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ADMITTED IN CALIFORNIA AND
IN THE DISTRICT OF COLUMBIA

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March 15, 1995

VIA FACSIMILE

William J. Brunick, Esq.
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1839 Commercenter West
P.O. Box 6425
San Bernardino, CA 92412

Re: *City of Barstow, et al. v. City of Adelanto, et al.*
Riverside County Superior Court, Case No. 208568

Dear Mr. Brunick:

I have reviewed your March 14, 1995 letter to me as well as Mr. Rowe's January 10, 1995 letter to Wayne Lemieux. I do believe that the two letters contain the fabric from which a solution can be crafted. As I noted in my letter to Mr. Rowe, the goal is not to upset the proposed Stipulated Judgment. The City of Big Bear Lake and other Big Bear Area Regional Wastewater Agency ("BBARWA") members only want reasonable assurances that the proposed Stipulated Judgment, once it is adopted and Ordered by the court, cannot be utilized by anyone, in any way, as a means to block the reclamation of water now exported to the Lucerne Valley for re-use within Big Bear Valley.

As I read Mr. Rowe's letter to Mr. Lemieux, the Mojave Water Agency ("MWA") understands the judgment to provide that the Watermaster shall annually assess the water supply of the five subareas within the adjudicated basin; that based upon this annual determination, the Watermaster will establish the quantity of water that can be pumped from each basin, assuming the absence of supplemental water. The annual determination of yield is based upon a total calculation of the available water supplies which would include, so long as they continue, return flows from wastewater applied to agricultural lands within Lucerne Valley by BBARWA. It is my understanding that return flows are assumed to be 50% of applied water.

William J. Brunick, Esq.
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I glean from Mr. Rowe's letter two main concepts of significance to the City of Big Bear Lake. First, the proposed Stipulated Judgment only controls the quantity of water that can be pumped from the respective basins. The proposed Stipulated Judgment does not compel the addition of supplemental water, nor does it compel an entity to continue to import water. Thus, BBARWA would be free, at any time, to cease its importation of wastewater into Lucerne Valley.

The second concept is that the practical impact this would have on the application of the provisions of the proposed Stipulated Judgment would be a reduced quantity of return flow calculated as part of the annual water availability figures and a potential reduction in pumping local basins.

In addition to these two concepts, and, perhaps derived from them, it is my understanding that no party considers the inclusion of the BBARWA wastewater flow in annual yield calculations as an adjudication or claim to that supply. Instead, they only consider it to be an accounting for that supply so long as it is imported to the basin. Moreover, since BBARWA is not a party to the adjudication, it cannot be bound by the adjudication or by the proposed Stipulated Judgment.

Finally, in this regard, you have represented to me that Bill Dendy and other witnesses have specifically testified on this matter in their discussion of Exhibit C-1. This testimony, I believe, includes reference to the fact that Exhibit C-1, appended to the proposed Stipulated Judgment, is clearly marked as an example and that the exhibit itself will be modified, on an annual basis, to reflect changed circumstances, as would be the case if the importation of wastewater to Lucerne Valley by BBARWA ceases.

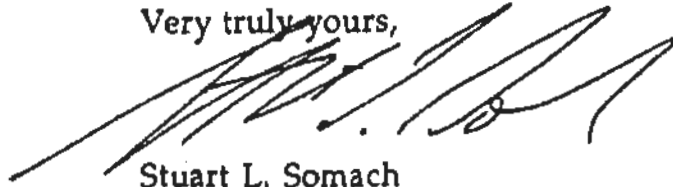
Assuming the foregoing accurately reflects MWA's understanding of the situation, I believe that the matter could be resolved through the execution of a simple letter agreement or MOU between MWA, as the proposed Watermaster under the proposed Stipulated Judgment, and BBARWA and the City of Big Bear Lake memorializing this understanding. Indeed, I believe a letter from the MWA, as the proposed Watermaster under the proposed Stipulated Judgment, acknowledging and concurring in the foregoing, might well be sufficient.

On a directly related topic, to the extent it is available, I would appreciate it if you could forward to me the Dendy and related testimony discussed above and noted within your letter. Also, under the proposed Stipulated Judgment, is the 50% assumed return flow from BBARWA Lucerne Valley lands conclusively presumed or is it a calculated number that may vary?

William J. Brunick, Esq.
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I hope that what I have proposed above resolves the situation. Your immediate attention to this matter is essential. Please do not hesitate to contact me if you have any questions or need additional information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stuart L. Somach", written over the typed name below.

Stuart L. Somach
Attorney

SLS:sb

cc: Larry Rowe
Wayne Lemieux, Esq.
Eric Garner, Esq.
Michael Perry

ATTACHMENT 2

BRUNICK, ALVAREZ & BATTERSBY

REC'D APR 5 1995

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PLEASE REFER TO

March 31, 1995

7MW-0009

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Attn: Stuart L. Somach

RE: City of Barstow, et al. v. City of Adelanto, et al.
Riverside Superior Court Case No. 208568

Dear Stuart:

In response to your letter of March 15, 1995, please find enclosed testimony of Jim Hansen and Bill Dendy regarding Exhibit C-1. I believe the best explanation of the Judgment is the Judgment itself. I have enclosed a copy of the stipulated Judgment for your review. It should be made clear that the Court may change the terms of the Stipulated Judgment if the Court decides to impose a different physical solution. We should have some idea as to the position of the Court on April 10, 1995.

