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10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ORANGE, CIVIL COMPLEX CENTER**  
13

14 MOJAVE PISTACHIOS, LLC, et al.,  
15 Plaintiff and Petitioner,  
16 v.

17 INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY, et al.,  
18 Defendants and Respondents.

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20 \_\_\_\_\_  
21 SEARLES MINERALS INC.,  
22 Plaintiff and Petitioner,  
23 v.

24 INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY, et al.,  
25 Defendants and Respondents.

Case No. 30-2021-01187589-CU-WM-CXC  
(Consolidated with Case No. 30-2021-  
011880890-CU-WM-CXC; Related Case Nos.  
30-2021-01187275-CU-OR-CJC)

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY'S  
RESPONSE TO INDIAN WELLS VALLEY  
WATER DISTRICT'S SUPPLEMENTAL  
BRIEF REGARDING MOTION FOR  
ORDER RE "INTERESTED PARTY"  
STATUS, OR, IN THE ALTERNATIVE,  
LEAVE TO AMEND ANSWER**

Date: February 6, 2026  
Time: 11:00 a.m.  
Dept.: CX101

Complaint Filed: September 30, 2020  
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Hon. William D. Cluster

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1 **I. INTRODUCTION**

2 Searles is entitled to dismiss this action pursuant to Code of Civil Procedure section 581(b).  
3 There is no applicable exception and the District’s answer does not preclude dismissal. Even if this  
4 action was a reverse validation action, the statutory rules governing dismissals would still apply  
5 because they apply to “any civil action or special proceeding.” As dismissal terminates this Court’s  
6 jurisdiction, it has no power to even consider the District’s Motion. Even if this Court had  
7 jurisdiction, the Motion should still be denied because it is time-barred under the Validation  
8 Statutes and the District’s five-year delay is inexcusable. Instead of addressing this clear law, the  
9 District complains about matters that are not relevant to this action. Ultimately, the District admits  
10 its intent to challenge the Replenishment Fee. But the Replenishment Fee is not at issue here, and,  
11 in any case the fee was never subject to the Validation Statutes.

12 **II. ARGUMENT**

13 **A. Code of Civil Procedure Section 581 Requires Dismissal**

14 Code of Civil Procedure section 581, subdivision (b) provides that “[a]n action may be  
15 dismissed...upon request of the plaintiff to the clerk, filed with papers in the case, or by oral or  
16 written request to the court at any time before the actual commencement of trial.” Contrary to the  
17 District’s arguments, the statute is not “unclear” and there is not a “dearth of authority” as to  
18 whether Searles has the right to dismiss this action. (District’s Supp. Br., p. 11.) As the California  
19 Supreme Court observed, “[a]part from certain...statutory exceptions, a plaintiff’s right to a  
20 voluntary dismissal pursuant to [Code of Civil Procedure section 581] appears to be absolute” and  
21 “[u]pon the proper exercise of that right, a trial court would thereafter lack jurisdiction to enter  
22 further orders in the dismissed action.” (*Wells v. Marina City Properties, Inc.* (1981) 29 Cal.3d  
23 781, 784; see also *Gherman v. Colburn* (1971) 18 Cal.App.3d 1046, 1050 [“it is a well-settled  
24 proposition of law that where the plaintiff has filed a voluntary dismissal of an action...the court is  
25 without jurisdiction to act further, and any subsequent orders of the court are simply void”]; *O’Dell*  
26 *v. Freightliner Corp.* (1992) 10 Cal.App.4th 645, 659 [“Numerous cases note that voluntary  
27 dismissal of a lawsuit terminates the trial court’s jurisdiction over the matter”].)

28 No California court has held that a reverse validation action is exempt from the rules of

1 dismissal set forth in Code of Civil Procedure section 581, or that a plaintiff’s statutory right to  
2 dismiss is limited. Code of Civil Procedure section 581 applies to any “action” which is broadly  
3 defined as “any civil action or special proceeding.” (Code Civ. Proc., § 581, subd. (a)(1).) That  
4 includes a reverse validation action. The California Supreme Court explained in *In re Sutter-Butte*  
5 *By-Pass Assessment Number Six of Sacramento & San Joaquin Drainage Dist.* (1923) 190 Cal.  
6 532, 538, that a validation action “would seem at first blush to be a special proceeding” but when  
7 applying “substance, rather than ... form,” it should be treated as a civil action rather than a special  
8 proceeding. Regardless of whether a validation action is a civil action or special proceeding, it falls  
9 within the definition of “action” in Code of Civil Procedure section 581. The District has not and  
10 cannot cite to any statute or case that suggests validation actions should be treated differently for  
11 purposes of dismissal. Because dismissals are governed by statute, see *Merner Lumber Co. v.*  
12 *Silvey* (1938) 29 Cal.App.2d 426, the Court cannot depart from the dismissal procedures set forth in  
13 the Code of Civil Procedure and the decades of controlling caselaw.

