FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

JUL 28 2025

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE, CIVIL COMPLEX CENTER

MOJAVE PISTACHIOS, LLC; et al.,

Plaintiffs,

v.

INDIAN WELLS VALLEY WATER DISTRICT; et al.,

Defendants.

No. 30-2021-01187275

PROPOSED STATEMENT OF DECISION FOR PHASE ONE TRIAL INVOLVING THE UNITED STATES NAVY'S FEDERAL RESERVED WATER RIGHT

This Phase 1 trial adjudicates the federal reserved water right of the United States Navy for the Naval Air Weapons Station-China Lake ("NAWS China Lake" or "China Lake"). The trial stems from the Indian Wells Valley Water District's (the "District") filing of a cross-complaint for a comprehensive groundwater adjudication for the Indian Wells Valley Groundwater Basin No. 6-54 ("Basin") pursuant to the Streamlined Adjudication Act, Code of Civil Procedure 830 et seq. (ROA 155) That cross-complaint was in response to a lawsuit filed by Mojave Pistachios and other landowners seeking to quiet title and declare their rights to groundwater in the Basin. A Phase 2 trial, determining the safe yield of the Basin is set for June 1, 2026. Additional phases, to determine all parties' groundwater rights and to establish a physical solution for the Basin, have not yet been

scheduled.

The Phase 1 Trial was conducted over 7 days between April 28 and May 14, 2025. The parties primarily participating in the trial included the United States, Meadowbrook Dairy Real Estate and affiliated entities ("Meadowbrook"), the City of Ridgecrest ("Ridgecrest") and Searles Valley Minerals Inc. ("Searles"). Following the trial, the parties filed comprehensive post-trial briefs. The County of Kern and the Indian Wells Valley Groundwater Authority (the "Authority") joined in Ridgecrest's brief.

The Navy contends that its federal reserved water right, i.e., the minimum amount of water necessary to accomplish China Lake's primary purpose of weapons development and testing-- is nearly 7000-acre feet per year (APY). Although this amount is more than quadruple current usage levels, the Navy insists this level is necessary given the possibilities of (1) future weapon development and testing programs being assigned to China Lake, and (2) a return to on-base housing levels of the 1970s notwithstanding the demolition of most such housing and current Department of Defense (DOD) policy limiting on-base residences to military personnel.

Ridgecrest, Kern County and the Authority take it one step further and insist that the reserved water right for China Lake should be 7988 AFY. This number is derived from the amount of water used in 1970—the single highest year of water usage in the base's 80-year history. Even though this usage was at a time when most China Lake personnel lived on the base, and even though only 6% of personnel live there now, these parties assert that this amount is justified since China Lake's mission could not be accomplished without the off-base workforce, most of whom live in Ridgecrest.

Meadowbrook and Searles disagree with both the Navy and Ridgecrest et al, contending that the amount of water needed to fulfill the Navy's mission at China Lake is between 1644 AFY (Searles) and/or no more than approximately 2000 AFY (Meadowbrook). They assert that it does it not make sense to determine the federal reserved water right based on water usage over 50 years ago, and that the Navy's estimate of potential future use is tainted by two levels of speculation. They argue that whether or not new weapons programs will be assigned to China Lake in the future is pure guesswork as there are no current plans to do so. Notwithstanding this flaw, they acknowledge that it is possible some programs may come to China Lake in the future and that with those programs will be additional water needs.

But those additional water needs are relatively small. By far and away, the bulk of the Navy's claimed future water needs (over 4000 AFY) hinges on a second level of speculation—namely, the assumption that this additional work will entail a revitalization of on-base housing and, contrary to current Navy policy, thousands of civilian personnel and their families moving on-base.

As set forth below, this second level of speculation is not supported by sufficient evidence for the Court to give it credence. Certainly, it does not meet the "reasonably probable to occur" standard being applied by this Court. For this reason, and as explained in detail below, the Court finds that the Navy's federal reserved water right is 2008 AFY.

This Proposed Statement of Decision is issued pursuant to California Rule of Court 3.1590. Any objections to the proposed decision must be filed in compliance with CRC 3.1590(g).

1. OVERVIEW

The Basin is located in the Mojave Desert and encompasses roughly 382,000 acres underlying portions of Kern, Inyo and San Bernardino Counties. Approximately 302,095 acres overlying the Basin are owned by the Navy. The Basin, which is the sole supply of potable water for the Indian Wells Valley, has been designated by the Department of Water Resources as a high priority basin due to critical conditions of overdraft.

NAWS China Lake is the Navy's largest land holding in the world, encompassing over 1.1 million acres and nearly 20,000 square miles of restricted air space. (Exh. 93, p. 4) Its location in the Mojave Desert is ideal for weapons testing given its remote location away from major population centers, its unique topography—both the lowest (Death Valley) and highest (Mt. Whitney) points in the continental United States are nearby, and 330 sunny, clear days per year allow year-round flying weather. The base serves all branches of the military and cooperates with allies in weapons testing.

China Lake has 2100+ buildings, including approximately 500 laboratories as well as various facilities for testing and fabrication. Most of its personnel are civilians, none of whom currently reside on the base. The base includes military housing, recreational facilities, schools, runways, hangars and substantial public works infrastructure. The source of water for the base is limited to groundwater pumped from the Basin.

The District's cross-complaint seeks a comprehensive adjudication to determine the rights to all water within the Basin. The Streamlined Act establishes methods for a comprehensive adjudication, including the federal government's

reserved water right. Notably, the Supremacy Clause of the U.S. Constitution (Art. VI, clause 2) states that the federal government is not subject to state regulation unless Congress clearly and unambiguously waives sovereign immunity. The McCarran Amendment, 43 U.S.C. § 666, establishes such a waiver in cases involving a comprehensive state court adjudication of water rights. The Streamlined Act specifically provides for such an adjudication "consistent with Winters v. United States (1908) 207 U.S. 564, the McCarran Amendment . . . and any other federal laws regarding the determination of federal or tribal water rights, as applicable." (CCP § 830(b)(6))

2. THE FEDERAL RESERVED WATER RIGHTS DOCTRINE

The United States asserts a right to groundwater based on a body of case law known as the federal reserved water rights doctrine. As explained in *Cappaert v. United States* (1976) 426 U.S. 128: "[W]hen the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation." 426 U.S. at 138. The government's right to the water implicitly reserved "vests on the date of the reservation and is superior to the rights of future appropriators." *Id.* See also *Winters v. United States* (1908) 207 U.S. 564; *United States v. New Mexico* (1978) 438 U.S. 696; *Arizona v. California* (1963) 373 U.S. 546; *Arizona v. Navajo Nation* (2023) 599 U.S. 555.

