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12 INDIAN WELLS VALLEY WATER DISTRICT

13
14
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

17 MOJAVE PISTACHIOS, LLC; et al.,

18 Plaintiffs,

19 v.

20 INDIAN WELLS VALLEY WATER
21 DISTRICT; et al.,

22 Defendants.

Case No. 30-2021-01187275-CU-OR-CJC

*[Related to: Case No. 30-2021-01187589-CU-
WM-CXC; Case No. 30-2021-01188089-CU-
WM-CXC; Case No. 30-2022-01239479-CU-
MC-CJC; Case No. 30-2022-01239487-CU-
MC-CJC; Case No. 30-2022-01249146-CU-
MC-CJC]*

Assigned For All Purposes To:
The Honorable William Claster, Dept. CX104

23
24 **JOINT CASE MANAGEMENT
25 CONFERENCE STATEMENT**

26 **Date: March 17, 2023**
27 **Time: 1:30 p.m.**
28 **Dept.: CX104**

1 INDIAN WELLS VALLEY WATER
2 DISTRICT,

3 Cross-Complainant,

4 v.

5 ALL PERSONS WHO CLAIM A RIGHT
6 TO EXTRACT GROUNDWATER IN THE
7 INDIAN WELLS VALLEY
8 GROUNDWATER BASIN NO. 6-54
9 WHETHER BASED ON
10 APPROPRIATION, OVERLYING RIGHT,
11 OR OTHER BASIS OF RIGHT, AND/OR
12 WHO CLAIM A RIGHT TO USE OF
13 STORAGE SPACE IN THE BASIN; et al.,

14 Cross-Defendants.

15 SEARLES VALLEY MINERALS INC.,

16 Cross-Complainant,

17 v.

18 ALL PERSONS WHO CLAIM A RIGHT
19 TO EXTRACT GROUNDWATER IN THE
20 INDIAN WELLS VALLEY
21 GROUNDWATER BASIN NO. 6-54
22 WHETHER BASED ON
23 APPROPRIATION, OVERLYING RIGHT,
24 OR OTHER BASIS OF RIGHT, AND/OR
25 WHO CLAIM A RIGHT TO USE OF
26 STORAGE SPACE IN THE BASIN; et al.,

27 Cross-Defendants.

28 AND RELATED CASES.

Complaint Filed:
Trial Date:

November 19, 2019
None Set

1 the report, and that any party that has “substantive comments, proposals, and/or objections”
2 should add language where appropriate, but should not “substantively revise the attached.”

3 The Local Public Agencies and the United States have provided comments herein under
4 separately identified headings. The Local Public Agencies and the United States notes that much
5 of Section 2 of this Report is effectively a brief addressing issues the Technical Working Group
6 Parties acknowledge are properly raised by motion. Rather than engage in responsive briefing the
7 Local Public Agencies and the United States reserve substantive response until such time as the
8 Court establishes its jurisdiction and invites motions or other proposals addressing how this
9 matter should proceed.

10 Accordingly, those comments provided herein are not meant to be a complete response to
11 any issues raised in this CMC Statement, and the Court should not view the lack of a comment as
12 approval of what the District has stated.

13
14 **1. WHAT HAS BEEN DONE IN THE CASE**

15 **A. STATUS OF THE PLEADINGS**

16 On November 19, 2019, Plaintiffs filed a Complaint for Quiet Title, Declaratory Relief
17 and Injunction Imposing a Physical Solution: Not General Adjudication against the District,
18 Searles, and Meadowbrook (collectively, “Defendants”). Through their complaint, Plaintiffs
19 seek: (1) to quiet title to their water rights in the Indian Wells Valley Groundwater Basin, Basin
20 No. 6-54 (“Basin”); (2) a declaration of their overlying water rights to extract and store
21 groundwater within the Basin; and (3) to enjoin Defendants from inconsistent conduct or,
22 alternatively, to impose a limited physical solution among Plaintiffs and Defendants. All
23 Defendants have answered the complaint.

24 In response to Plaintiffs’ complaint, on June 16, 2021, the District filed a
25 Cross-Complaint for Comprehensive Adjudication of the Basin, pursuant to the California
26 Streamlined Groundwater Adjudication Statutes (Code Civ. Proc., §§ 830-852) (“Comprehensive
27 Adjudication”). In the Comprehensive Adjudication, the District seeks: (1) a determination of
28 all rights to extract (aka pump) groundwater in the Basin, whether based on appropriation,

1 overlying right, or other basis of right, and all rights to use of storage space within the Basin;
2 (2) entry of judgment based upon the criteria set forth in Code of Civil Procedure section 850;
3 and (3) imposition of a physical solution pursuant to Code of Civil Procedure section 849.

4 B. ASSIGNMENT BY CHAIRPERSON OF THE JUDICIAL COUNCIL OF A
5 JUDGE TO PRESIDE IN ALL PROCEEDINGS

6 On May 20, 2022, at the initial Case Management Conference in the Comprehensive
7 Adjudication, the Court directed the District to take the lead in requesting that the Chairperson of
8 the Judicial Council assign a judge to preside over all proceedings in the Comprehensive
9 Adjudication, pursuant to Code of Civil Procedure section 838(a)(1). The Court also expressed a
10 willingness to continue to preside over all of the related cases, including the Comprehensive
11 Adjudication.

12 On August 10, 2022, Plaintiffs, the District, Searles, Meadowbrook, the United States,
13 and the Authority filed in this Court and mailed to the Judicial Council a Joint Request for
14 Assignment by Chairperson of the Judicial Council (Code Civ. Proc., § 838(a)). The Joint
15 Request requested that the Chairperson of the Judicial Council assign a judge to preside in all
16 proceedings in the Comprehensive Adjudication and specifically requested that the Chairperson
17 assign this Court as said judge.

18 At the December 2, 2022 Case Management Conference, the Court indicated that it
19 would follow up with the Judicial Council as it did not appear the Judicial Council had yet acted
20 on the Joint Request. On December 21, 2022, the District sent another copy of the Joint Request
21 to the Judicial Council at the Court's request.

22 As of the filing of this Joint Case Management Conference Statement, there has yet to be
23 a response by the Judicial Council.

24 C. STATUS OF NOTICE AND SERVICE OF THE COMPREHENSIVE
25 ADJUDICATION

26 The District reports that it has completed and complied with all notice and service
27 requirements required by Code of Civil Procedure section 830 *et seq.* and the Court's orders in
28 this case, and the case is now at issue.

