circulated water of 5,139 acre-feet), of which 1,892 acre-feet is to replace lake evaporation and 636 acre-feet is for domestic and other uses. There is additional

evaporation from smaller domestic lakes and ponds of about 273 acre-feet. Minimal Producers are estimated to pump 1,969 acre-feet (MWA, 2007).

Average water production in Baja over the past 80 years has been in excess of 30,000 acre-feet and as high as nearly 60,000 acre-feet. The first indications of overdraft appeared around 1940 (USGS, Stamos 2001). Watermaster has documented loss of riparian habitat, damage due to migrating sand, falling water levels, and has heard reports of well failures. Minimal Producers have expressed their concerns to Watermaster that their wells will go dry if over-pumping continues. The concern is that without additional water supplies to Baja and with continued pumping, the water supply for the domestic users will become impaired. All water producers have contributed to the overdraft in Baja.

There are 1,384 wells in the Baja Subarea excluding wells that are part of the Mojave Basin Area Adjudication. The data set of 1,384 wells is assumed to be representative of the minimal producer wells. Of the 1,384 wells, 1,113 of these are 250 feet deep or less. When water levels fall below the perforated intervals of the well, the wells will go dry. The wells will experience problems prior to the water level reaching the bottom of the perforated screens. Individual water well depths vary throughout the Subarea and some of the wells drilled in the past, particularly for small domestic systems, are relatively shallow (that is, they only extend a limited depth below the water table). Particularly in the case of older shallow wells, gradual water-level declines may have already impacted them. Based on the projected average water level decline, wells with depths ranging from about 200 to 220 feet may already be experiencing problems. Factors that may affect a well's performance would include:

a) How far down the water level is in the well (i.e., what is the current condition)

b) How deep is the well, how much water is left, and how long until it might go dry

c) How deep is the pump set in the well and can it be lowered

d) How far does the water level drop when the pump cycles on (could the water level drop below the pump intake)

When a well pump switches on to fill a pressure tank, the water level in the well may drop as much as 20 feet during a pumping cycle (for a small system, 5 HP pump or less). However, in areas

with lower yielding formations, or in older wells, the drop might be much higher, perhaps 50 feet or more. If water levels continue to decline any wells with water levels between 150 and 200 feet will begin to experience problems within 20 years. Historic and projected water level decline of 2 feet or greater per year will potentially affect 1,113 of 1384 wells within 20 years.

Four different Rampdown scenarios were presented for discussion purposes at the January 2015 Watermaster meeting and reviewed these scenarios at the February and March meetings (Wagner Declaration, Exhibit 11). The four scenarios discussed with Watermaster were; 1) Immediate Rampdown of 20%; 2) Rampdown of 5% according to the Judgment; 3) Rampdown at a slower 2.5%; 4) Differential Rampdown based on amount of Base Annual Production. As shown on Exhibit 11, if water production remains unchanged from 2012-13 and FPA is reduced according to the amount corresponding to each scenario, and carryover is used to offset overproduction from year to year, there will no imported purchases until at least the date at which the graph crosses the "zero" line. For example as shown by the "Scenario B" line, FPA is about equal to Production Safe Yield in 2018-19. Pumping can be maintained at the current level after 2018-19 due to the Judgment's allowance for transfers between parties. Parties to the Judgment are allowed to "carryover" any unused FPA for one year. The unused FPA can be transferred to another party and pumped. Assuming the pumping amount remains at current levels, and there is an "efficient market" for transfers, Exhibit 11 shows that there will be no Subarea obligation to purchase imported water, to help balance Baja until 2021-2022 or 2022-23, when the unused Free Production Allowance has been exhausted.

Watermaster heard from parties and members of the public during the January workshop, the February Watermaster meeting, and at the March hearing to adopt the FPA recommendation. Comments can be categorized as follows: 1) Rampdown immediately to Production Safe Yield; 2) take into consideration the need for additional time in order that crop changes to less water intensive crops can be made; 3) provide a differential Rampdown so that large producers have their FPA reduced more than smaller producers or more specifically, don't Rampdown smaller producers any further.