14 This is contrasted with the circumstance in which there is a cross-complaint on file seeking  
15 affirmative relief. (Code Civ. Proc., § 581, subd. (i).) That does not exist here. The District’s  
16 assertion that its answer amounts to a cross-complaint (District’s Supp. Br., p. 13) has been  
17 repeatedly rejected by the courts and directly conflicts with Code of Civil Procedure Section  
18 431.30, subdivision (c), which states: “Affirmative relief may not be claimed in the answer.” The  
19 District, again, cites to *City of San Diego v. San Diegans for Open Government* (2016) 3  
20 Cal.App.5th 568 and *Committee for Responsible Planning v. City of Indian Wells* (1990) 225  
21 Cal.App.3d 191 for the erroneous proposition that its answer provides it the right to litigate this  
22 case. (District’s Supp. Br., p. 13.) Neither case held as such, as explained at length in the  
23 Authority’s supplemental brief. (Authority’s Supp. Br., pp. 12-13.)

24 In *Aetna Casualty & Surety Co. v. Humboldt Loaders, Inc.* (1988) 202 Cal.App.3d 921,  
25 925, an insurer attempted to dismiss its complaint for declaratory relief against its insured and  
26 others who claimed coverage. The trial court acknowledged the only “apparent bar” to the insurer’s  
27 right to dismiss is where “the defendant has sought affirmative relief...” (*Ibid.*) However, the trial  
28 court refused to enter the request for dismissal, reasoning that defendants’ answers sought coverage

1 from the insurer, “there was no need to duplicate previous pleadings,” and it would be  
2 “inequitable” to allow for dismissal. (*Ibid.*) Trial resulted in a judgment against the insurer. (*Ibid.*)  
3 The Court of Appeal reversed the judgment holding that the insurer had an absolute right to dismiss  
4 its action because defendants failed to file a cross-complaint, which is “a *sine qua non* of  
5 preventing voluntary dismissal.” (*Id.* at 926-928.) The Court unequivocally rejected the contention  
6 the District makes here—that an answer amounts to a cross-complaint for affirmative relief,  
7 especially in light of Code of Civil Procedure Section 431.30, subdivision (c). (*Ibid.*)

8 Here, the District’s answer is even less similar to a cross-complaint than the answers in  
9 *Aetna* because the District’s answer seeks to have the petition “*dismissed in its entirety.*” (District’s  
10 Answer to FAP, p. 26, emphasis added.) The District’s answer does not seek any affirmative relief  
11 against anyone, it seeks the relief the dismissal would provide. Even if an answer could seek  
12 affirmative relief in a validation action (i.e., by contesting the validity of the public agency’s  
13 action), the District’s answer would still not satisfy the test because the answer does not contest the  
14 validity of the Authority’s groundwater sustainability plan (“GSP”).

15 Finally, the District’s reliance on Code of Civil Procedure section 867.5, subdivision (a), is  
16 misplaced. (District’s Supp. Br., p. 13.) That statute allows an answering party in a validation action  
17 to file a reverse validation action if the public agency voluntarily dismisses the validation action.  
18 First, it shows the Legislature contemplated voluntary dismissals in validation proceedings, and  
19 made no change to the dismissal procedures. Second, the statute does not apply to reverse  
20 validation actions. It was enacted because public agencies could otherwise thwart judicial review  
21 by filing validation actions, allowing the limitations period to lapse, and then dismissing the action.  
22 (See Authority’s Supp. Br., p. 10.) It has no application here.

23 **B. The Authority and Searles Entered Into the Settlement Agreement on the**  
24 **Shared Understanding That This Action Would Be Dismissed Pursuant to**  
25 **Code of Civil Procedure Section 581**

26 The Authority and Searles entered into the settlement agreement with the shared  
27 understanding that this action would be dismissed in its entirety. (Declaration of Keith Lemieux in  
28 Support of Authority’s Supplemental Brief (“Lemieux Decl.”), ¶ 4, Ex. F (Transcript, pp. 32-33))

1 [Searles’ counsel: “I want to be very clear that our agreement was that we would file that request  
2 for dismissal. And our understanding was that by doing so, our case would go away”].) Dismissal  
3 of this action is a cornerstone of the settlement agreement. It is not “unreasonable” to assume that  
4 the action would be dismissed upon the proper filing of a request for dismissal. (District’s Supp.  
5 Br., p. 11.) The Authority and Searles reasonably relied on the rules of dismissal, which provide  
6 Searles the absolute right to dismiss this action in its entirety. The Authority and Searles set forth  
7 those rules of dismissal that they relied upon in their supplemental briefs, and request that the Court  
8 dismiss this action in accordance with those rules. The District entirely ignores the rules of  
9 dismissal, presumably because it knows they dispose of this case.