1 **(1) Initial Notice of Comprehensive Adjudication (Code Civ. Proc.,**
2 **§ 835).**

3 Code of Civil Procedure section 835 required the District to provide notice of the
4 Comprehensive Adjudication via first-class mail or email to: (a) a groundwater sustainability
5 agency that overlies the Basin or a portion of the Basin; (b) a city, county, or city and county that
6 overlies the Basin or a portion of the Basin; (c) a district with authority to manage or replenish
7 groundwater resources of the Basin in whole or in part; (d) the operator of a public water system
8 or state small water system that uses groundwater from the Basin to supply water service; (e) a
9 California Native American tribe that is on the contact list maintained by the Native American
10 Heritage Commission; (f) the Attorney General, the State Water Resources Control Board, the
11 Department of Water Resources, and the Department of Fish and Wildlife; and (g) a federal
12 department or agency that manages a federal reservation that overlies the Basin or a portion of
13 the Basin. (Code Civ. Proc., § 835(a)(1)-(7), (b), & (c)(1)(A).) On July 1, 2021, the District
14 filed a Notice of Completion of Providing Notice of the Comprehensive Adjudication to the
15 entities and individuals entitled to receive notice pursuant to Code of Civil Procedure
16 section 835.

17 **(2) Mailing of Notice of Commencement of Comprehensive Adjudication,**
18 **Cross-Complaint, and Form Answer to Basin Property Owners (Code**
19 **Civ. Proc., § 836).**

20 Code of Civil Procedure section 836 required the District to lodge a Notice of
21 Commencement of Groundwater Basin Adjudication (“Adjudication Notice”) and Form Answer
22 to Adjudication Cross-Complaint (“Form Answer”) with the Court upon filing the
23 Comprehensive Adjudication. (Code Civ. Proc., § 836(a).) The District lodged the Adjudication
24 Notice and Form Answer with the Court on June 16, 2021. Section 836 further required the
25 District to seek and obtain the Court’s approval of the Adjudication Notice and Form Answer.
26 (Code Civ. Proc., § 836(b).) On August 26, 2021, the Court granted the District’s motion and
27 approved the Adjudication Notice and Form Answer. On November 5, 2021, the Court granted
28

1 the District's ex parte application and approved modification of the Adjudication Notice and
2 Form Answer to reflect the then-newly assigned department and judicial officer.

3 Once the Court approves an adjudication notice and form answer, section 836 requires
4 the party initiating the comprehensive adjudication to (a) identify the assessor parcel numbers
5 and physical addresses of all real property overlying the basin and the names and addresses of all
6 holders of fee title to real property overlying the basin using the records of the assessors of the
7 counties overlying the basin; and (b) mail, by registered mail or certified mail, return receipt
8 requested, a copy of the adjudication notice, cross-complaint, and form answer to all holders of
9 fee title to real property overlying the basin and to the physical address of the property where the
10 owner's mailing address and the physical address differ. (Code Civ. Proc., § 836(c) &
11 (d)(1)(A)-(B).) On November 15, 2021, the District filed a Notice of Acquisition of Information
12 Concerning Real Property in the Basin, confirming that it had identified the assessor parcel
13 numbers and physical addresses of all real property in the Basin and the names and addresses of
14 all holders of fee title to real property in the Basin using the records of the assessors of the
15 Counties of Inyo, Kern, and San Bernardino. On March 10, 2023, the District filed a Notice of
16 Completion of Mailing and supporting declarations pursuant to Code of Civil Procedure
17 section 836(e), confirming that it had completed the certified mailing.

18 **(3) Providing Notice of Commencement of Comprehensive Adjudication,**
19 **Cross-Complaint, and Form Answer to All Basin Property Owners**
20 **(Code Civ. Proc., § 836).**

21 Following the registered or certified mailing under section 836(d) (see, *supra*, § 1.C(2)),
22 for each parcel of property for which return receipt is not received, Code of Civil Procedure
23 section 836 requires the party initiating the adjudication to post a copy of the Adjudication
24 Notice, Comprehensive Adjudication, and Form Answer in a conspicuous place on the property.
25 (Code Civ. Proc., § 836(d)(1)(C).) On December 9, 2022, the Court granted the District's
26 Motion for Order Granting Leave to Use Alternative Means to Complete Service under Code of
27 Civil Procedure section 836. In granting the motion, the Court ordered the District to use a
28 combination of three methods of service as an alternative to posting on property under

1 section 836(d)(1)(C). On March 10, 2023, the District filed a Notice of Completion of Mailing
2 and supporting declarations pursuant to Code of Civil Procedure section 836(e), confirming that
3 it had completed the three alternative methods of service in lieu of posting.

4 **(4) Providing the Adjudication Notice and Form Answer to Various**
5 **Entities for Posting Online (Code Civ. Proc., § 836).**

6 Code of Civil Procedure section 836 required the District to provide the court-approved
7 Adjudication Notice and Form Answer to the California Department of Water Resources and
8 each county and groundwater sustainability agency that overlies the Basin or a portion of the
9 Basin, so that these entities could post those documents on their websites. (Code Civ. Proc.,
10 § 836(m).) Within fifteen (15) days of the Court’s approval of the Adjudication Notice and
11 Form Answer, the District provided them to the California Department of Water Resources, the
12 Counties of Inyo, Kern, and San Bernardino, and the Authority. Within fifteen (15) days of the
13 Court’s approval of modification of the Adjudication Notice and Form Answer, the District
14 provided the modified documents to those same entities.

15 **(5) Requesting Information from Various Entities (Code Civ. Proc.,**
16 **§ 836.5).**

17 Code of Civil Procedure section 836.5 required the District to request certain information
18 from the State Water Resources Control Board, a local agency designated under Water Code
19 section 5009 as the local agency for a board-designated local area that includes the Basin or a
20 portion of the Basin, and the groundwater sustainability agency that overlies the Basin or a
21 portion of the Basin. (Code Civ. Proc., § 836.5.) Within fifteen (15) days of the Court’s
22 approval of the Adjudication Notice and Form Answer, the District requested the required
23 information from the State Water Resources Control Board and the Authority. The District
24 determined that the Basin lacks a local agency for any board-designated local area under Water
25 Code section 5009.

1 **(6) Publication of Notice of Commencement of Comprehensive**
2 **Adjudication (Code Civ. Proc., § 836).**

3 Code of Civil Procedure section 836 required the District to publish the Adjudication
4 Notice once a week for four consecutive weeks in at least one newspaper of general circulation
5 within each county overlying the Basin. (Code Civ. Proc., § 836(d)(1)(D).) The Basin overlies
6 portions of Inyo, Kern, and San Bernardino Counties. The District completed publication and
7 filed proofs of publication in *The Inyo Register*, the *San Bernardino County Sun*, *The Daily*
8 *Independent*, and *The News Review*, on January 3, 2022, January 14, 2022, January 14, 2022, and
9 February 3, 2022, respectively.

10 **(7) Service of the Comprehensive Adjudication on all Cross-Defendants**
11 **(Code Civ. Proc., §§ 428.60, 836).**

12 Code of Civil Procedure section 836 provides that “[o]nce the court approves the draft
13 notice [of commencement of comprehensive adjudication], service of that notice in accordance
14 with this section shall substitute for the summons otherwise provided for in civil actions pursuant
15 to Section 412.20.” (Code Civ. Proc., § 836(c).) The cross-defendants named were those
16 entities, individuals, and governmental entities known to the District to be existing pumpers of
17 Basin groundwater. The District reports that it has completed service of the Comprehensive
18 Adjudication, the Adjudication Notice, and the Form Answer on all named cross-defendants as
19 reflected in Exhibit “A,” and the case will be at issue by the March 17, 2023 Case Management
20 Conference.