A federal reserved water right does not extend to land outside the reservation. (*Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District* (9th Cir. 2017) 849 F.3d 1262, 1268 ["Despite the longstanding recognition that Indian reservations, as well as other reserved lands, require access to water,

the *Winters* doctrine only applies in certain situations: it only reserves water to the extent it is necessary to accomplish the purpose of the reservation, and it only reserves water if it is appurtenant to the withdrawn land. *Winters*, 207 U.S. at 575–78, 28 S.Ct. 207; *Cappaert*, 426 U.S. at 138, 96 S.Ct. 2062."].) [1]

Ridgecrest, et al disputes this limitation, arguing that federal reserved water rights extend outside the reservation to the extent that "the water is being used in furtherance of the federal purpose for which the land was reserved." (Ridgecrest post-trial Brief at pp. 17-18) While Ridgecrest is correct that these rights may affect water sources that are appurtenant to the reservation but outside its perimeter (*e.g., John v. U.S.* (9th Cir. 2013) 720 F. 3d 1214), there is no authority supporting the proposition that federal reserved water rights extend to water used on non-reservation property.

The Supreme Court has emphasized that the implied-reservation-of-water rights doctrine reserves "only that amount of water necessary to fulfill the purpose of the reservation, no more." (*Cappaert v. U. S.* (1976) *supra* at 141 [emphasis added].) *(U.S. v. New Mexico* (1978) *supra* at 700, quoting *Cappaert*, *supra* at 141.) Conversely, "[w]here water is only valuable for a secondary use of the reservation, however, there arises the contrary inference that Congress intended, consistent with other views, that the United States would acquire water in the same manner as any other public or private appropriator." *U.S. v. New Mexico, supra* at 702. Accordingly, under the primary-secondary purpose test, water that does not serve the primary purpose of the reservation is not part of a federal reserved water right. *Id.*

[1] Because virtually all of the cases cited herein use the term "Indian" when referring to these reservations, the Court, in order to avoid confusion, also will use this term instead of the term, "Native American," often used today.

The primary-secondary use distinction is illustrated by the Ninth Circuit's description of the *U.S. v. New Mexico* holding:

> Though it was decided seventy years after *Winters*, *New Mexico* remains faithful to this construction. In analyzing the reserved rights doctrine, the Court first sought to determine Congress' intent in creating the Gila National Forest. *New Mexico*, 438 U.S. at 698, 98 S.Ct. 3012. After reviewing the congressional act that established the forest, the Court determined that Congress intended only two purposes—"to conserve the water flows, and to furnish a continuous supply of timber for the people." *Id.* at 707, 98 S.Ct. 3012 (citation omitted). It did not, however, reserve the forest lands for aesthetic, environmental, recreational, or wildlife-preservation purposes. *Id.* at 708, 98 S.Ct. 3012. Thus, the Court deemed the latter uses "secondary," for which the reserved right did not attach, and held that only "to fulfill the very purposes for which a federal reservation was created ... [did] the United States intend[ ] to reserve the necessary water." *Id.* at 702, 98 S.Ct. 3012.

Agua Caliente Band of Cahuilla Indians, supra at 1269-70.

Though not binding, the Court agrees with the Maricopa County (Arizona) Superior Court's ruling pertaining to the military base at Fort Huachuca explaining the limits of the "minimal needs" doctrine: "The quantification of the federal right is the minimum amount necessary to achieve the purpose for which the land for Fort Huachuca was reserved; it is not the maximum amount of water that the United States may use for its military operations." *In re. The General Adjudication of All Rights to Use Water in the Gila River System and Source,* Contested Case No. W1-11-605 (Sept. 6, 2024) at p. *6 (*Meadowbrook RJN, Exh 1;

hereinafter cited as *Fort Huachuca*).

The Court also agrees with the *Fort Huachuca* court's finding that potential future temporary needs for water are not included in a calculation of federal reserved water rights. (*Id.* pp. 48-49) This conclusion is in line with *Winters* where the Supreme Court tethered those rights to permanent or long-term uses rather than temporary ones: "That the government did reserve then we have decided, and for a use which would be necessarily continued through years." (*Winters, supra,* 207 U.S. at 577).

It is important to bear in mind that a federal reserved water right does not preclude acquiring additional water rights needed for secondary purposes. As set forth above in *U.S. v. New Mexico, supra* at 702, the United States may acquire those rights on the same basis as any other user under state law.

3. CHINA LAKE'S FOUNDING AND ESTABLISHMENT

NAWS China Lake, then known as the Naval Ordinance Test Station or NOTS, was initially established for the purpose of "research, development and testing of weapons" pursuant to an order from the Secretary of the Navy on November 8, 1943. (Exh. 207) That order followed an October 30, 1943 memorandum stating the need for a test facility for aircraft weapons and detailing the unique physical characteristics of the area, including the consistently good flying weather, the vast available space, and the availability of "necessary scientific personnel." (Exh. 420) Planning for NOTS, including a proposed layout and facilities list, was developed by the Navy in consultation with scientists from Cal Tech. (Exhs. 204, 327)

A December 31, 1943 letter to the Secretary of the Interior stated that the Navy intended to make China Lake "permanent in character." (Exh. 232) The Secretary of the Navy requested "that the Department of the Interior take the necessary action to transfer complete control and jurisdiction over all of the public domain lands in the [proposed area for NAWS China Lake] to the Navy Department and that all revocable permits affecting such land, in favor of private parties, be cancelled." On March 23, 1944 Secretary of Interior Abe Fortas informed the Navy that the Interior Department had no objection to the Navy's immediate use of the area "pending the issuance of a public land order." (Exh. 355) On April 3, 1945, the Interior Department gave the Navy permission to acquire additional acreage and use this added "public domain pending issuance of a public land order." (Exh. 917) On December 19, 1947, the area now known as China Lake was formally withdrawn from the public domain pursuant to Public Land Order 431 published in the December 31, 1947 Federal Register. (Exh. 944)

In 1981, the United States issued Public Land Order 5942 to modify Public Land Order 431, and, in so doing, confirmed that December 19, 1947 as the date of the formal withdrawal. Public Land Order 5942 restored certain lands within NAWS China Lake for limited geothermal leasing under the Geothermal Steam Act of 1970, while stating all other aspects of the 1947 withdrawal—including the reservation of land for the Navy's exclusive use—remained fully in effect: "Public Land Order No. 431 of December 19, 1947, withdrew public lands from appropriation under the public land laws, including the mining and mineral leasing laws, for use of Navy as a naval ordnance testing center and proving range." (Exh. 1016) In 2016, the Congressional reservation for China Lake was extended to 2064. (Exh. 434)

In light of this chronology, the Court concludes that China Lake's implied

federal reserve water right became effective as of December 19, 1947. While it is true that the Navy commenced operations at this location four years earlier, the reserved water right dates from the formal withdrawal of the land from the public domain. As stated by the Supreme Court: "When the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation. In so doing, the United States acquires a reserved right in unappropriated water *which vests on the date of the reservation* and is superior to the rights of future appropriators." *Cappaert v. U.S., supra,* 426 U.S. at p. 138 (emphasis added).