10 **C. This Court Has Already Found That Searles’ Petition for Writ of Mandate Is**  
11 **Not a Validation Complaint and Does Not Seek Validation Relief**

12 In its supplemental brief, the Authority demonstrated that validation is an entirely distinct  
13 statutory remedy from mandamus, declaratory and injunctive relief. (Authority’s Supp. Br., pp. 14-  
14 15.) The Court also acknowledged this in its December 21, 2022 Minute Order. (Declaration of  
15 Kyle H. Brochard (“Brochard Decl.”), ¶ 3, Ex. B.)

16 Searles’ First Amended Petition for Writ of Mandate and Complaint for Declaratory and  
17 Injunctive Relief; and Takings Claims Under the California Constitution (“FAP”) does not allege a  
18 reverse validation cause of action nor does it seek validation relief. The first cause of action,  
19 “Petition for Writ of Mandate,” seeks “mandamus [to] compel the Authority to perform an official  
20 act required by law” under Section 1085 of the Code of Civil Procedure. (Brochard Decl., ¶ 2, Ex.  
21 A, FAP, ¶ 96.) The second cause of action is for declaratory relief, and the third through fifth  
22 causes of action are takings claims. (FAP, ¶¶ 109-131.) No cause of action is brought under the  
23 Validation Statutes.

24 In *Card v. Community Redevelopment Agency* (1976) 61 Cal.App.3d 570, 575 (“*Card*”), the  
25 Court of Appeal explained that “a proper validation action” requires “the allegations required for  
26 a validation action,” i.e., specific allegations contesting the validity of the public agency’s action  
27 under the Validation Statutes. A complaint that “seeks injunctive and declaratory relief” is not a  
28 “proper validation action” because it is *in personam* relief that is “unavailable in a validation

1 action.” (*Id.* at 575-576.) Without “the necessary proposed amendments making the action a proper  
2 validation action,” the action must be dismissed. (*Ibid.*) The trial court granted the plaintiff leave to  
3 amend its complaint because it found “good cause” for the amendment at the early stages of the  
4 case. (*Ibid.*) The Court of Appeal, however, noted in dicta “that if the trial court had ruled  
5 otherwise on plaintiffs’ motion for relief we would have left its ruling undisturbed.” (*Id.* at 576.)

6 Here, as in *Card*, Searles failed to properly plead a validation cause of action and Searles  
7 only seeks *in personam* relief—namely, declaratory and injunctive relief. The District does not  
8 identify any allegations in Searles’ FAP that seek validation relief. The reason is simple: there are  
9 no such allegations. The FAP challenges the GSP and a series of implementing actions that it  
10 alleges “disregard Searles Valley Minerals’ groundwater rights, and are prejudicial to Searles  
11 Valley Minerals.” (Brochard Decl., ¶ 2, Ex. A, FAP, ¶ 93.) The FAP does not properly allege an  
12 attack on the facial validity of GSP. As such, the District relies on the Court’s tentative ruling,  
13 which concludes that Searles alleged a reverse validation action. (District’s Supp. Br., p. 12.) The  
14 Court correctly observes that (1) “Searles’ petition challenges the GSP” and (2) a “GSP is properly  
15 challenged through a reverse validation action.” (*Ibid.*) However, the issue is that Searles’ FAP  
16 does not bridge the gap between (1) and (2). Searles alleges a challenge to the GSP but it does not  
17 allege a proper reverse validation challenge. And unlike the plaintiff in *Card*, the District, as a  
18 defendant and respondent, lacks the authority and the capacity to amend Searles’ FAP to allege a  
19 proper reverse validation challenge.