21 In addition to naming specific entities, individuals, and governmental agencies as
22 cross-defendants, the District also named “All Persons Who Claim a Right to Extract
23 Groundwater in the Indian Wells Valley Groundwater Basin No. 6-54 Whether Based on
24 Appropriation, Overlying Right, or other Basis of Right, and/or Who Claim a Right to Use of
25 Storage Space in the Basin.” The District reports that additional cross-defendants have claimed
26 an interest in the Basin’s groundwater and/or storage and have filed answers and/or have
27 appeared in the action as of the date of the filing of this Statement, as reflected on the attached
28 Exhibit “B.” The District reports that additional cross-defendants have claimed an interest in the

1 Basin’s groundwater and/or storage and have submitted answers to the District, which answers
2 do not appear to have been filed with the Court as of the date of the filing of this Statement, as
3 reflected on the attached Exhibit “C.” A copy of the current service list is attached as
4 Exhibit “D.”

5 D. PARTICIPATION BY DE MINIMIS PUMPERS

6 Pursuant to Code of Civil Procedure section 833(d), if the court finds that claims of right
7 to pump only “minor” quantities of water, not exceeding five acre-feet of water per year, would
8 not have a material effect on the groundwater rights of other parties, the court may exempt those
9 claimants with respect to those claims from the comprehensive adjudication. (Code Civ. Proc.,
10 § 833(d).) Under the Sustainable Groundwater Management Act of 2014 (“SGMA”), a “de
11 minimis” pumper is defined as a person who extracts, for domestic purposes, two acre-feet of
12 groundwater or less per year. (Wat. Code, § 10721(e).) The Authority currently exempts de
13 minimis pumpers from the payment of the Authority’s Replenishment Fee and certain other
14 GSP-related programs. No determination among the Parties has been made whether to exempt
15 de minimis pumpers. The United States’ position is that the McCarran Amendment’s waiver of
16 sovereign immunity for a comprehensive adjudication requires joinder of all water right users
17 and potential claimants. The Court has paused or stayed the required participation by potential
18 de minimis pumpers since the initial Case Management Conference on May 20, 2022.

19 E. RELATED PROCEEDINGS, LITIGATION, AND ALTERNATIVE DISPUTE
20 RESOLUTION

21 **(1) Related Proceedings and Litigation.**

22 The Parties request the Court to conduct the status conference on the Comprehensive
23 Adjudication before taking up the status conferences on the related cases.

24 (a) *Mojave Pistachios, LLC; et al. v. Indian Wells Valley*
25 *Groundwater Authority; et al.*, OCSC Case No. 30-2021-01187589-CU-WM-CXC (the
26 “Mojave Pistachios Action”) (consolidated with the Searles Action; related to the
27 Comprehensive Adjudication; and pending before The Honorable William Claster): On
28 September 30, 2020, Mojave Pistachios, LLC and Paul G. Nugent and Mary E. Nugent,

1 Trustees of the Nugent Family Trust dated June 20, 2011 (collectively, “Mojave Pistachios”)
2 filed a Petition for Writ of Mandamus and Complaint against the Authority. On January 6,
3 2023, Mojave Pistachios filed a Fourth Amended Petition for Writ of Mandamus and
4 Complaint. Through its petition, Mojave Pistachios alleges, inter alia, that the Authority
5 adopted an illegal and technically deficient Groundwater Sustainability Plan on
6 January 16, 2020 (“GSP”). Mojave Pistachios has elected to prepare the Administrative
7 Record. The Authority has not yet answered the operative complaint and the administrative
8 record has not been prepared in the consolidated cases. A status conference in this matter is set
9 to occur on March 17, 2023 in this Department.

10 (b) *Searles Valley Minerals Inc. v. Indian Wells Valley Groundwater*
11 *Authority; et al.*, OCSC Case No. 30-2021-01188089-CU-WM-CXC (the “Searles Action”)
12 (consolidated with the Mojave Pistachios Action, which is the lead case; related to the
13 Comprehensive Adjudication; and pending before The Honorable William Claster): On
14 September 29, 2020, Searles filed a Petition for Writ of Mandate; Complaint for Declaratory
15 and Injunctive Relief; and Takings Claims under the California Constitution against the
16 Authority and the Authority’s Board of Directors. On or about August 25, 2021, Searles filed a
17 First Amended Petition for Writ of Mandate and Complaint for Declaratory and Injunctive
18 Relief; and Takings Claim under the California Constitution. Through its petition, Searles
19 challenges the validity of the Authority’s GSP. The Authority has not yet answered the
20 operative complaint and the administrative record has not been prepared in the consolidated
21 cases. Searles intends to file a motion for leave to amend its operative complaint to add a
22 Public Records Act cause of action for Authority’s failure to comply with Searles’ request for
23 public records for the administrative record. A status conference in this matter is set to occur on
24 March 17, 2023 in this Department.

25 **Response by the Authority**

26 The Authority was unaware of any desire by Searles to amend its operative complaint,
27 prior to receiving a draft of the Joint Statement. Counsel for the Authority has since met and
28

1 conferred counsel for Searles and does not believe that an amended complaint will be necessary,
2 nor would it be appropriate in this action.

3
4 (c) *Indian Wells Valley Groundwater Authority v. Mojave Pistachios,*
5 *LLC; et al.*, OCSC Case No. 30-2022-01239479-CU-MC-CJC (related to the consolidated case
6 of OCSC Case No. 30-2021-01187589; related to the Comprehensive Adjudication; and
7 pending before The Honorable William Claster): On January 5, 2022, the Authority filed a
8 Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater
9 Fees; and Civil Penalties against Mojave Pistachios. Through its complaint, the Authority seeks
10 to enjoin Mojave Pistachios from operating groundwater wells without payment of Basin
11 Replenishment Fees, delinquent groundwater extraction charges, and civil penalties. Mojave
12 Pistachios filed an Answer on April 11, 2022. A status conference in this matter is set to occur
13 on March 17, 2023 in this Department.

14 **Response by the Authority**

15 The case is at issue and the Authority requests that a trial date be set. The Authority also
16 intends to file a motion for preliminary injunction in this action.

17
18 (d) *Indian Wells Valley Groundwater Authority v. Searles Valley*
19 *Minerals Inc.; et al.*, OCSC Case No. 30-2022-01239487-CU-MC-CJC (related to the
20 consolidated case of OCSC Case No. 30-2021-01187589; related to the Comprehensive
21 Adjudication; pending before The Honorable William Claster): On January 5, 2022, the
22 Authority filed a Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent
23 Groundwater Fees; and Civil Penalties against Searles. Through its complaint, the Authority
24 seeks to enjoin Searles from operating groundwater wells without payment of Basin
25 Replenishment Fees, delinquent groundwater extraction charges, and civil penalties. Searles
26 filed an Answer on April 19, 2022. A status conference in this matter is set to occur on March
27 17, 2023 in this Department.