The United States argues that the federal reserved water right vested when the Secretary of the Navy issued his November 8, 1943 order. It contends that the "initiation" of China Lake on that date was sufficient to support the vesting. In this regard, the Secretary of the Navy was authorized by the Second War Powers Act of 1942 to acquire to acquire "any real property, temporary use thereof, or other interest therein, . . . that shall be deemed necessary for military, naval, or other war purposes." Ex. 430 (Pub. L. No. 77-507, § 201, 56 Stat. 176, 177 (Mar. 17, 1942)). This authority included the power to acquire land "by purchase, donation, or other means of transfer" and to "cause [condemnation] proceedings to be instituted in any court having jurisdiction of such proceedings."

Contrary to Searles' argument (Searles post-trial brief p. 16), this Congressional authorization allowed the Secretary of the Navy to take necessary steps to withdraw land from the public domain. Nevertheless, it is undisputed that the Navy Secretary deferred to the Secretary of the Interior in doing so. (Exh. 232) And in both 1944 and 1945, the Secretary of the Interior referred to the need for a public land order formally withdrawing China Lake from the public domain. Of

course, the 1947 formal withdrawal was reconfirmed in the 1981 order.

Notwithstanding these formalities and the language in *Cappaert* regarding vesting on "the date of the reservation," the United States points to *United States v. Walker River Irrigation Dist.* (9th Cir. 1939) 104 F. 2d 334 in support of its argument for the earlier date. In that case President Grant's 1874 executive order "setting aside the land" for Indian tribes was deemed a "formal sanction to an accomplished fact" since in 1859 an authorized head of an executive department had taken necessary action to reserve the land. (*Id.*, at 338.) Based on this holding, the Government argues that the same result should apply here—China Lake's reservation should date from when it began operations in 1943 and not four years later when the public land order issued.

There are several responses to this argument. First, as noted above, the *Walker River* court concluded that a "departmental order" in 1859 was sufficient even without the Presidential proclamation to establish the reservation. Nothing comparable exists in the case at hand.

Second, cases involving Indian reservations appear to warrant somewhat different treatment than non-Indian cases. For one thing, it is well-settled that the date an Indian reservation was established requires a review of materials that don't necessarily exist for non-Indian cases: "For Indian reservations, courts look to the treaties, executive orders, and statutes that set aside reservation land for the tribe in question." (*Navajo Nation v. Department of the Interior* (9th Cir. 2017) 876 F. 3d 1144, 1155.) For another, a number of the reported federal reserved water rights cases involving Indian reservations emphasize that "treaties with the Indians and statutes disposing of property for their benefit have uniformly been given a liberal interpretation favorable to the Indian wards." (*United States v.*

Walker River Irrigation Dist., supra at p. 337; *Winters v. U.S., supra*, 207 U.S. at pp. 576-77) While no reported case has explicitly stated that this principle warrants treating the vesting date of reserved water rights for Indian reservations differently from other federal lands, this concept arguably supports the ruling in *Winters*.

Third, as noted above, the evidence establishes that the intent of the Interior Department in 1944 and 1945 was that a formal public land order would issue withdrawing China Lake from the public domain. Yet that order did not occur until 1947. There is no reason to ignore the intent for a formal withdrawal order as well as the formal order itself.

Fourth, and perhaps most importantly, establishing the federal reserved water right based on the date of the public land order provides certainty for all involved. Indeed, this case is prime example of why certainty is needed. Various events from 1943 through 1945 are cited by the United States as triggering the reserved water right. Yet none are conclusive. The October 31, 1943 memorandum and the November 8, 1943 order started the ball rolling, but did not clearly establish a permanent facility. The Secretary of Interior's December 31, 1943 letter and the March 23, 1944 letter were two more steps in the process, but also were not conclusive, particularly given the latter's statement "pending the issuance of a public land order." The April 3, 1945 letter reiterated this requirement.

All of these events led to the formal public land order in 1947. One could argue, as the United States has done, that any one or combination of these events was enough to establish the reserved water right. As it is, even without this documentation, there is an argument that China Lake was withdrawn from the

public domain by virtue of the work being performed and the personnel situated at this location as early as 1943. But how many personnel are enough to make it a permanent facility? How many buildings are enough. Do the buildings have to be permanent or is temporary enough?

In the Court's view, the establishment of the reserved water right is too important to be left to a guessing game or the interpretation of qualified historical experts like Dr. Scott Miltenberger or Dr. Douglas Littlefield. This is especially true when there is a formal public land order that had been anticipated for three plus years.

4. CHINA LAKE'S PRIMARY PURPOSE

All of the key historical documents point to the development and testing of weapons as the primary purpose of China Lake. The November 8, 1943 order establishing the base states: "A station, having for its primary function the research, development, and testing of weapons, and having additional function of furnishing primary training in the use of such weapons. Is hereby established." (Exh. 207) The March 23, 1944 letter from the Secretary of Interior refers to "the establishment of a naval ordinance testing center and proving grounds." (Exh. 942) Similar language is found in the two Public Land Orders. (Exhs. 944, 1016)

Notwithstanding this undisputed history, Ridgecrest et al contends that the primary purpose of China Lake was "both a military installation and company town." (Ridgecrest post-trial brief p. 9) The United States argues somewhat similarly, although it characterizes housing less in terms of a primary purpose and more about the need to support the military mission: "The housing purpose thus fits within the military purposes for which the base was established." (United

States post-trial brief p, 16)

The acknowledgement that the base was established for a "military purpose" is the more accurate characterization. While it is true that when the base was established there was no permanent on-base housing and little, if any, housing in what eventually became the City of Ridgecrest, there is no evidence that building a company town was a separate reason for withdrawal of the land from the public domain. To the contrary, it was necessary to provide housing, at first temporary and later permanent, as China Lake's mission expanded. And to the extent that housing was built on-base, the Court agrees that water needed to support the residents living there was encompassed by the federal reserved water right. Indeed, that remains the case today for the 6% of China Lake's workforce that still resides on the base.