20 Previously, at the August 5, 2024 hearing, the Court correctly observed that “there’s not a  
21 direct challenge [to the GSP] other than I think Mojave Pistachio’s challenge to it. And so you’ve  
22 got your GSP.” (Brochard Decl., ¶ 7, Ex. F (Aug. 5, 2024 Hearing Tr., p. 58); see also Ex. B (Dec.  
23 21, 2022 Minute Order, pp. 7, 11) [distinguishing and noting that “Mojave’s eighth cause of action  
24 is a reverse validation challenge to the GSP” whereas Searles’ first cause of action is for “a writ of  
25 mandate challenging the GSP, various reports, the Extraction Fee, and the Replenishment Fee”].)  
26 Also, in its December 21, 2022 minute order the Court denied, in part, the Authority’s motion to  
27 strike the parts of Searles’ first cause of action that seek to attack the Sustainable Yield Report and  
28 Engineer Report. (Brochard Decl., ¶ 3, Ex. B (Dec. 21, 2022 Minute Order, p. 12).) The Court

1 stated that writ review appeared appropriate under Section 10726.6(e), because those reports did  
2 not “appear to fit within the exceptions (such as adoption of a GSP or challenged to fees)...” (*Id.*)<sup>1</sup>  
3 The Court acknowledged in 2022 that Searles first cause of action was a writ of mandate cause of  
4 action brought under Water Code section 10726.6(e) and *not* a validation action under section  
5 10726.6(a). (*Id.*) There is no reason to revisit that ruling here.<sup>2</sup>

6 Mojave brought a specific validation cause of action under the Validation Statutes; Searles  
7 did not. The District cannot be an “interested party” in Searles’ mandamus proceeding that alleges  
8 only interference with Searles’ water rights.

9 **D. To the Extent This Action Is a Reverse Validation Action, the District’s Motion**  
10 **Is Time-Barred and the District Should Be Estopped From Adopting an**  
11 **Entirely New and Inconsistent Position**

12 The District voted to approve the GSP and submitted it to Department of Water Resources  
13 (“DWR”) for approval in January 2020. (District’s Supp. Br., p. 8.) When the District chose to  
14 appear in this lawsuit on April 1, 2021, it had two options: contest or defend the GSP. The District  
15 chose the latter. The District’s answer seeks the dismissal of Searles’ claims challenging the  
16 Authority’s GSP, Sustainable Yield Report, Engineer’s Report, Extraction Fee and Replenishment  
17 Fee. (District’s Answer to FAP, p. 26) The District’s assertion that it “did not affirmatively contest  
18 them since Searles had” is plainly false. (District’s Supp. Br., p. 7.) The District’s answer

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19  
20  
21 <sup>1</sup> Section 10726.6(e) states: “Except as otherwise provided in this section, actions by a groundwater  
22 sustainability agency are subject to judicial review pursuant to Section 1085 of the Code of Civil  
Procedure.” One of the exceptions provided in Section 10726.6 is subsection (a) which states that a  
GSA may file a validation action to determine the validity of a GSP.

23 <sup>2</sup> The District’s counsel acknowledges this action for what it is: a “writ proceeding.” (Supplemental  
24 Declaration of Douglas J. Evertz (“Evertz Decl.”), ¶ 2.) “[I]t has long been established as a general  
25 rule that the writ will not be issued if another such remedy was available to the petitioner.” (*Phelan*  
*v. Superior Court in and for City and County of San Francisco* (1950) 35 Cal.2d 363, 366.)  
26 Generally, a writ will only lie when there is “no plain, speedy, and adequate alternative remedy.”  
27 (*Pomona Police Officers’ Ass’n v. City of Pomona* (1997) 58 Cal.App.4th 578, 583-58.) Here, the  
28 District asserts that it has an adequate remedy at law in lieu of this mandate action. The District  
contends that it can seek a “motion for preliminary injunction in the adjudication,” which “will  
safeguard maximum flexibility for the Court to consider, examine, and evaluate all viable  
alternatives in developing and implementing a physical solution.” (District’s Supp. Br., pp. 14-15.)  
While the Authority disagrees that the District is entitled to an injunction, the District’s assertions  
belies the need for mandate relief.

1 affirmatively defended the GSP and its implementing actions by seeking dismissal of Searles’  
2 claims—the same relief Searles now seeks.

3         The District claims that “as early as May 7, 2021,” it aligned itself with Searles rather than  
4 the Authority. (District’s Supp. Br., p. 7.) That is incorrect. The May 7, 2021 filing was a “Non-  
5 Opposition and Non-Joinder” to motions for a preliminary injunction that expressly took “no  
6 opinion or position” on the requested relief. (ROA 106, p. 2.) That filing reflects neutrality, not  
7 alignment. Nearly two years later, on January 5, 2023, the District again sought dismissal of  
8 Searles’ complaint in its answer to the FAP. (District’s Answer to FAP, p. 26.) If the District had  
9 truly aligned with Searles in May 2021, there is no explanation for its later request to dismiss  
10 Searles’ action.