The benefits of an immediate FPA reduction of 20% would be to achieve a balance between FPA and PSY four years sooner than the 5% requirement; however a reduction larger than 5% is not specifically allowed in the Judgment (Judgment, Paragraph 24 o).

With regard to the desire to provide additional time to adjust to Rampdown, we note that the Court has recognized that PSY must be achieved, but that a 2.5% reduction in FPA allowed the community to adjust over time. For the past 6 years Baja has been on a 2.5% Rampdown schedule as an accommodation by the Court.

Analysis presented to Watermaster indicates that if water production in Baja remains unchanged a relative balance between supply and demand can be achieved by 2024 with 5% Rampdown and by 2027 with a 2.5% Rampdown.

As to differential Rampdown, the Judgment at Paragraph 23 (a) states:

"Standard of Performance. Watermaster shall, in carrying out its duties, powers and responsibilities herein, act in an impartial manner without favor or prejudice to any Subarea, Producer, Party or Purpose of Use."

The Judgment does not address treating classes of producers differently.

Agriculture is the largest class of producer in Baja and represents the smallest number of parties. The top 13 producers in Baja (pumping over 500 acre-feet) are agricultural producers and account for 72% of the water pumped in Baja. Agriculture, although the largest producer of water, has reduced its total pumping more than any other group. Still, agricultural pumping alone is more than twice the net natural water supply to Baja. Recreational lakes named in Table B-2 and other smaller lake owners not named in Table B-2 of the Judgment use about 2,165 acre-feet per year for evaporation. This amounts to about 19% of the Subarea natural water supply. Minimal producers use 1,969 acre-feet (MWA 2007) or about 17% of the natural water supply. Minimal producers are not subject to the Judgment, provided they pump less than 10 acre-feet per year. Approximately 71% of the minimal producers pump 1 acre-foot or less per year. Based on Wagner Declaration, Exhibit 5, there are approximately 1,113 minimal producer (mostly domestic) wells at risk from a falling water table.

Differential Rampdown, in the form as presented to Watermaster would achieve a relative balance between supply and demand by Water Year 2022-23. The effect of differential Rampdown would be to cause one class of producer to Rampdown FPA faster and further than a different class.

The amount of storage depletion as of 1999 was about 1,100,000 million acre-feet (USGS, Stamos, 2001). Since 1996, 328,000 acre-feet has been depleted from storage. The flexibility to rely on storage during periods of little or no recharge has diminished.

Rampdown of FPA will not cause water levels to stabilize unless water is purchased and recharged in the Baja Subarea. Water levels may already be at a sufficiently low level that sustainability is not possible without imported supply.

As dictated by the Judgment, it is recommend that FPA in Baja be set at 50% of BAP for Water Year 2015-16 and continue reduction in 5% increments as required by the Judgment until FPA is within 5% of PSY. This is expected to occur in Water Year 2018-19. Relative balance between supply and demand is not expected to occur until 2022-23 (or by 2024) when unused FPA is exhausted.

Watermaster further directed that legal counsel inform the Court of Watermaster's request, (made at the hearing of March 25, 2015, when Watermaster adopted the recommendation above), that the Court give strong consideration to differential Rampdown in Baja as an alternative to the recommendation required by the Judgment. Differential Rampdown as presented to Watermaster in January, February and March 2105, would create three classes of producers in Baja for applying reduction in FPA in differing amounts. Those producers with a BAP (as of the date of any order issued pursuant to this filing) of between 0 and 100 acre-feet would not be subject to further Rampdown. Producers with a BAP of between 101 and 500 acre-feet would be subject to a 2.5% Rampdown until those producers' FPA was equal to 42.5% of their BAP. Producers with a BAP of 501 and greater would be subject to a 5% Rampdown until their FPA was 30% of BAP.

Difficulties with implementing a differential Rampdown include transfers of BAP between various classes of producers. We would recommend that if the foregoing was adopted, that producer Rampdown classification (0%, 2.5%, 5%) remain in effect regardless of transfers between producers.