I believe my letter of March 14, 1995 and Mr. Rowe's letter of January 10, 1995 states the position of the Mojave Water Agency as to the reclamation of water discharge by Big Bear Area Regional Waste Water Agency in Lucerne Valley. The inclusion of this discharge on Exhibit C-1 is an example only.

This exhibit will be modified to reflect changed circumstances as would be the case if the importation of waste water to Lucerne Valley by BBARWA ceases. Moreover, since BBARWA is not a party to the adjudication, I do not see how it could be bound by the adjudication or terms of the Stipulated Judgment.

Stuart L. Somach
March 31, 1995
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If you desire further clarification of the Mojave Water Agency's position in this matter, please contact this office.

Very truly yours,

BRUNICK, ALVAREZ & BATTERSBY



William J. Brunick

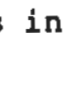
WJB/dkr

cc: Larry Rowe

ATTACHMENT 3

1 about.

2 What is this basically, and what's its purpose,
3 Mr. Dendy?

4 A This was a table labeled C-1. It appears in
5 Appendix C of the stipulated judgment. 

6 Q I'll stop you there.

7 This Table C-1, is this exactly the same as
8 Table C-1 in the judgment, which is Exhibit 4001?

9 A No, it isn't.

10 Q Why? What's the difference?

11 A When that was prepared, the process of
12 verification of production was still in progress. And we
13 always knew that as when final figures were obtained that
14 there would have to be an amendment to show some adjustment
15 in this table to reflect the fact that some production had
16 not been verified and perhaps some additional use is
17 found. And so this table is the latest update of that,
18 probably the final one, as far as I know.

19 Q Okay.

20 Let's take a look at what's on here. What's
21 reflected -- what -- What does "water supply" mean as
22 reflected in this table?

23 A Water supply here refers to the -- what is
24 the long-term average water supply that's expected to exist
25 over the next -- in the future. It's based -- the natural
26 sources of supply are based upon the sixty-year long-term
27 average annual natural water supply of water to the basin.

28 Q Okay. Let's stop for a second before you run

1 way far ahead of these concepts.

2 Why does this table utilize an average when you're
3 talking about water supply coming into a subarea?

4 A The -- When dealing with a large groundwater
5 basin, or basins as we are, there's a huge amount of water
6 in storage. And the water supply is highly variable from
7 year to year. There can be very wet years in which a lot
8 of water is put into storage. There can be very dry years,
9 series of dry years in which very little, if any, water
10 goes into storage. The use of the water to support an
11 economy can't rely on that kind of variability. The
12 economy of water used by people and farmers, industry,
13 needs to be fairly predictable and stable. And so by using
14 the long-term storage capacity of the basins, the water in
15 storage can be allowed to fluctuate up and down over time.
16 But as long as the average usage doesn't exceed the average
17 net supply, it should remain in balance.

18 Q Is the average net supply calculated over a
19 typical period of wet and dry years?

20 A In this case, as in other cases and other
21 basins, you use the best record you have. And what we
22 happen to have here is sixty years of pretty good record as
23 to what the water supply has been. Because it included
24 some series -- long series of wet years. There's some very
25 extreme wet years. It's included some extended periods of
26 drought, very dry years. Both kinds of years as well as
27 some more or less average years are included in the
28 record. Hydrologists believe it is representative of what

1 can be relied on for long-term average.

2 Q And now in that average year you have
3 different types of water supply as I see this. I think the
4 court has heard testimony on all about imports. I don't
5 recall much testimony on imports. What are those two
6 imports down at the bottom of that column, Mr. Dendy?

7 A These imports represent the -- that's
8 wastewater from two sources, Lake Arrowhead Community
9 Services District and the Big Bear Area Regional Wastewater
10 Authority, which for the past several years have been
11 exported from those areas and disposed of in the
12 Mojave Basin area. For purposes of projecting water supply
13 available in the future the assumption made here is that
14 those discharges will continue. We actually suspect that
15 they will increase. But all we know right now is that they
16 are at this level, and so that's the number we've used to
17 project as being available in the future as part of the
18 water supply.

19 Q Are these waters deposited somewhere in this
20 basin area just as the VVWRA waters are deposited after
21 sewage treatment?

22 A I believe some of the water is just disposed
23 of in percolation basins. It doesn't go to the river
24 directly.

25 Q Yes.

26 A And some is actually applied for use.

27 Q Now, could this net average water supply as
28 we go through the administration of this judgment out into

1 the future, could that average change under changed
2 circumstances? Would it have to be recomputed?

3 A The first three items, surface water inflow,
4 subsurface inflow, and deep percolation precipitation will
5 not change. It's highly unlikely that the sixty-year
6 average of those items is going to be changed in the
7 future.

8 Q How about the imports?

9 A The imports could change. As I say, the most
10 likely thing is they might go up. These people might find
11 someplace else to dispose of their wastewater outside the
12 Mojave Basin area. If they did, those numbers would have
13 to be taken off and a new calculation.

14 Q If a new import came on line through a
15 contract, would you take that into account?

16 A If -- Yes. If we believed that it was going
17 to be a reliable supply in the future, it should be added
18 in here.

19 Q Okay.

20 Now, getting down to consumptive use and outflow,
21 starting with consumptive use, what is consumptive use
22 differentiated from water production or water produced?

23 A Well, consumptive use refers to the -- the
24 best word I can use is evaporation. It is water that is
25 lost from the system permanently by evaporation into the
26 air.

27 Q It's not synonymous -- It's not equal to
28 production?