11         The District is now time-barred from contesting the GSP. Under the Validation Statutes, an  
12 interested party is required to “appear and contest” the validity of the public agency’s action within  
13 the limitations period; appearance alone is insufficient. (Code Civ. Proc., § 862; *Quantification*  
14 *Settlement Agreement Cases* (2011) 201 Cal.App.4th 758, 791 [explaining that certain parties filed  
15 answers supporting the plaintiff’s validation action, while others filed answers contesting it].) Here,  
16 the District appeared but never *contested* the GSP. Instead, it opposed Searles’ claims. The  
17 Validation Statutes do not permit a party to remain silent for years and reverse course on the eve of  
18 trial. Code of Civil Procedure section 869 is explicit that “[n]o contest...shall be made other than  
19 within the time and the manner herein specified”—here, by December 18, 2020. The District’s  
20 motion for leave to amend is therefore time-barred and should be denied.

21         In any event, the District should be estopped from asserting a wholly inconsistent position  
22 in this action. (Authority’s Opp., pp. 16-17.) Its reliance on cases involving policy reversals by  
23 successors is misplaced and irrelevant to estoppel or leave to amend. (District’s Supp. Br., pp. 7-8.)  
24 As the Court correctly noted in its tentative ruling, the District’s five-year delay is unjustified,  
25 particularly given its claim that it opposed the GSP before May 2021. (November 21, 2025 Minute  
26 Order, pp. 5-6 [District’s Motion “fails to satisfy the[] standards” for leave to amend]; *Young v.*  
27 *Berry Equip. Rentals, Inc.* 39 (1976) 55 Cal. App. 3d 35 [leave to amend properly denied for  
28 “unexcused delay” especially where amendment “interjects a new issue”].)

1           **E. The District Concedes That the Purpose of Its Motion Is to Challenge the**  
2           **Replenishment Fee, Which Is Not Subject to Validation**

3           The District’s supplemental brief confirms it is not interested in challenging the validity of  
4 the GSP but rather is interested in challenging the Replenishment Fee. (District’s Supp. Br., pp. 5-  
5 6.) The District cannot challenge the Replenishment Fee for several reasons. (Authority’s Supp.,  
6 Br., pp. 17-18.) First, the Replenishment Fee is a settled issue and cannot be resurrected in this  
7 action because the Court dismissed Searles’ claims and struck allegations in the FAP regarding the  
8 Replenishment Fee. Second, the Replenishment Fee is not subject to validation because it was  
9 adopted after the GSP and therefore the Court lacks jurisdiction to determine its validity. To extent  
10 this action is a validation proceeding, the Court’s task is only to “determine the validity” of the  
11 “matter” presented: the GSP. (Code Civ. Proc., § 860.) The legality of the Replenishment Fee is not  
12 a question of GSP “validity.” (Compare Wat Code, § 10726.6(a) [subjecting GSP to validation  
13 statutes]; with 10726.6(c) [setting 180 day statute of limitations to challenge SGMA fees].)<sup>3</sup>

14           **F. The District’s Reasons for Wanting to Challenge the Validity of the GSP Are**  
15           **Wholly Irrelevant**

16           The District makes a series of disjointed arguments for why it seeks to take over  
17 prosecution of Searles’ action. (District’s Supp., Br., pp. 2-9.) None of these are relevant to  
18 whether this action should be dismissed or whether leave to amend is appropriate, and the Court  
19 should not consider them. The Authority addresses the arguments only because they are factually  
20 incorrect.

21 \_\_\_\_\_  
22 <sup>3</sup> Moreover, the District’s assertion that the Replenishment Fee “qualifies as the highest fee on  
23 groundwater production ever imposed in the state” is misleading. (District’s Supp. Br., p. 6.) The  
24 Court of Appeal found that “[t]he Replenishment Fee of \$2,130 per acre-foot is not grossly out of  
25 line with the fees charged by other agencies.” (*Mojave Pistachios, LLC v. Superior Court* (2024) 99  
26 Cal.App.5th 605, 633.) Moreover, under the Authority’s Replenishment Fee the District receives an  
27 exemption for 4,390 acre-feet per year (“AFY”) and only pays the Replenishment Fee on the  
28 amounts pumped over that exemption. It is precisely this exemption that the District receives that  
Mojave Pistachios sought to challenge. The District’s exempted pumping allotment is its allocation  
of the unused portions of the Navy’s estimated federal reserved water right at the time the fee was  
adopted, which the Authority did not subject to the Replenishment Fee. After applying the 4,390  
AFY exemption to the District’s extractions, the District pays closer to \$550 per AF for the total  
groundwater it extracts. The Court’s Phase 1 ruling in the adjudication does not disturb the  
Replenishment Fee. If anything, the Phase 1 ruling indicates that the District’s exemption should be  
reduced, and it should be paying *more*, not less.