1 **Response by the Authority**

2 The case is at issue and the Authority requests that a trial date be set. The Authority also
3 intends to file a motion for preliminary injunction in this action.

4
5 (e) *Mojave Pistachios, LLC, et al. v. Indian Wells Valley*
6 *Groundwater Authority, et al.*, Orange County Superior Court Case
7 No. 30-2022-01249146-CU-MC-CJC (related to the consolidated case of OCSC Case
8 No. 30-2021-01187589; related to the Comprehensive Adjudication; and pending before The
9 Honorable William Claster): On March 9, 2022, Mojave Pistachios filed a Complaint for
10 Refund of Extraction Fees Paid against the Authority, seeking to recover fee payments levied by
11 the Authority pursuant to Ordinance No. 02-20, as later amended by Ordinance Nos. 02-20 and
12 05-20, which impose a \$105 per acre-foot groundwater extraction fee, which the Authority
13 states is necessary to finance the estimated costs to develop and adopt the GSP. On August 24,
14 2022, the Court stayed the matter pending a resolution of the Mojave Pistachios Action. A
15 status conference in this matter is set to occur on March 17, 2023 in this Department.

16 (f) *Indian Wells Valley Groundwater Authority v. Inyo Kern*
17 *Community Services District*, Kern County Superior Court Case No. BCV-22-100281 (Notice
18 of Related Case filed by Mojave Pistachios on April 26, 2022, but not yet acted upon): On
19 February 1, 2022, the Authority filed a Complaint for Preliminary and Permanent Injunction;
20 Recovery of Delinquent Groundwater Extraction Fees; Imposition of Civil Penalties against the
21 Inyokern Community Services District. Through its complaint, the Authority seeks to enjoin
22 Inyokern Community Services District from operating groundwater wells without payment of
23 Basin Replenishment Fees, delinquent groundwater extraction charges, and civil penalties.
24 Inyokern Community Services District filed an Answer on November 18, 2022. This action is
25 not pending in this Court. A status conference in this matter is set to occur on April 13, 2023.

26 **(2) Alternative Dispute Resolution.**

27 (a) DWR Facilitation: The District requested from the California
28 Department of Water Resources (“DWR”), and DWR offered, facilitation support services to

1 foster discussions among Basin stakeholders towards promoting the long-term sustainability of
2 the Basin, and discussing constructive solutions for the Basin. DWR committed several
3 hundred hours to the facilitation process for the Basin. Many of the Parties now have
4 participated in the DWR facilitation process. DWR's first public meeting for Basin
5 stakeholders occurred on May 17, 2022 in Ridgecrest and via live stream. Subsequently, DWR
6 met with 48 Basin stakeholders over the summer of 2022. On October 4, 2022, DWR held a
7 second public meeting for Basin stakeholders to report on its stakeholder assessment results.
8 The results included findings that the Basin and its stakeholders could benefit from continued
9 communication and further collaborative efforts in discussing and developing long-term
10 groundwater management. DWR has now concluded its facilitation services.

11 (b) Technical Working Group: As a byproduct of the DWR
12 Facilitation, a confidential Technical Working Group was voluntarily formed to collaboratively
13 evaluate the size and characteristics of the Basin and to develop a best-estimate groundwater
14 basin safe yield, potential basin management strategies, and physical solution that would
15 maximize beneficial use of Basin groundwater without causing undesirable results. (See, *infra*,
16 § 2.) The Technical Working Group currently consists of representatives from the District,
17 Plaintiffs, Searles, and Meadowbrook (collectively, the "Technical Working Group Parties").
18 According to the Authority's Proposed Final Annual Report for Water Year 2022 to DWR, the
19 Technical Working Group Parties represent more than 75 percent of estimated total pumping in
20 the Basin.

21 (c) Mediation: The Technical Working Group Parties have expressed
22 a willingness to participate in confidential mediation but believe that formal mediation is
23 premature at this time.

24 **Response to Section E(2) from the Local Public Agencies and the United States**

25 The decision by the District and any other parties to form a Working Group was not
26 overseen by DWR. Any future efforts to mediate this case should include the Local Public
27 Agencies and the United States, although it is agreed that formal mediation is premature at this
28 time.

1 F. ISSUES OF JURISDICTION

2 The United States is participating in the Comprehensive Adjudication pursuant to the
3 McCarran Amendment (43 U.S.C. § 666; *United States v. District Court in and for Eagle*
4 *County*, 401 U.S. 520 (1971).)

5 The Parties are not aware of any additional issues regarding jurisdiction, venue, or
6 arbitration clauses.

7 **Response to Section F from the Local Public Agencies and the United States**

8 There are two jurisdictional issues that need to be resolved before the Comprehensive
9 Adjudication moves forward. First, as the Court has previously noted, the Judicial Council needs
10 to appoint Your Honor to preside over the Comprehensive Adjudication. Second, the Court must
11 decide whether, and if so how, to include the de minimis users, and possibly overlying non-users.

12 As the District noted above in Section 1(D): “The United States’ position is that the
13 McCarran Amendment’s waiver of sovereign immunity for a comprehensive adjudication
14 requires joinder of all water right users and potential claimants.” If the de minimis users, and
15 any overlying non-users, need to be included in this proceeding in order for the Court to gain
16 jurisdiction over the United States then that must be done before the adjudication proceeds to
17 both ensure the United States' participation and to protect the due process rights of the de
18 minimis users and overlying non-users.

19 These two jurisdictional issues need to be resolved before the Court accepts briefing or
20 makes any decisions regarding the phasing of this proceeding.

21
22 **2. STATEMENT OF THE TECHNICAL WORKING GROUP PARTIES**
23 **REGARDING CORE LEGAL AND FACTUAL ISSUES AND PHASING OF**
24 **TRIAL**

25 This is a procedurally and substantively complex case that involves determining all of the
26 rights to extract and store groundwater within the Basin. The Comprehensive Adjudication seeks
27 a physical solution pursuant to Code of Civil Procedure section 849. The Basin is also subject to
28 the groundwater management requirements of SGMA. This case is one of the first applications

1 of the California Streamlined Groundwater Adjudication Statutes. Issues include but are not
2 limited to, determining the safe yield of the Basin, characterizing the depth, breadth, and physical
3 properties of the aquifer, estimating the quantity of water in storage, determining water rights,
4 and evaluating a potential physical solution that maximizes the reasonable and beneficial use of
5 water and appoints a watermaster for future administration of the Court’s continuing jurisdiction
6 over the decree. (See Code Civ. Proc., § 834.)