But to argue that the reason for the withdrawal was to build a town is a bridge too far. This contention conflates the reason for establishing China Lake, i.e., its primary purpose, with what is needed to *support* that purpose. Moreover, the contention of Ridgecrest et al that the amount of water reserved for this town should be calculated based on the single year of highest usage (55 years ago no less) makes little sense. The fact that this amount of water may been used in the distant past does not take into account the base's more recent experience, nor does it comport with the minimal need doctrine articulated in *Cappaert* and reiterated in the *Fort Huachuca* case.

5. HISTORY OF HOUSING, POPULATION AND WATER USAGE AT CHINA LAKE

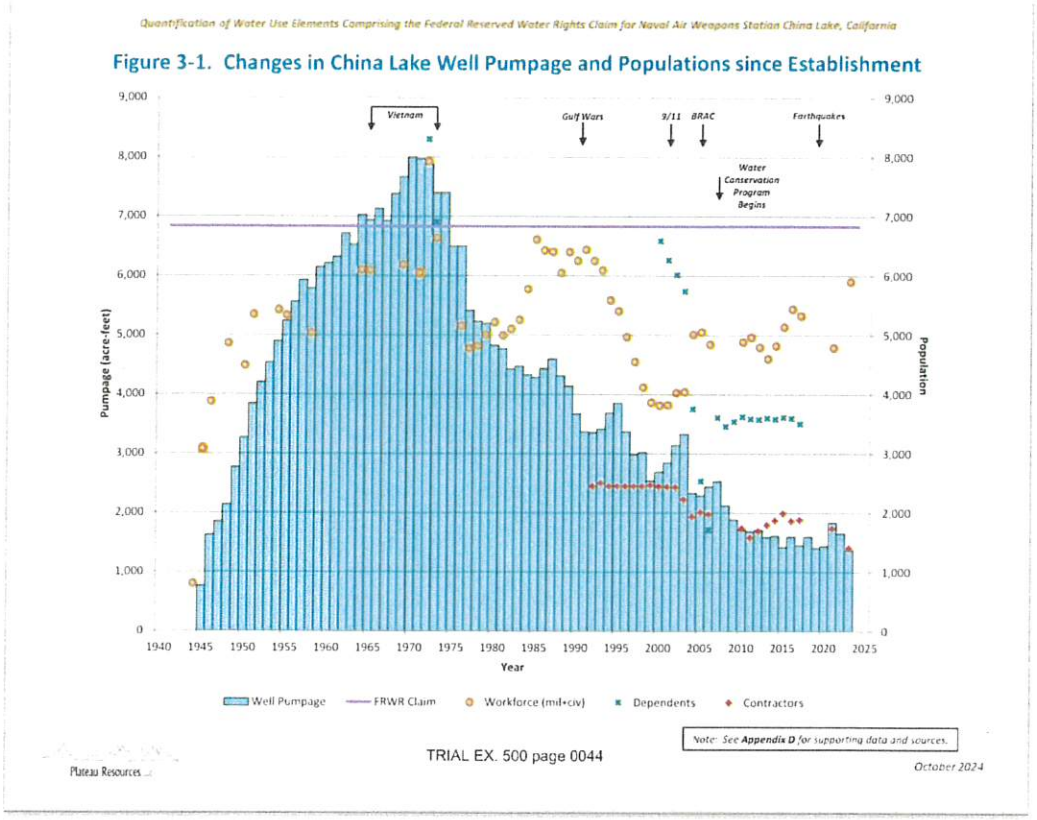
As things now stand, on-base housing at China Lake consists of 192 units for family housing, 192 beds for unaccompanied personnel housing, and 24 beds for "geobachelor" housing for service members living apart from their families.

(Exh. 93, p. 9) 16 additional family units have been approved for future construction utilizing a public-private joint venture (i.e., no capital outlay from the Navy). (*Id.*) It is estimated that 94% of China Lake's workforce live off the base. (Exh. 500, p.22) This is in sharp contrast to the early years of China Lake when, by 1954, there were over 3400 housing units at the base, including 2227 residences, 946 dormitory/barrack spaces, and 249 trailers. (Exh. 500, pp. 14-15) As of 1972 there were 2916 on-base family units. (*Id.* p. 39; Exh. 2, p. 6)

By the 1970s the Navy had decided to abandon the "company-town" model and substantially reduce on-base housing. The transition from a large on-base population to mostly off-base housing is described in detail in the report of historian Dr. Miltenberger. (Exh. 424, pp. 78-83) That decision led to the demolition of most of the houses (Exh. 2, p. 12); by 1980, on-base houses had fallen below 1500, by 1990 the number was 818, and by 2004 there were less than 200 residences. (Exh. 500, p. 15) Today on-base housing is limited to military personnel with the vastly larger civilian workforce (estimated to be in excess of a 10:1 ratio) living off-base, mostly in and around the City of Ridgecrest.

The elimination of most on-base housing mirrors, to a certain extent, the reduction of personnel at China Lake. At its Cold-War height in 1991, the Base supported 23,406 personnel, including 1,008 military personnel and over 22,000 civilians, contractors and their dependents. By 2000, the overall number was 12,837, and by 2017 the total was 10,859. (Exh. 2, pp. 21-24)

With the reduction of both on-base housing and the number of personnel working at China Lake, water usage also has been reduced. From a level of nearly 8000 AFY in 1970, the base has dramatically reduced usage and has averaged 1536 AFY for the last 10 years with 1367 AFY used in 2024. (Exh. 500, p. 13) The



progression of this reduction is illustrated by the graph found in Exh. 500, p. 44:

The most recent 10-year average is reflected in the following chart covering the last 14 years:

Annual Extraction Totals from Production Wells (Acre-feet)						
2011	2012	2013	2014	2015	2016	2017
1685	1708	1588	1607	1421	1594	1450
2018	2019	2020	2021	2022	2023	2024
1596	1407	1436	1830	1651	1367	1380

The foregoing 10-year average is skewed somewhat by 1830 AFY and 1651 AFY in 2021 and 2022 respectively. Those higher usage years were the result of a rebuilding project stemming from substantial damage caused by a 2019

earthquake. In addition, the 10-year average includes water allocated to the off-base management of horses and burros, a category of water usage that is not part of China Lake's federal reserved water right.