1                   **1. The Authority’s Legislative Efforts Are to Resolve Ambiguities in the**  
2                   **Sustainable Groundwater Management Act (“SGMA”) Identified by**  
3                   **This Court**

4                   The related comprehensive adjudication, *Mojave Pistachios, LLC, et al v. Indian Wells*  
5 *Valley Water District* (Orange County Superior Court Case No. 30-2021-01187275), is one of the  
6 first to proceed under the 2015 adjudication statutes (the “Adjudication Statutes”), which revised  
7 portions of the Code of Civil Procedure and Water Code to streamline the process for adjudicating  
8 groundwater rights and, importantly, to integrate that process in basins subject to SGMA.

9                   SGMA requires all challenges to the validity of the GSP to be resolved promptly under the  
10 Validation Statutes. Water Code sections 10737.2 requires courts to manage groundwater  
11 adjudications in a manner that “minimizes interference” and “avoids redundancy” with the GSP.  
12 Water Code section 10737.8 further requires that any judgment “not substantially impair the ability  
13 of a groundwater sustainability agency, the board, or the department to comply with [SGMA] and  
14 to achieve sustainable groundwater management.”

15                   These statutes have been front and center in the adjudication because certain parties have  
16 expressly stated their intention is to replace the DWR-approved GSP and obstruct implementation  
17 of SGMA. Disagreement exists over whether the Court may hold a “safe yield” phase of trial and  
18 whether a physical solution can interfere with the GSP. This Court acknowledged that SGMA and  
19 the Adjudication Statutes are not clear.<sup>4</sup>

20 \_\_\_\_\_  
21 <sup>4</sup> “[N]o provision of either law specifically addresses how to proceed in such a situation. That being  
22 said, the thrust of the above-referenced statutes make clear that the Legislature has attempted to  
23 harmonize SGMA and the Streamlined Act. The catch, of course, is the lack of explicit guidance in  
a case such as the one before the Court.” (Brochard Decl., ¶ 6, Ex. E (Aug. 5, 2024 Minute Order,  
p. 9).)

24 “What remains in dispute and what isn’t addressed in the two laws is to what extent, if at all, the  
25 adjudication action is required to adopt and adhere to the GSP.” (*Id.*, ¶ 6, Ex. E (Aug. 5, 2024  
Minute Order, p. 6).)

26 “Let me just confess that I looked at both statutes a lot to try and find out where there’s a clear path  
27 that harmonizes both of them. I don’t see a clear path.” (*Id.*, ¶ 7, Ex. F (Aug. 5, 2024 Hearing Tr., p.  
16).)

28 “[The Authority] make[s] a good argument that what the Court is about to do is somewhat  
redundant in terms of determining safe yield versus or sustainability yield, whichever term you

1 Assembly Bill (“AB”) 1413 is the Legislature’s attempt to respond to the ambiguities in  
2 SGMA and the Adjudication Statutes raised by this Court and others.<sup>5</sup> AB 1413 is an active bill and  
3 the Legislature is considering amendments, which could impact Phase 2 in the adjudication. In fact,  
4 the authors report to the Senate Judiciary Committee says: “[t]he genesis of [AB 1413] stems from  
5 the Indian Wells groundwater basin adjudication.” (Sen. Nat. Res. & Wat. Comm. analysis AB  
6 1466 (2025-26 reg. sess.) as amended Jun. 26, 2025.) The report also specifically addresses rulings  
7 made in connection with Phase 2 of this case: “[t]he court stated that a potential question is raised  
8 as to whether a physical solution in an adjudication can displace a GSP, and noted [ . . . that] [n]o  
9 provision of . . . law specifically address how to handle a situation where a party could undermine  
10 a GSP through an adjudication.” (*Ibid.*) The stated purpose of AB 1413 is to address the gap in the  
11 law identified by this court: “What is clear, is that the court has invited the Legislature to make a  
12 determination on the issue, and this bill seeks to do just that.” (*Ibid.*)

13 AB 1413 was approved in the Assembly last year, has passed through Senate committees,  
14 and is currently awaiting a floor vote in the Senate. If AB 1413 is signed into law, the Authority  
15 will promptly inform the Court. The Authority’s support of the Legislature’s attempt to clarify

16 \_\_\_\_\_  
17 want to use. . . I get the fact that the court needs to manage things to minimize duplication, but  
18 clearly the Legislature could have addressed this if -- if, as [the Authority] say[s], that was their  
19 intent all along. All they used was general language.” (*Id.* ¶ 7, Ex. F (Aug. 5, 2024 Hearing Tr., p.  
20 10.)