7 A. THE COURT HAS EXCLUSIVE AUTHORITY TO DETERMINE WATER
8 RIGHTS AND ADOPT A PHYSICAL SOLUTION

9 The authority to determine groundwater rights is reserved exclusively to the courts.
10 (*Hillside Memorial Park & Mortuary v. Golden State Water Company* (2011) 205 Cal.App.4th
11 534, 549.) The Streamlined Groundwater Adjudication law provides that “[t]he court’s final
12 judgment in a comprehensive adjudication determines the groundwater rights of each party and
13 may declare the priority, amount, purposes of use, extraction location, place of use of the water,
14 and use of storage space in the basin.” (Code Civ. Proc., § 834.) By contrast, a Groundwater
15 Sustainability Agency established under SGMA lacks jurisdiction and authority to determine
16 water rights. (Wat. Code, §§ 10720.5, 10720.1(b).) Nor does DWR approval of a groundwater
17 sustainability plan comprise a determination by DWR that groundwater pumping allocations
18 imposed by a GSA are consistent with groundwater rights law. (Wat. Code, § 10738.)¹

19 In a comprehensive adjudication, water rights can either be litigated or be determined by
20 stipulation in accordance with applicable law. Once determined, water rights and pumping are
21 typically managed pursuant to a physical solution, often pursuant to a stipulation and judgment.
22 Water management can be overseen by the court through a “watermaster”² and enforced by the

23 _____
24 ¹ California Water Code section 10738 was enacted in 2022 pursuant to California Senate Bill 1372 (“SB 1372”).
25 The SB 1372 Senate Committee on Natural Resources and Water report of April 5, 2022, states that the Indian Wells
26 Valley GSP is “controversial” and that “[a]mong other things, the GSP prioritizes groundwater for the Naval Air
27 Weapons Station China Lake at the expense of other users. . . .” The Committee report states that SB 1372 was
28 proposed to address “[t]he concern that DWR’s approval of the GSP will be interpreted by the courts to be an
endorsement of the allocation of pumping rights as embodied in the GSP.”

² See California Water Code section 10721(z), defining a “watermaster” appointed by a court or pursuant to other
law. In nearly every adjudicated groundwater basin in California to date, a board of directors representing
groundwater pumper parties is established to perform the role of watermaster under the continuing jurisdiction of the

1 court under the physical solution/judgment. (See generally *Willis v. Los Angeles County*
2 *Waterworks District No. 40* (in re *Antelope Valley Groundwater Cases*) (2021) 62 Cal.App.5th
3 992, 1014-1020.)

4 B. IMPORTANCE OF SAFE YIELD IN ADJUDICATING WATER RIGHTS

5 An essential component in determining water rights is the concept of “safe yield.” Safe
6 yield is established after consideration of the physical characteristics of the Basin, its size, the
7 quantity of groundwater in storage, and the potential that unregulated production would cause
8 “undesirable results.”

9 Safe yield has been defined by the California Supreme Court as “the maximum quantity
10 of water which can be withdrawn annually from ground water supply under a given set of
11 conditions without causing an undesirable result.” (*City of Los Angeles v. City of San*
12 *Fernando* (1975) 14 Cal.3d 199, 278.) “[O]verdraft only occurs if extractions from the basin
13 exceed its safe yield plus any . . . temporary surplus.” (*Id.* at 280.) An “undesirable result” is
14 customarily equated with the unregulated lowering of the groundwater table and physical
15 impacts such as land subsidence, water quality degradation, and salt water intrusion.³

16 Safe yield is ultimately set by the trial court and generally stated, is the maximum
17 quantity of pumping of water from a basin that may be maintained without causing undesirable
18 results. (*City of Los Angeles, supra*, 14 Cal.3d at 278.) The imposition of a physical solution is
19 customarily coupled with the Court maintaining continuing jurisdiction over the Basin and the
20 parties and to administer the decree and ensure the efficacy of the physical solution within the
21 characteristics of the Basin over time. (See *Hillside, supra*, 205 Cal.App.4th at 547; see also
22 Code Civ. Proc., § 852.)

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26
27 court.

28 ³ *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 278; *Antelope Valley Groundwater Cases*
(2020) 59 Cal.App.5th 241, 252; see Wat. Code, § 10721(x)(1)-(6).

1 C. TECHNICAL WORKING GROUP ANALYSIS OF STORAGE AND SAFE
2 YIELD

3 Consistent with the collaborative opportunity provided by the DWR Facilitation and in
4 furtherance of pursuing a physical solution in the Comprehensive Adjudication, a group of
5 technical consultants, including hydrologists, hydrogeologists, geohydrologists, groundwater
6 modelers, geologists, and engineers, has regularly met at least every other week for months
7 (“Technical Working Group”). The Technical Working Group Parties consist of representatives
8 of the major pumpers in the Basin except for the United States, though the United States was
9 invited to participate. Communications and discussions between and among the members of the
10 Technical Working Group are subject to a confidentiality agreement. The Technical Working
11 Group has met to analyze all available data relating to Basin groundwater and to perform
12 additional analyses regarding the Basin’s safe yield and the total groundwater in storage. The
13 Technical Working Group is near completion of its work on safe yield and storage, and is now
14 shifting its focus and efforts to developing a proposed physical solution.

15 D. PHASE 1 TRIAL: STORAGE AND SAFE YIELD

16 Code of Civil Procedure section 840 empowers the Court, in managing a comprehensive
17 adjudication, to consider “[d]ividing the case into phases to resolve legal and factual issues.”
18 (Code Civ. Proc., § 840(b)(5).) Because the case will be at issue by the March 17, 2023 Case
19 Management Conference, the Technical Working Group Parties intend to file a motion to
20 bifurcate trial in phases. The motion would request setting the first phase of trial on the
21 characteristics of the Basin, the total groundwater and available freshwater in storage, and the
22 safe yield.⁴ Based on the work and progress of the Technical Working Group, the Technical
23 Working Group Parties are hopeful that this first phase can be a “prove-up” trial rather than a
24 contested trial.

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28 ⁴ In section 2.F below, Searles and Mojave Pistachios request expedited phasing of trial.

1 E. PHASE 2 TRIAL: WATER RIGHTS AND PHYSICAL SOLUTION

2 Once a trial court has determined water rights, it has both “authority and the duty to
3 impose a physical solution on the parties in a comprehensive adjudication where necessary and
4 consistent with Article 2 of Section 10 of the California Constitution.” (Code Civ. Proc.,
5 § 849(a).) This authority and duty come directly from Article X, section 2 of the California
6 Constitution. (*City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1250 [citing
7 *City of Lodi v. East Bay Municipal Utility District* (1936) 7 Cal.2d 316, 341].)

8 The phrase “physical solution” is often used in water rights cases to describe an often
9 agreed upon or judicially imposed resolution of the conflicting claims to water in a manner that
10 advances the constitutional rule of *maximizing* the reasonable and beneficial uses of the State’s
11 water supply without causing undesirable results. (*California American Water v. City of Seaside*
12 (2010) 183 Cal.App.4th 471, 480; *City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266,
13 288.) A physical solution may be effectuated to achieve the practical allocation of water among
14 competing interests consistent with the constitutional mandate to maximize reasonable and
15 beneficial use. A physical solution must also recognize established water rights.

