

HISTORY

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City of Barstow et al, v. City of Adelanto et al,

Riverside County Superior Court Case No. CIV208568

The Adjudication of the Mojave Basin was initiated by a lawsuit filed May 30, 1990 by the City of Barstow and Southern California Water Company. The complaint alleged that the cumulative increase in water use in the upper part of the Mojave Basin caused or threatened to cause a reduction in the natural flow of water to the central part of the Mojave Basin (the area in which the City of Barstow is physically located). The complaint requested that an average annual flow of 30,000 acre-feet of surface water accrue to the area where the City of Barstow is located. The complaint also included a request for a writ of mandate to require the Mojave Water Agency (MWA) to act pursuant to its statutory authority to obtain and provide supplemental water for use within the Mojave Basin Area. A cross-complaint was filed by the Mojave Water Agency approximately one year after the initial lawsuit. The cross-complaint requested that the Court declare the native natural water supply of the Mojave Basin inadequate to meet the demands of cumulative water production within the basin, as well as determine individual water production rights of producers of whatever nature throughout the entire Mojave Basin Area. This action included not only those water producers upstream of the City of Barstow, but also those water producers downstream of the City of Barstow. A cross-complaint was also filed by Arc Las Flores Limited Partnership which requested that their appropriative, overlying and riparian rights be determined to be prior and paramount to any rights of the plaintiffs and any other water producers within the Basin. Due to the magnitude and complexity of the case, the numerous water producers named as parties to the lawsuit agreed to conduct good faith negotiations. Discussion proceeded beginning in early 1992, with the objective of devising an equitable solution to the Basin Area's water supply problems and avoiding extensive and expensive litigation. During the next 18 months a committee of attorneys, engineers, and other individuals that were generally representative of all types of producers and all Subareas of the Basin Area conducted intense negotiations that resulted in a proposed settlement in the form of a Stipulated Judgment. The Stipulated Judgment set forth a proposed physical solution to the overdraft occurring in the Mojave Basin Area. The proposed Stipulated Judgment also created a class of minimal producers (that is, water producers using 10 acre-feet of water per year or less) who were dismissed from the case. It directed that the MWA create and administrate a procedure, acceptable to the Court, by which minimal producers could participate fairly in the physical solution. Over 75 percent of the parties agreed to the Stipulated Judgment which was entered by the Court on September 22, 1993, binding all stipulating parties. After entry of the Stipulated Judgment, additional parties agreed to its terms. These parties represented over 80 percent of the verified water production in the Basin. A trial of the claims of



the non-stipulating parties began on February 6, 1995 and was completed on March 21, 1995. [Final Judgment](#) was entered on January 10, 1996 adopting the physical solution set forth in the Stipulated Judgment. Nine non-stipulating parties referred to as the “Cardozo Group” chose to appeal the Judgment entered by the Superior Court. The Appellate Court issued a Tentative Opinion in April 1998 and received oral argument from both the stipulating and non-stipulating parties in May 1998. The Appellate Court issued its final opinion on June 1, 1998. The final opinion affirmed in part and reversed in part the Superior Court Judgment by excluding specific non-stipulating parties (the Cardozo Group) from the Superior Court Judgment and at the same time affirming it as to the stipulating parties. The decision also remanded the issue of the amount of transferable production rights for Jess Ranch Water Company back to the Superior Court for a new determination. The MWA board voted in June 1998 to seek California Supreme Court Review of the Appellate Court’s decision. A petition for review was filed with the Supreme Court in July 1998 and the Supreme Court granted review of the case on August 26, 1998. Oral arguments were heard by the Supreme Court on June 5, 2000 and its opinion was issued on August 21, 2000. The entire Supreme Court opinion can be found at [“Decision”](#). The Supreme Court’s opinion affirmed in part and reversed in part the June 1, 1998 opinion of the Fourth District Court of Appeal. The Supreme Court affirmed the Court of Appeal’s decision “in all respects,” except it reversed the Court of Appeal decision as to the Jess Ranch Water Company. The Court of Appeal had affirmed the Judgment as to the stipulating parties but had reversed it as to the Cardozo Appellants and as to Jess Ranch Water Company. The Court of Appeal opinion essentially excluded the Cardozo Appellants from the Stipulated Judgment, including the Judgment’s assessment provisions. Further, the Court of Appeal granted Judgment to the Cardozo Appellants in the form of injunctive relief to protect their riparian and overlying water rights to the current and prospective reasonable and beneficial need for water on their respective properties. Effective August 6, 2002 the Cardozo appellants and MWA, on behalf of the stipulating parties, reached agreement regarding the Cardozo appellants’ water rights. Consistent with the ruling from the California Supreme Court in this case, Cardozo Group’s right to pump water from the ground underneath their respective lands for the current and prospective reasonable and beneficial need for water on their respective properties was recognized by the Stipulating parties. Further, to settle all outstanding issues in connection with the Cardozo Group water rights, MWA and Cardozo agreed that “if the parties who stipulated to the Judgment are in full compliance with the Judgment there shall be a rebuttable presumption that the Cardozo Appellants’ water rights are not being interfered with.” In addition, all remaining water rights issues related to Jess Ranch Water Company and the Stipulating Parties were settled on August 16, 2002. Stipulation for Intervention and Entry of Judgment for Jess Ranch Water Company was filed in Riverside County Superior Court on August 23, 2002.

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