To be clear, however, the reduction in water usage is not simply the product of a lower base population. Rather, water conservation efforts have also played a role. In 1989 China Lake implemented a water conservation policy due to a concern with overdraft conditions in the Basin. (Exh. 91) That policy mandated a number of steps to reduce water usage, including replacing existing landscape, limiting lawn watering, installing low flow devices and water meters, and recycling water. In 2009, the Department of Defense issued a directive entitled Installation Energy Management which included a specific water conservation component. (Exh. 81, p. 20) Also addressing water conservation were the DOD's Unified Facilities Criteria (UFC) initially issued in 2009 and updated in 2020 and 2022. (Exhs. 84-86)

6. MORALE, WELFARE AND RECREATION (MWR) AND OTHER WATER USES

China Lake, like all Navy bases, provides various non-work facilities for base residents to ensure they are best positioned to perform their jobs at a top level. Indeed, MWR programs are required by the Department of Defense at all bases. (Exh. 306) As explained by China Lake's Commanding Officer, Captain Warren Van Allen, MWR programs, by addressing the "whole sailor," are designed to enhance sailor wellness. As stated in a 2009 DOD publication: "Military MWR programs . . . [p]romote esprit de corps and provide for the physical, cultural and social needs; general well-being; [and] quality of life." (Exh. 65, p. 2) This is particularly true at a remote base in the Mojave Desert where there is a nine-hole golf course, a bowling alley, a swimming pool, and dining facilities.

The total amount of water currently used by these facilities include 325 AFY for the golf course, 18.5 AFY for the pool and 8.3 AFY for the dining locations. (Exh. 93) Since 1972, the golf course has been irrigated using treated wastewater supplied by the City of Ridgecrest. That water supply continues pursuant to a 50-year easement signed in 2020. (Exhs. 438, p. 22; Exh. 291) This easement complies with the DOD's policy requiring that golf courses "use alternative water in lieu of potable water if sources are available." (Exh. 83) There is no evidence that this treated wastewater will not continue to be available for the entire term of the easement.

Treated wastewater is also used to supply water to the Mohave Tui Chub, a fish listed as endangered under both federal and state law and present at China Lake in what is known as the Lark Seep System. (Exhs. 438, p. 22; 312) Pursuant to another agreement with the City of Ridgecrest, up to 200 AFY of this treated water is set aside for percolation into the groundwater through the Lark Seep system. (*Id.* p. 23)

According to the Navy, other water uses at China Lake include 75.5 AFY for the Sands Unified School District facilities on the base, and 20 AFY for the water needs of horses and burros kept at a Bureau of Land Management (BLM) corral. (Exh. 93) Even though the BLM facility for managing the horses and burros is not on base property (Exh. 49, p. 9), the Navy provides water to the facility pursuant to a Wild Horse and Burro Management Plan with the BLM in 2022. (Exh. 292)

7. QUANTIFICATION OF THE NAVY'S FEDERAL RESERVED WATER RIGHTS

A. Date of Quantification

There is no dispute that there exists a federal reserved water right at China Lake. The land for the base was withdrawn from the public domain for the purpose of establishing a research, development and testing facility for military weapons. With that withdrawal came the implied right to use an amount of water necessary to serve the primary purpose of the military base.

What remains in dispute is how and when to quantify that amount. Although it does not say so directly, several statements in the United States' post-trial brief suggest that quantification is determined as of the date the base was established. For example, page 10 of the brief states: "Because a federal reserved water right "vests" on the date the land is set aside for a particular purpose, *Cappaert*, 426 U.S. at 138, the volume of the right is based on what the government needed, and thus impliedly reserved, to accomplish its purpose looking forward from that date."

To the extent that United States claims that the implied right to water *vested* on the date the base was established (1947 in the Court's view), it is correct. But to the extent the position of the Government and Ridgecrest et al is that quantification must be based on the amount of water needed at the origin of the base or anticipated to be needed at that time, the Court disagrees.

For one thing, it would have been impossible for the United States to know in 1947 what weapons would be needed in the future, what technological

advances affecting water usage would occur, how housing needs would be handled, and a host other important pieces of information. Put another way, determining quantification based on potential future water usage at a time when water usage was around 1000 AFY would have required something that plainly didn't exist—a crystal ball.

Notwithstanding the lack of such a device, the United States argues that "the government's [water] needs are evaluated at the time it reserved the land." (U.S. post-trial brief p. 16) Curiously, if the United States is correct in its contention that the volume of water reserved is measured from the date the installation was established (*Id.* p. 19), then that would mean no water was reserved for needs that didn't exist in the 1940s—e.g., the Mojave Tui Chub--that the U.S. now contends are part of the reserved water right. (*Id.* p. 31)

The relatively few reported decisions dealing with the quantification issue focus on a reservation's water needs going forward instead of what the precise needs were when the land was removed from the public domain. For example, in *United States v. Walker River Irrigation Dist. supra*, the court was faced with the question of quantifying the amount of reserved water for an Indian Reservation established in 1859. Rather than basing a ruling solely on the amount of irrigable acreage that existed on this date, the court approved a report summarizing how much water had been used since inception and concluded that the appropriate calculation was "demonstrated by seventy years of experience." (104 F. 2d at 340.)

In *Colville Confederated Tribes v. Walton* (9th Cir. 1981) 647 F. 2d 42, the court applied a similar analysis. There, the purpose of the Indian Reservation that was created in 1872 was to create a homeland that relied on agriculture and fishing (primarily salmon and trout) to support the tribe. Because salmon runs had

been destroyed in the 1900s by dams on the Columbia River, a fishery stocked with non-indigenous trout was established in 1968. Although that fishery was created nearly 100 years after the reservation's establishment, and undoubtedly was not contemplated in 1872, the court held that the reserved water right included sufficient water to maintain the fishery. (*Id.* at 48.)

These and a handful of other cases support the notion that actual water usage should be considered when determining quantification. While the United States appears to acknowledge this principle at page 13 of its post-trial brief, its continued reliance on early historical data for China Lake can fairly be characterized as myopic. Instead of considering the more relevant recent history of the base, the Government points to the "company town" that was built in the 1950s and 1960s and asserts that quantification should be based on the possibility that the town will be rebuilt and water usage will revert to Vietnam War levels of more than 50 years ago.

The problem with this approach is that it ignores the evidence presented at trial. The housing that existed in the 1970s has largely been demolished, the Navy has formalized a policy that civilian personnel should live off-base, and there are no plans to increase on-base housing beyond the 16 houses that have been approved. China Lake has continued its mission without interruption by using an average of 1536 AFY for the last 10 years, and there is no indication that this amount (along with the 108 AFY from non-potable wells for test and target areas and wildland firefighting) is inadequate. And while the United States has presented credible evidence that additional programs *might* be assigned to China Lake at some unknown point in the future (discussed below), that possibility does not also support the notion that the Navy suddenly will reverse course and house thousands of civilian employees on the base.

B. **Future Water Needs**

Much of the testimony in this trial focused on the Navy's potential future water needs. In *Arizona v. California, supra* at 601, the Supreme Court ruled that a reservation of water rights must be sufficient to meet the "future requirements" for accomplishing the purpose of the reservation. Significantly, future water needs must be tethered to the primary purpose of the reservation.