16 The key is that rather than limiting water production through a rigid application of the
17 water rights priority system, a physical solution can make water available for a greater number of
18 beneficial uses while still protecting senior priorities and implementing targeted management
19 actions. (*City of Lodi, supra*, 7 Cal.2d at 344-345 [protect shallow wells]; *City of Los Angeles,*
20 *supra*, 14 Cal.3d at 294 [dewatering to avoid waste; rejected recharge].) The trial court is
21 obliged to “thoroughly investigate” the possibility of such a physical solution. (*Rancho Santa*
22 *Margarita v. Vail* (1938) 11 Cal.2d 501, 560.) Any adopted physical solution would be
23 administered pursuant to the trial court’s continuing jurisdiction, enabling any adjustments, as
24 may be required.

25 Against this backdrop, the Technical Working Group Parties are diligently working
26 towards developing an equitable physical solution, which they will propose to the Court. The
27 Technical Working Group Parties understand that before adopting any physical solution, the
28 Court must consider the Groundwater Sustainability Plan adopted by the Authority. (Code Civ.

1 Proc., § 849(b).) The scope of the Phase 2 Trial will be the trial of any water rights claims that
2 have not been agreed to by stipulation and presentation of a physical solution for approval of the
3 Court and objections thereto, if any. The Technical Working Group Parties anticipate that the
4 motion to bifurcate trial in phases will also include a proposed plan for discovery and related
5 pre-trial matters for the Phase 2 Trial.

6 F. SEARLES AND MOJAVE PISTACHIOS' REQUEST FOR EXPEDITED
7 TRIAL DATES

8 Searles continues to be threatened by Authority's repeated statements that it will shut
9 down Searles' groundwater wells. Without the use of its groundwater wells, Searles will not be
10 able operate its facilities which cause severe economic harm to the residents and local businesses
11 in the Trona area communities. Indeed, many Trona area residents and small businesses depend
12 upon the Searles groundwater wells for their only drinking water supply. Mojave Pistachios'
13 operations are similarly threatened.

14 With other members of the Technical Working Group Parties, Searles and Mojave
15 Pistachios have worked to develop the most current and in-depth scientific analysis of the Basin
16 to date. The Technical Working Group Parties have retained leading hydrologists and they have
17 nearly completely their unprecedented analysis of this Basin including its storage capacity, the
18 amount of water in storage and safe yield for the Court's physical solution in these proceedings.

19 The case is over three years old and will be approximately four years old when trial
20 occurs near the end of this year. It is important to all parties to have groundwater rights issues
21 resolved as soon as possible and for a Court to adopt a physical solution for the Basin. Searles
22 and Mojave Pistachios respectfully request that the first phase of trial be completed by the end of
23 summer, and that the Court set the final phase of trial to occur expeditiously after the Phase 1
24 Trial.

25 **3. STATEMENT OF THE LOCAL PUBLIC AGENCIES AND THE UNITED**
26 **STATES REGARDING NEXT STEPS**

27 As noted above, the Local Public Agencies and the United States believe there are two
28 jurisdictional issues that need to be resolved before the parties discuss phasing in the

1 Comprehensive Adjudication: (1) the appointment of Your Honor by the Judicial Council to
2 preside over the Comprehensive Adjudication; and (2) resolution regarding the involvement of
3 de minimis users and non-users in order to obtain jurisdiction over the United States.

4 Once the jurisdictional issues are resolved, all parties seem to agree that mediation would
5 be appropriate in the adjudication action only. However, there is an open question as to when
6 mediation would be most useful. The Local Public Agencies and the United States believe that
7 mediation should take place after the exchange of initial disclosures.

8 The Local Public Agencies and the United States understand that other parties believe
9 that phase one should be a trial regarding the sustainable yield and storage of the Basin, and
10 phase two should include water rights and a physical solution. The Technical Working Group
11 state they have “nearly completed” a private analysis of the sustainable yield and storage, and
12 that a phase one trial should precede any attempt at mediation. Rather than provide responsive
13 briefing on the trial process proposed by the Technical Working Group parties, the Local Public
14 Agencies and the United States note that the Technical Working Group correctly states those
15 issues should be addressed by motion and will respond when the issues are properly raised by
16 motion.

17 However, the Local Public Agencies would like to make one point. In Water Code
18 section 10737.2 the Legislature has instructed:

19 **“In an adjudication action for a basin required to have a groundwater**
20 **sustainability plan** under this part, **the court shall manage the proceedings in a**
21 **manner that** minimizes interference with the timely completion and
22 implementation of a groundwater sustainability plan, **avoids redundancy and**
23 **unnecessary costs in the development of technical information and a physical**
solution, and is consistent with the attainment of sustainable groundwater
management within the timeframes established by this part.”

24 (Emphasis added.)

25 In preparing its GSP the Authority has already conducted a technical analysis of the
26 Basin’s sustainable yield and storage, and developed a plan to manage the Basin sustainably.
27 Following a 2-year review, DWR approved the Authority’s GSP. DWR specifically found that
28 the GSP “demonstrates a thorough technical understanding of the basin based on the best

1 available science and information.” No one filed an action challenging DWR’s determination.
2 Neither the findings on sustainable yield and storage, nor the plan to manage the Basin should be
3 revisited at this time.

4 The Authority informs the Court that it is in the process of updating its technical analysis
5 and the GSP, which, as required by SGMA, DWR will again review and issue an assessment.
6 (Water Code, § 10733.8.) Those updates will not be completed until 2025. To the extent the
7 Court, or any party, wishes to revisit the sustainable yield or storage determinations already
8 approved by DWR, to avoid redundancy and unnecessary costs, that review should be done at
9 the time of the review of the 2025 GSP update. At that time, the Court may also want to
10 consider referring those issues to DWR or the State Water Resources Control Board.

11 Finally, given the outstanding jurisdictional issues the Local Public Agencies and the
12 United States believe that any discussion of phasing or expediting any phases is inappropriate at
13 this time.

14
15 **4. DISCOVERY ISSUES**

16 **A. INITIAL DISCLOSURES**

17 Code of Civil Procedure section 842 provides, “Except as otherwise stipulated by the
18 parties or ordered by the court, within six months of appearing in a comprehensive adjudication,
19 a party shall serve on the other parties and the special master, if one is appointed, an initial
20 disclosure” that includes certain information, such as the quantity of groundwater extracted from
21 the Basin, the type of water rights claimed, a general description of the purpose to which the
22 groundwater has been put, and the location of each well or other source through which the party
23 extracts groundwater. (Code Civ. Proc., § 842(a).)