For example, if a producer is on a 2.5% schedule, that producer shall remain on that schedule regardless of BAP transfers; if that producer increases or decreases its BAP the resulting FPA would be adjusted down (but never up) to account for the different Rampdown schedule. The foregoing description of differential Rampdown is an example the Court could adopt or the Court could craft its own version.

Watermaster received and considered oral comments and correspondence from the Department of Fish and Wildlife and other producers in the Baja Subarea. The written comments received by Watermaster are attached as Exhibit C.

V.

CONCLUSION

Based upon the foregoing and the Declaration of Robert C. Wagner, filed concurrently herewith, and the court's prior rulings, Watermaster requests that the Court grant this motion and (1) implement the recommended FPA for the Alto, Centro, Este and Oeste Subareas; (2) set FPA in Baja at 50% of BAP for 2015-16 and continue in 5% increments as required by the Judgment until FPA is within 5% of PSY. This is expected to occur in Water Year 2018-19. In the alternative consider the differential Rampdown in Baja described above.

Dated: April 14, 2015

BRUNICK, McELHANEY & KENNEDY PLC

BY: _____

WILLIAM J. BRUNICK, ESQ.
LELAND P. McELHANEY, ESQ.
Attorneys for Defendant/Cross-Complainant,
MOJAVE WATER AGENCY

Motion to Adjust Free Production Allowance for Water Year 2015-16

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.,

Plaintiff,

vs.

CITY OF ADELANTO, et al.,

Defendant,

AND RELATED CROSS ACTIONS

CASE NO. CIV 208568

(Proposed) ORDER GRANTING MOTION TO ADJUST FREE PRODUCTION ALLOWANCE FOR WATER YEAR 2014-2015

Assigned for All Purposes to:
Hon. Gloria Connor Trask
Dept. 3

The above-entitled action came on regularly for hearing on June 13, 2014, before the Honorable Gloria Connor Trask, Judge presiding, on the motion of defendant/cross-complainant, MOJAVE WATER AGENCY, acting in its capacity as Watermaster, pursuant to the Judgment entered January 10, 1996, Paragraph 24(o), seeking an adjustment in Free Production Allowance. William J. Brunick, Brunick, McElhaney & Kennedy PLC appeared on behalf of the Mojave Water Agency. Marilyn H. Levin, Deputy Attorney General, Office of the Attorney General of the State of California, appeared on behalf of the Department of Fish and Wildlife. The court having reviewed and considered the moving and opposing papers, and the arguments of counsel, and good cause appearing, hereby

GRANTS the motion on the following terms as to the Subareas defined in the Judgment of January 10, 1996 for the Water Year 2014-15:

ALTO SUBAREA

1. Free Production Allowance (FPA) shall remain at 60% of Base Annual Production (BAP) for Municipal and Industrial (M&I) producers.

2. FPA shall remain at 80% of BAP for Agricultural producers, i.e., those who produce water for the irrigation of crops. (pursuant to the motion and order granted for Water Year 2003-04).

BAJA SUBAREA

Rampdown shall occur reducing FPA from 57.5% to 55% of BAP for all producers for 2014-15. Watermaster will report to the court annually on hydrologic conditions in Baja as required by the Judgment.

CENTRO SUBAREA

FPA shall remain at 80% of BAP for all producers.

ESTE SUBAREA

Rampdown is deferred and FPA shall continue to remain at 80% of BAP for all producers. However, deferred Rampdown could be implemented upon further order of the court following Watermaster's request and motion seeking court approval which could result in FPA being reduced to the level required by the Judgment at the time the motion is made.

OESTE SUBAREA

1. FPA shall remain at 80% of BAP for Agricultural producers.

2. Rampdown shall remain at 60% of BAP for Municipal and Industrial (M&I) producers for 2014-15, with the reduction to 60% held in abeyance (at 80%) and, FPA not be reduced until water production in Oeste exceeds 3,921 acre-feet. Watermaster shall review annually conditions in Oeste and continue to report to the Court and make recommendations as appropriate.

IT IS SO ORDERED.

Date: 7/16/14, 2014

Gloria Connor Trask

Gloria Connor Trask,
Judge of the Superior Court