Not surprisingly, many of the leading cases discussing future water use involve Indian reservations, forest reserves, national parks and national monuments. The Court is unaware of any appellate decisions that focus in detail on military installations. Indeed, of all the cases cited by the parties, the only one providing a thorough analysis and involving a comparable situation to the present case is *Fort Huachuca.* There, the trial court considered the reserved water right for a 73,000-acre Army base in southeastern Arizona. Among other things, the Army argued that the calculation of its water right should take into account the possibility of an increase in base population from about 14,000 to nearly 64,000 for a "total mobilization" in the event of a calamitous occurrence such as a war.

In analyzing this issue, the *Fort Huachuca* court concluded that a potential future event can be a basis for quantification of a reserved water right if (1) it is "likely that a future use will occur," and (2) the proposed use "will be a long-term use." *Fort Huachuca* at p. 48. In other words, the federal reserved water right "must be based on a reasonably probable long-term use." *Id.* at p. 49.

The Court agrees that this standard makes sense as applied to a military installation. Unlike agricultural land or a national forest where the amount of

water needed to support the basic purpose of the reservation is not likely to dramatically change, a military base's water needs will fluctuate depending on a multitude of factors—new technology, budgetary concerns, base closings, military policies, the cost of housing, international relations and politics top the list. These and other factors are difficult to predict.

More significantly, the time frame in which the reserved water right is adjudicated is critical. Thus, if quantification of China Lake's reserved right was determined in the 1940s during World War II, then that right likely would have taken into account the ongoing war effort, the need for new weapons, the ever-increasing size of the base and the lack of a viable off-base housing alternative such as exists today in the City of Ridgecrest. Any determination at that time could not have contemplated base closings and consolidations that happened many decades later, nor could it account for the many water-conservation methods that have developed over the years.

Likewise, if the reserved water right had been adjudicated in 1969 at the height of the Vietnam War (Exh. 952), then the water use (nearly 8000-acre feet per year), the base's total population (nearly 20,000) and the available on-base housing (3800+ residences/dorm spaces) undoubtedly would have dictated a different result from today. However, because this proceeding is occurring 50+ years after Vietnam and 80+ years after World War II, the previous historical use is of little value given the many significant changes that have occurred since those wars ended.

In short, in determining China Lake's reserved water right, the Court starts with current water usage as a baseline, taking into account fluctuations that have occurred in the relevant past. And while the Court agrees that potential

future expansion of China Lake's mission should be taken into account in calculating that water right, that expansion must meet the "reasonably probable to occur" criterion. Although that standard admittedly does not equate with an exacting scientific formula, it is sufficient for analyzing the evidence in this case.

8. MINIMUM AMOUNT OF WATER NECESSARY TO ACCOMPLISH THE PRIMARY PURPOSE OF CHINA LAKE UNDER CURRENT CONDITIONS

The amount of water used for existing programs and personnel is largely undisputed. What remains in dispute is (1) how much of that existing use qualifies for federal reserved water right protection, and (2) perhaps more importantly, how much additional water will be needed to fulfill China Lake's primary purpose in the future given the lack of a clear plan as to how the base will be used and function in the coming years.

While the concept of weapon development and testing as a primary purpose of the base is easy enough to understand, quantification of water needs for this purpose is anything but simple. As noted above, the analysis today is undoubtedly different than it would have been 78 years ago when the base was formally established, and also quite different from 50+ years ago during the Vietnam War. Those earlier eras required far more manpower than today and were guided by military planning, technology and thinking developed in World War II and Vietnam. It also was before the growth of the City of Ridgecrest and when few alternatives for off-base housing existed. While the AFY needed in earlier years provides perspective on how China Lake has changed, there simply is no basis to rely on water usage in 1970 (about 8000 AFY) when considering current and future needs. Among other things, the radical change in housing at China Lake—i.e., demolition of most on-base housing—dramatically alters the

analysis.

As of today, China Lake is able to accomplish its primary purpose using 1536 AFY based on a 10-year average. And while it is true that in two of the non-earthquake years, the AFY was slightly higher (1594 AFY in 2016 and 1596 AFY in 2018), the average over the last four non-earthquake years is 1398 AFY, demonstrating a declining trend. On top of the 1536 AFY longer term average, the Navy claims 108 AFY needed for wildland firefighting and certain test and target area support. (Exh. 93, p. 6) This part of the reserved right claim is not the subject of any contrary argument. To be clear, there is no evidence that the total of 1644 AFY is not sufficient to cover China Lake's current needs under present conditions. Of course, included in this amount is 20 AFY for the non-primary purpose of off base management of burros and horses.

Put another way, because China Lake is able to fulfill its mission using 1624 AFY and has been able do so consistently over at least the last 10 years, the Court concludes that this amount of water is the minimum currently needed to accomplish its primary purpose. In reaching this conclusion, several observations are in order.

First, water necessary to support MWR programs is part of the federal reserved water right since the evidence establishes that these programs are needed for Navy personnel to perform at a high level. Such performance is integral to China Lake fulfilling its primary purpose of weapon development and testing. (*See, e.g., Fort Huachuca, supra* pp. 9-18) That being said, because the 325 AFY needed for golf course irrigation comes from treated wastewater provided by the Ridgecrest and not from groundwater, and since there is nothing to suggest that this source won't be available for the full 50-year agreement with Ridgecrest, it is not included in the reserved water right calculation. Notably, this ruling is

consistent with the position the United States took in the Fort Huachuca case where the golf course also was irrigated with treated wastewater. (*Fort Huachuca, supra*, at p. 22.)

Second, the same is true with respect to the 200 AFY needed to support the Tui Chub. The availability of treated wastewater for this purpose supports the conclusion that it need not be included in the reserved water right. More to the point, ensuring the protection of this endangered species, while worthwhile and subject to monitoring by the Department of the Interior (Exh. 312), is not essential to the Navy's primary purpose of weapon development and testing.

Third, the 20 AFY dedicated to the BLM's off-base management of burros and horses also is not necessary to the primary purpose of the Navy's mission at China Lake. Among other things, water for purposes outside the reservation is not encompassed by the federal reserved water right doctrine. (*Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, supra,* p. 1268.)

Fourth, along the same lines, the Court rejects Ridgecrest's argument that China Lake's reserved water right should include water used by base personnel living in that City. While water used by personnel while working on base is included in the reserved right, there is no authority for adding off-base water usage to this calculation.

Fifth, the Navy used a 1633 AFY figure (slightly reduced from 1644 AFY) plus a 25% "growth contingency" when it submitted information to the Indian Wells Valley Groundwater Authority in connection with the Authority's adoption of a groundwater sustainability plan in 2020. (Exh. 2) According to the Navy, this figure—2041 AFY—reflected its "Baseline pumping through 2070" (Exh. 17).