24 The District, Plaintiffs, and Searles previously stipulated to extend the time for exchange
25 of initial disclosures under section 842. On February 3, 2022, the Court entered the amended
26 stipulated Order between the District and Plaintiffs and on February 9, 2022, the Court entered
27 the stipulated Order between the District and Searles. Both Orders extend the time for the
28 exchange of initial disclosures to a date to be agreed upon by the parties and/or ordered by the

1 Court. At the May 20, 2022, Case Management Conference, the Court ordered that discovery
2 and exchange of initial disclosures shall remain stayed for all parties until further order of the
3 Court, subject to the parties submitting a stipulation to lift any portion of the stay or a motion to
4 that effect. (Notice of Ruling from the 5/20/22 Status Conference, filed May 26, 2022.) At the
5 December 2, 2022, Case Management Conference, the Court again ordered that discovery and
6 exchange of initial disclosures shall remain stayed for all parties until further order of the Court,
7 subject to the parties submitting a stipulation to lift any portion of the stay or a motion to that
8 effect. (Notice of Ruling from the 12/2/22 Status Conference, filed December 6, 2022.)

9 **(1) Proposal of the Technical Working Group Parties Regarding Initial**
10 **Disclosures.**

11 The Technical Working Group Parties propose that initial disclosures be stayed until
12 sixty (60) days after the matter has been submitted on the Phase 1 Trial. The exchange of initial
13 disclosures as provided in Code of Civil Procedure section 842 will be required of all parties who
14 have appeared in this case, including de minimis pumpers. Attached as Exhibit “E” is a sample
15 form for voluntary use for making initial disclosures as required under Code of Civil Procedure
16 section 842.

17 **Response of the Local Public Agencies and the United States**

18 The Local Public Agencies and the United States agree that initial disclosures should
19 continue to be stayed at least until the preliminary jurisdictional issues identified above are
20 addressed. Whether initial disclosures should continue to be stayed beyond that period should be
21 evaluated in light of (1) whether there are other preliminary legal issues to be addressed and (2)
22 the possibility of mediation. Preliminary legal issues could narrow the scope of the proceedings
23 and thus the parties’ disclosure obligations, while initial disclosures could provide information
24 (for example, pumping records) which would facilitate mediation.

25
26 **B. DISCOVERY**

27 Code of Civil Procedure section 840 empowers the Court, in managing a comprehensive
28 adjudication, to consider “[l]imiting discovery to correspond to the phases” of trial. (Code Civ.

1 Proc., § 840(b)(7).) Once the Court sets a date for the first phase of trial, the Parties recommend
2 that the Court then set a deadline for the exchange of expert disclosures and lift the discovery
3 stay as to the issues to be tried during that phase of trial. The Parties will submit a proposed
4 discovery schedule and order for the Court’s consideration following the hearing on the motion
5 of the Technical Working Group Parties to set the Phase 1 Trial. The Parties will submit a
6 similar proposed discovery schedule and order following the hearing on a motion of the
7 Technical Working Group Parties to set the Phase 2 Trial.

8 C. DOCUMENTS AND ELECTRONICALLY STORED INFORMATION

9 The District proposes that when a party first produces documents, each party shall select
10 a unique three letter prefix for the bates numbering of the documents it produces in this case.
11 The District shall keep an index of prefixes. The Parties shall meet and confer on selecting
12 protocols for the discovery and production of electronically stored information. The Parties shall
13 also meet and confer regarding the development of a proposed protective order to appropriately
14 preserve the privacy of sensitive data and information.

15 D. FILING AND E-SERVICE

16 At the December 2, 2022 Case Management Conference, the Court granted the Parties’
17 request to enter an Order Authorizing Electronic Filing and Service – Case Anywhere LLC.
18 (Notice of Ruling from the December 2, 2022 Status Conference, filed December 6, 2022.)

19 **5. RECOMMENDED DATES AND TIMES**

20 A. NEXT STATUS CONFERENCE

21 The Parties recommend the next status conference be set in approximately ninety (90)
22 days.

23 B. UPCOMING LAW & MOTION HEARING RE TRIAL SETTING

24 The Technical Working Group Parties will be filing a Motion for Order Bifurcating Trial
25 and Setting a Phase 1 Trial re: Safe Yield and Storage.

1 **6. SUMMARY OF REQUESTS**

2 Based on the foregoing report, the Parties respectfully request that the Court consider
3 taking the following actions:

4 A. EXPERT DISCLOSURES: Continue to refrain from setting a deadline for expert
5 disclosures pursuant to Code of Civil Procedure section 843 until setting the first phase of trial
6 and then set disclosure deadlines in phases as to the issues to be tried during each phase.

7 B. DISCOVERY STAY: Continue the stay on discovery until setting the first phase
8 of trial and then lift the discovery stay in phases as to the issues to be tried during each phase.

9 C. INITIAL DISCLOSURES: Continue the stay on initial disclosures through a
10 further status conference in approximately ninety (90) days.

11 D. NEXT STATUS CONFERENCE: Set a further status conference in
12 approximately ninety (90) days.

13
14 DATED: March 10, 2023

BROWNSTEIN HYATT FARBER SCHRECK, LLP

15
16
17 By: /s/ Elisabeth L. Esposito

18 Scott S. Slater

19 Robert J. Saperstein

20 Amy M. Steinfeld

21 Elisabeth L. Esposito

22 Attorneys for Plaintiffs & Cross-Defendants

23 MOJAVE PISTACHIOS, LLC;

24 JOHN THOMAS CONAWAY;

25 JOHN THOMAS CONAWAY TRUST;

26 JOHN THOMAS CONAWAY LIVING TRUST u/d/t

27 August 7, 2008;

28 NUGENT FAMILY TRUST;

SIERRA SHADOWS RANCH LP

Attorneys for Cross-Defendant

INYOKERN COMMUNITY SERVICES DISTRICT

1 DATED: March 10, 2023

MURPHY & EVERTZ LLP

2

3

4

By: /s/ Douglas J. Evertz

5

Douglas J. Evertz

6

Emily L. Madueno

7

Attorneys for Defendant, Cross-Complainant, &
Cross-Defendant

INDIAN WELLS VALLEY WATER DISTRICT

8

9 DATED: March 10, 2023

BEST BEST & KRIEGER LLP

10

11

By: /s/ Jeffrey V. Dunn

12

Eric L. Garner

13

Jeffrey V. Dunn

14

Wendy Wang

15

Attorneys for Defendant, Cross-Defendant, &
Cross-Complainant

SEARLES VALLEY MINERALS INC.