21 “[A]s I read the statutes, and I didn’t see any cases that explain what I’m going to raise, is they don’t  
22 really explain or tell the Court or tell whoever it is how those two statutes connect or interplay with  
23 each other. . . I have trouble with is understanding how the Legislature could have passed SGMA  
24 without addressing this issue, even though I recognize both SGMA and the Water Code, they cross-  
25 reference the other statutes.” (*Id.*, ¶ 4, Ex. C (June 14, 2024 Hearing Tr., p. 37.)

26 “[T]he Court shares the Authority’s concerns about a safe yield determination that conflicts with its  
27 own sustainability determination, particularly since counsel for Mojave and Searles acknowledge  
28 that these two concepts are essentially equivalent.” (*Id.*, ¶ 5, Ex. D (June 14, 2024 Tentative  
Ruling).)

<sup>5</sup> Under AB 1413, a judgment in a groundwater adjudication is deemed to substantially impair the  
ability of a groundwater sustainability agency, the State Water Resources Control Board, or the  
Department of Water Resources to comply with SGMA if it allows total basin pumping, on an  
annual or average basis, to exceed the sustainable yield established in the most recent groundwater  
sustainability plan or plans for the basin. Consistent with this framework, the court is prohibited  
from establishing a safe yield or sustainable yield that exceeds the sustainable yield set forth in an  
applicable GSP. A judgment also substantially impairs SGMA compliance where it permits  
pumping above the GSP’s sustainable yield after DWR has determined that the GSP is likely to  
achieve the basin’s sustainability goal.

1 SGMA is protected speech and petitioning; and it is entirely irrelevant to the rules of procedure that  
2 require this action to be dismissed. The fact that the District devotes a substantial portion of its  
3 supplemental brief to criticizing the Authority’s legislative efforts is telling of the weakness of its  
4 argument on dismissal.

5 **2. The Authority Did Not Refuse to Disclose GSP Model Files**

6 In the adjudication, the Authority, along with the other parties, disclosed its model files on  
7 April 21, 2025, pursuant to the Court’s Phase 2 Case Management Order. No party has objected to  
8 the Authority’s disclosure as inadequate or incomplete. The District’s assertion that the Authority  
9 “produced some, but not all, of the model files” is unfounded and immaterial. (District’s Supp. Br.,  
10 p. 5.)

11 In this action, the Authority served responses and produced documents in response to  
12 Searles’ November 18, 2024 document requests. The documents that were sought in Searles’  
13 November 18, 2024 document requests were the same documents Searles sought in its prior PRA  
14 requests, which the Authority provided in discovery in this action. Searles subsequently dismissed  
15 its PRA lawsuit, *Searles Valley Minerals, Inc. v. Indian Wells Valley Groundwater Auth.*, OCSC  
16 Case No. 30-2025-01457804-CU-WM-CJC, as part of the settlement agreement.

17 In its responses to the November 18, 2024 document requests, the Authority explained that  
18 it could not disclose model files without the permission of the United States because the Office of  
19 the Secretary of Defense designated the files as Department of Defense Critical Infrastructure  
20 Security Information (“DCRIT”), and as such, exempt from disclosure under 10 U.S.C. § 130e, the  
21 Freedom of Information Act (5 U.S.C. § 552(b)(3)), and the Federal Assets Sale and Transfer Act  
22 of 2016 (P.L. 114-287). Searles did not meet and confer on the discovery responses and did not  
23 make any further requests for the 2020 model files.

24 The District is not Searles. As much as the District would like to step into Searles’ shoes to  
25 litigate its discovery issues and lawsuits, it cannot.

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1                   **3. The Authority Invited the Public to Contribute to the GSP and the Five-**  
2                   **Year Update, the District Failed to Timely Submit Any Technical Data**  
3                   **Information Because Its Model Was Not Complete**

4                   On January 16, 2020, the Authority adopted its GSP following a multi-year iterative public  
5 process. The District actively participated in the preparation of the GSP and voted to approve the  
6 GSP. In fact, in the year preceding adoption of the GSP, the District’s general manager was the  
7 acting general manager of the Authority.

8                   After a near two-year review, DWR approved the GSP in 2022. DWR concluded that it  
9 “demonstrates a thorough technical understanding of the basin based on best available science and  
10 information.” Each year, the Authority has filed annual reports with DWR. (Wat. Code, § 10728;  
11 23 CCR, §§ 354.40, 356.2, 355.8.)