Although the Navy qualified this figure by stating that it did not necessarily reflect its federal reserved water right, it is evidence of stated basic water needs predating this litigation.

9. FUTURE WATER NEEDS

Much of the trial testimony and written evidence focused on potential future weapons development and testing that might be assigned to China Lake. In considering this evidence, the Court analyzes whether it is reasonably likely that this future use will occur and how much water will be needed to fulfill this need. Among other things, a critical issue is whether there is sufficient reliable evidence supporting the Navy's contention that this potential additional work will lead to a substantial increase in on-base housing.

The Navy's position, as articulated by expert Michael Bizon, Chief Engineer Matt Boggs and in the Third Amended Initial Disclosures (Exh. 93), is that the additional amount of water required by 8 potential new programs assigned to China Lake is 215 AFY, that 5427 additional personnel will be needed to support these new programs, that 80% of the new personnel would live on base, that on-base personnel would have an average of 2.6 dependents, and that the total water needs of personnel both living on and off the base will be 4103 AFY. Also included in the estimate of future water needs is 380 AFY for future construction, 325 AFY for golf course irrigation and 200 AFY for endangered species, i.e., the Tui Chub.

An opposing view was presented by Meadowbrook expert witness Rich Burtell. He accepts the projected additional 215 AFY for future programs but contends that the water usage associated with these programs is 169 AFY based on up to 5667 additional personnel, with 10% living on base. He asserts that 1.0 is

a more reasonable number of assumed dependents, and that the amount of water used each day by both on-base personnel and off-base residents is lower than the Navy's estimates. Excluded from his calculation is water designated for future construction, golf course irrigation and water for endangered species. (Exhs. 500, 548)

A. Potential Future New Programs Assigned to China Lake

The United States' Third Amended Initial Disclosures (Exh. 93) identify 8 programs which "would be feasible to be developed on the North Range of China Lake." Those programs are the basis of the Navy's estimates of future water needs even though it is acknowledged that "they are examples of hypothetical plausible future scenarios for mission growth at China Lake, and are not currently planned or programmed actions." (*Id.* p. 16)

As things now stand, there are no plans to assign these or any other additional programs to China Lake. Significantly, all three Navy officials testifying at trial acknowledged this status. Captain Van Allen testified he was unaware of future mission growth plans, and that there was no program in the process of being relocated to the base. Rear Admiral Brad Rosen confirmed that no new particular program or project has been assigned to China Lake, though he was confident additional programs would be assigned in the future. He acknowledged that while previous base closures pursuant to Congress's initiation of a process known as Base Relocation and Closure (BRAC) resulted in consolidation of programs at China Lake in the past, he "cannot predict whether Congress will initiate another round of BRAC." (Exh. 53, p. 7) Indeed, he stated that he was unable to assign a percentage as to the likelihood of growth actually occurring given the uncertainty of the budget process. Rear Admiral Keith Hash testified

similarly. While acknowledging that no substantial growth is forecasted to occur at China Lake in the next 4 to 5 years, he approved the assumptions of future growth set forth in in the United States' Third Amended Initial Disclosures. (Exh. 93)

Given this undisputed testimony, Searles and Meadowbrook argue that to base the reserved water right on the possibility of future programs is nothing more than speculation. According to Searles, this means that the anything more than the most recent 10-year average of 1644 AFY (1536 AFY for all base uses plus 108 AFY for firefighting, etc.) cannot be included in the reserved water right. Meadowbrook argues similarly, though it acknowledges via its expert that an increase to about 2000 AFY is plausible.

As noted above, the fact that China Lake's purpose involves development and testing of weapons puts it on different footing than most other federal reservations. Unlike Indian reservations, national forests and national monuments where the amount of water needed to support the reservation's primary purpose is relatively stable and focuses on things such as irrigable acreage, supplies of timber and fish survival, a military base is different. This is particularly true when it comes to China Lake where, given the pace of technology, the ever-changing nature of warfare, and the unpredictability of political issues, it's virtually impossible to predict what the future will bring.

In this sense, all parties are forced to speculate to a certain extent. The Navy and Ridgecrest et al speculate about programs that might come to China Lake, while Searles and Meadowbrook (albeit to a lesser extent) essentially speculate that the volume of work will remain the same.

In the Court's view, a number of factors support the notion that there is

a reasonable likelihood that additional future programs will come to China Lake. The declarations and testimony of Captain Van Allen and Admirals Hash and Rosen emphasize the unique qualities of the base—its size, its remote location, varied terrain, 330 days of clear weather per year, over 500 facilities designated as laboratories, and the variety of programs it supports. Although it is not clear what new programs will be assigned to the base and when any such assignments will occur, the fact that China Lake was evaluated for the 8 programs listed in the Third Amended Initial Disclosures demonstrate its importance. Likewise, Congress' recent allocation of $4 billion for earthquake-related repairs, along with the decision in 2017 to extend China Lake's public land withdrawal to 2064, tend to support the Navy's position on increased future programs.

B. It is Not Reasonably Likely that There Will Be an Increase in On-Base Housing

While any attempt to predict what might happen in coming years is, by definition, speculative, the Court is comfortable with concluding that there is a reasonable likelihood that future weapons programs will come to China Lake because of the above-listed factors. In this sense, the Court is giving the Navy the benefit of the doubt given the overriding importance of its mission.

But the same is not true when it comes to the likelihood of increasing the amount of personnel living on the base in future years. Indeed, not only does the evidence strongly suggest this will not occur, but it amounts to a second layer of speculation on top of the layer regarding future programs. While the Court can live with that first layer, the second layer goes too far.

In contrast to testimony regarding the possibility of future weapons

programs being assigned to China Lake, there was no evidence suggesting that additional housing beyond the 16 houses currently on the drawing board will be built, or that the Navy somehow will reverse course on a decades-long process of eliminating on-base housing for non-military personnel. To their credit, none of the testifying Navy officers suggested that such a change in direction is even in the discussion stage.

Yet despite this testimony, Navy expert witness Michael Bizon hypothesized that at some point in the future 80% of China Lake's personnel and their dependents would eventually live on the base. (Exh. 438, p. 26) In support of this statement and others, Bizon's expert report relied on "staffing and programs personnel numbers . . . supplied by Naval Command." (*Id.* p. 24) When asked at trial who or what he meant by "Naval Command," he acknowledged that he did not know. Indeed, neither did Captain Van Allen nor Admirals Rosen and Hash. As it turned out, this assumption was developed by civilian employee Matt Boggs "through coordination with counsel." If nothing else, this admission highlights the lack of credible evidence on the future housing issue.