16

17 DATED: March 10, 2023

FENNEMORE LLP

18

19

By: /s/ Derek R. Hoffman

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Derek R. Hoffman

21

Scott C. Cooper

22

Attorneys for Defendants & Cross-Defendants

23

MEADOWBROOK DAIRY REAL ESTATE, LLC;

24

BIG HORN FIELDS, LLC;

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BROWN ROAD FIELDS, LLC;

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HIGHWAY 395 FIELDS, LLC;

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THE MEADOWBROOK MUTUAL WATER
COMPANY

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DATED: March 10, 2023

U.S. DEPARTMENT OF JUSTICE

By: /s/ R. Lee Leininger
R. Lee Leininger
David W. Gehlert
Attorneys for Cross-Defendant
THE UNITED STATES OF AMERICA

DATED: March 10, 2023

OFFICE OF THE ATTORNEY GENERAL

By: /s/ Noah Golden-Krasner
Noah Golden-Krasner
Attorneys for Cross-Defendants
CALIFORNIA DEPARTMENT OF FISH AND
WILDLIFE;
CALIFORNIA DEPARTMENT OF PARKS AND
RECREATION;
CALIFORNIA 53rd DISTRICT AGRICULTURAL
ASSOCIATION

DATED: March 10, 2023

ALESHIRE & WYNDER, LLP

By: /s/ W. Keith Lemieux
W. Keith Lemieux
Alex Lemieux
Alex De Arana-Lemich
Attorneys for Cross-Defendants
CITY OF RIDGECREST;
INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY

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DATED: March 10, 2023

KERN COUNTY OFFICE OF COUNTY COUNSEL

By: /s/ Phillip W. Hall
Phillip W. Hall
Attorneys for Cross-Defendants
COUNTY OF KERN;
INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY

DATED: March 10, 2023

RICHARDS, WATSON & GERSHON

By: /s/ James L. Markman
James L. Markman
B. Tilden Kim
Kyle Brochard
Darrelle M. Field
Jacob Metz
Attorneys for Cross-Defendant
INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY

DATED: March 10, 2023

ARNOLD LAROCHELLE MATHEWS VANCONAS &
ZIRBEL LLP

By: /s/ Gary D. Arnold
Gary D. Arnold
Attorneys for Cross-Defendant
LITTLE LAKE RANCH, INC.

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

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Name of Cross-Defendant or Attorney

Mailing Address (Street or P.O. Box)

Mailing Address (City, State, Zip Code)

Phone Number

Email Address

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

MOJAVE PISTACHIOS, LLC; et al.,

Plaintiffs,

v.

INDIAN WELLS VALLEY WATER DISTRICT; et al.,

Defendants.

INDIAN WELLS VALLEY WATER DISTRICT,

Cross-Complainant,

v.

ALL PERSONS WHO CLAIM A RIGHT TO EXTRACT GROUNDWATER IN THE INDIAN WELLS VALLEY GROUNDWATER BASIN NO. 6-54 WHETHER BASED ON APPROPRIATION, OVERLYING RIGHT, OR OTHER BASIS OF RIGHT, AND/OR WHO CLAIM A RIGHT TO USE OF STORAGE SPACE IN THE BASIN; et al.,

Cross-Defendants.

Case No. 30-2021-01187275-CU-OR-CJC

[Related to: Case No. 30-2021-01187589-CU-WM-CXC; Case No. 30-2021-01188089-CU-WM-CXC; Case No. 30-2022-01239479-CU-MC-CJC; Case No. 30-2022-01239487-CU-MC-CJC; Case No. 30-2022-01249146-CU-MC-CJC]

Assigned For All Purposes To:
The Honorable William Claster, Dept. CX104

**VERIFIED INITIAL DISCLOSURES
(Code of Civil Procedure section 842(a))**

Proposed Form for Voluntary Use

Complaint Filed: November 19, 2019
Trial Date: None Set

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SEARLES VALLEY MINERALS INC.,

Cross-Complainant,

v.

ALL PERSONS WHO CLAIM A RIGHT
TO EXTRACT GROUNDWATER IN THE
INDIAN WELLS VALLEY
GROUNDWATER BASIN NO. 6-54
WHETHER BASED ON
APPROPRIATION, OVERLYING RIGHT,
OR OTHER BASIS OF RIGHT, AND/OR
WHO CLAIM A RIGHT TO USE OF
STORAGE SPACE IN THE BASIN; et al.,

Cross-Defendants.

AND RELATED CASES.

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INITIAL DISCLOSURES

1. The name, address, telephone number, and email address of the party and, if applicable, the party’s attorney.

- (a) Name: _____
- (b) Address: _____

- (c) Telephone Number: _____
- (d) Email Address: _____
- (e) Attorney (if applicable): _____

2. The quantity of any groundwater extracted from the basin by the party and the method of measurement used by the party or the party’s predecessor in interest for each of the previous 10 years preceding the filing of the cross-complaint (cross-complaint filed June 16, 2021).

| Year | Amount of Groundwater Extracted | Method of Measurement |
|-------------|--|------------------------------|
| 2020 | | |
| 2019 | | |
| 2018 | | |
| 2017 | | |
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| Year | Amount of Groundwater Extracted | Method of Measurement |
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| 2014 | | |
| 2013 | | |
| 2012 | | |
| 2011 | | |

3. The type of water right or rights claimed by the party for the extraction of groundwater.

4. A general description of the purpose to which the groundwater has been put.

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5. The location of each well or other source through which groundwater has been extracted.

6. The area in which the groundwater has been used.

7. Any claims for increased or future use of groundwater.

8. The quantity of any beneficial use of any alternative water use that the party claims as its use of groundwater under any applicable law, including, but not limited to, Section 1005.1, 1005.2, or 1005.4 of the Water Code.

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9. Identification of all surface water rights and contracts that the party claims provides the basis for its water right claims in the comprehensive adjudication.

10. The quantity of any replenishment of water to the basin that augmented the basin's native water supply, resulting from the intentional storage of imported or non-native water in the basin, managed recharge of surface water, or return flows resulting from the use of imported water or non-native water on lands overlying the basin by the party, or the party's representative or agent, during each of the 10 calendar years immediately preceding the filing of the cross-complaint.

| Year | Quantity of Replenishment of Water to the Basin |
|------|---|
| 2020 | |
| 2019 | |
| 2018 | |
| 2017 | |

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| Year | Quantity of Replenishment of Water to the Basin |
|------|---|
| 2016 | |
| 2015 | |
| 2014 | |
| 2013 | |
| 2012 | |
| 2011 | |

11. The names, addresses, telephone numbers, and email addresses of all persons possessing information that supports the party's disclosures.

(a) Name: _____

(b) Address: _____

(c) Telephone Number: _____

(d) Email Address: _____

(a) Name: _____

(b) Address: _____

(c) Telephone Number: _____

(d) Email Address: _____

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(a) Name: _____

(b) Address: _____

(c) Telephone Number: _____

(d) Email Address: _____

(a) Name: _____

(b) Address: _____

(c) Telephone Number: _____

(d) Email Address: _____

12. Any other facts that tend to prove the party's claimed water right.

Dated: _____, 2023

Signature of Cross-Defendant or Attorney

Printed Name of Cross-Defendant

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VERIFICATION

I have read the foregoing **INITIAL DISCLOSURES** and know its contents.

Select applicable:

___ I am a party to this action. The matters stated in the foregoing are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

___ I am _____(Title) of _____, a party to this action, I am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that basis allege that the matters stated in the foregoing are true.

Executed at _____, _____,
(City) (State)

on _____, 2023.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Cross-Defendant or Attorney

Printed Name of Cross-Defendant