Given this lack of evidence, the Court concludes that it is not reasonably likely that on-base housing levels will materially increase, or that they will increase to Vietnam War-era levels. While the Court recognizes that any increase in future programs likely will require additional personnel (see discussion below), the quantification of the reserved water right will not assume that the percentage of military and civilian personnel living on the base will materially change.

C. <u>Quantification of Federal Reserved Water Right Considering the Reasonable Likelihood that New Programs Will Be Assigned to China Lake</u>

In light of the above discussion of potential future programs and the fact that an increase in on-base housing is unlikely, the Court rejects the Navy's proposed figure of 6,783 AFY for its reserved water right. Instead, it finds that the 2,028 AFY calculated by Meadowbrook is a more appropriate calculation considering all of the evidence, although that figure must be reduced by 20 AFY since it includes water for the non-primary purpose of off reservation animal management. The 2,028 figure consists of the existing baseline amount of 1644 AFY, plus 215 AFY for projected new programs and 169 AFY for additional personnel associated with those programs.

For the reasons set forth above, the 380 AFY allocated by the Navy for future construction is not supported by the evidence. While it is true that there is ongoing base construction, the water usage for such construction is baked into the 10-year average of 1536 AFY. Significantly, that usage includes higher amounts in 2021 and 2022 occasioned by extensive construction following the 2019 earthquake. To the extent that another singular event occurs in future years, the water usage associated with that event is properly characterized as a temporary need that is not part of the permanent federal reserved right.

Likewise, the 325 AFY allocated by the Navy for future golf course irrigation, as well as 200 AFY for the Tui Chub, are not part of the reserved water right. As set forth above, the water for both of these needs is supplied by the City of Ridgecrest with treated wastewater pursuant to a 50-year agreement.

As to the 215 AFY for potential future programs, the Court finds this amount to be a reasonable estimate for calculating the federal reserved water right. As noted above, assumptions about both future programs and the amount of water needed for them are by definition speculative. Nevertheless, given the

importance of China Lake's mission and its unique qualities, as well as the lack of argument as to the specific amounts of water associated with these potential new programs, the Court accepts this figure as reasonable.

The amount of water needed to support the personnel required for these new programs is not as clear. In terms of the number of additional personnel needed, the Navy estimate of 5427 is slightly lower than Burtell's estimate of 5667. With respect to the number of new personnel who would live on Base, the Court accepts Burtell's 10% figure—an amount 4% higher than current personnel housed at China Lake. As to the new on-Base personnel, the Court concludes that Burtell's assumption of 1.0 dependent each makes sense in light of the current data supporting a figure of .72 per personnel.

What is less clear is the amount of water used on a daily basis by these personnel groups. Note that although there are water meters at various locations at China Lake, they were not used by either the Navy or the various experts to calculate usage. Also, the Court places little weight on Navy expert Bizon's reliance on the DOD's 2012 Unified Facilities Criteria (UFC) for calculating daily usage rates. Those criteria are design standards for water treatment facilities on military bases. While they include flow requirements for base personnel, they do not establish actual use requirements for any particular facility.

More to the point, both experts' suggested use numbers are essentially educated guesses. To the extent the Court chooses one expert's number over another, it is not concluding that the underlying evidence clearly dictates a particular result. Rather, it reflects the Court's best effort to realistically analyze the somewhat limited information supplied by each side.

As to actual water usage, Bizon relies on the Indian Wells Valley Water District's (IWVWD) 2022 calculation of 118.8 gallons per capita per day (GPCD) for its users. This figure is not a particularly accurate comparator since approximately 92% of Ridgecrest's housing and 24% of Kern County's housing was built more than 25 years ago (Exh. 115, p. 54). There is no data whether any of this older housing incorporates the water conservation requirements found at China Lake. By the same token, Burtell's reliance on water usage at the nearby Army base at Fort Irwin (89 GPCD) is also not a particularly accurate comparator. Among other things, Fort Irwin houses much of its population in barracks and its soldiers spend much of their time in the field.

Burtell offers two other possible comparators—100 GPCD based on projected usage at Fort Bliss and 104.25 for the IWVWD based on a revised conservative population estimate of 31,000 for Ridgecrest. (Burtell Demonstrative, p. 5) Bearing in mind that all of these daily use amounts are estimates and not exact comparators, the Court adopts the 104.25 GPCD as a reasonable figure.

For China Lake personnel living off base but working on base, the Navy contends that a daily usage amount of 30 GPCD for 261 days annually should be applied. Again, this figure comes from the UFC which is a design document for water treatment systems. Bizon's supplemental report (actually, a response to Burtell's opinions) acknowledges that "future planning data and daily water demand is not quantifiable for the types of specific industrial activities within NAWSCL [China Lake]." (Exh. 439, p. 6) Neither Bizon nor any of the Navy's other witnesses provided any evidence of actual daily water use at China Lake.

Burtell disputed Bizon's usage rate on two fronts. First, he notes that 261 days of annual water use assumes an individual will work 5 days per week, 52

weeks per year. By not including holidays and vacations of at least 20 days, Bizon has inflated water usage. Second, Burtell points to studies of daily water usage rates in office settings (Exh. 500, p. 40) and uses the EPA's 13 GPCD measurement. While this figure also is not supported by specific evidence regarding water usage at China Lake, the Court finds it more reasonable than relying on a 2012 planning document that does not appear to take into account the various water conservation measures in place at the base.

Adding both on and off base water usage, Burtell concludes that additional personnel associated with potential new programs will result in annual usage of 169 AFY. Meadowbrook asserts that this is a conservative amount given that it is based on several assumptions that favor the Navy, including (1) using 10% as the number of personnel living on base even though the current actual number is closer to 6%, (2) using 1.0 as a the assumed number of dependents even though the current actual figure is .72, and (3) assuming personnel living off base will work 261 days per year even though a more realistic number is 241 days.

Bizon does not calculate a number based on the assumptions discussed in the above paragraphs. However, to the extent that the Navy contends that those assumptions translate into an amount somewhat greater than 169 AFY, the Court believes that the above-described conservative approach compensates for the overage.

10. CONCLUSION

The Court concludes that the Navy's federal reserved water right for China Lake is 2008 AFY. This amount is calculated by adding the following amounts: (1) 1516 AFY based on the most recent the 10-year average annual

water usage of 1536 AFY minus 20 AFY used off reservation for animal management (burros and horses); (2) 108 AFY for test and target area plus wildfire management; (3) 215 AFY for potential future weapons programs; and (4) 169 AFY for additional personnel associated with those potential new programs.

Dated: July 28, 2025

William Claster, Superior Court Judge