12                   On March 19, 2025, the Authority submitted its five-year periodic evaluation to DWR.  
13 (Wat. Code, § 10728.2; 23 CCR, § 356.4.) The Authority encouraged any interested party engaged  
14 in significant outreach and public engagement efforts, which are detailed in the periodic  
15 evaluation.<sup>6</sup> The District’s contention that Authority failed to consider its technical data and  
16 analyses in the periodic evaluation is not true. In reality, the only information that the District  
17 provided to the Authority was a September 4, 2024 document titled “Assessment of Safe Yield for  
18 the Indian Wells Valley Groundwater Basin” prepared by the Technical Working Group (i.e., the  
19 District, Meadowbrook, Mojave and Searles), which admits on its face that it is based, in part, on  
20 the Ramboll groundwater flow model that is “under development” and “in progress.” The  
21 Authority requested the District’s model, technical data and analyses, but the District could not  
22

23 \_\_\_\_\_  
24 <sup>6</sup> These efforts include: (1) holding monthly Board meetings, PAC and TAC meetings, and public  
25 workshops that allow for public comment; (2) preparing Board packages and other materials that  
26 are distributed through the Authority’s website and email distribution list; (3) maintaining a Data  
27 Management System (DMS) that allows the public to review data and reports regarding the Basin  
28 and GSP implementation; (4) publishing draft reports and documents on the Authority’s website  
for public review; (5) holding scoping meetings in the City of Ridgecrest and California City  
regarding the Replenishment Pipeline Project; and (7) developing new communication and  
engagement protocols. The Authority’s five-year periodic evaluation is publicly accessible online  
at <https://sgma.water.ca.gov/portal/gsp/periodiceval/preview/33>.

1 provide it because it was not ready.<sup>7</sup> Because the District’s model was not complete, the District  
2 was unable to provide the data and information by the March 1, 2025 deadline for comment on the  
3 periodic evaluation. The District’s June 4, 2025 comments on the periodic evaluation were three  
4 months too late.

5 **4. The Authority’s Settlements With Mojave and Searles Are a Significant**  
6 **Step Toward Achieving Sustainability**

7 The Basin is critically overdrafted. There is not enough groundwater to go around to current  
8 users. “[G]roundwater levels in the Basin have been steadily declining since 1945” with estimated  
9 “total annual outflows of 32,640 acre-feet and total annual inflows of 7,650 acre-feet, meaning the  
10 Basin sustains an average loss of groundwater storage of about 25,000 acre-feet per year.” (*Mojave*,  
11 *supra*, 99 Cal.App.5th at 614.) The Authority’s settlement agreements with Mojave and Searles are  
12 positive steps toward achieving SGMA compliance and addressing water scarcity. The Authority  
13 desperately needs to move forward on the construction of the Replenishment Pipeline Project or it  
14 could lose the \$50 million authorized by the federal Water Resources Development Act of 2024 for  
15 the U.S. Army Corps of Engineering to construct the pipeline. The Authority’s settlement  
16 agreements are not attempts to “buy the silence of its critics,” they are efforts to cooperate and to  
17 identify, and implement, practical solutions. (District’s Supp. Br., p. 7.) The Authority remains  
18 open and willing to cooperate with the District, but regrettably the District is committed to using  
19 costly and protracted litigation to obstruct and delay SGMA implementation.

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21 ///

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27 <sup>7</sup> At the February 10, 2025 Status Conference in the adjudication, the District’s counsel candidly  
28 admitted: “[T]he model is not done...It’s not done yet. We need more time. The District needs  
more time to get this done, period.” (Brochard Decl., ¶ 8, Ex. G (Feb. 10, 2025 Status Conf. Tr., p.  
43).)

1 **III. CONCLUSION**

2 For the foregoing reasons and all the reasons raised in the Authority’s opposition and  
3 supplemental brief, the Court should enter the order of dismissal and dismiss this action in its  
4 entirety with prejudice; or, in the alternative, deny the District’s Motion.

5  
6 Dated: January 26, 2026

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**PROOF OF SERVICE**

Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater Authority; et al.  
Searles Valley Minerals Inc. v. Indian Wells Valley Groundwater Authority; et al.  
Court of Appeal, Fourth Appellate District, Division 3, Case No. G062327  
Orange County Superior Court - Civil Complex Center  
Lead Case No. 30-2021-01187589-CU-WM-CXC  
Consolidated with Case No. 30-2021-01188089-CU-WM-CXC  
Related to Case No. 30-2021-01187275-CU-OR-CJC  
The Honorable William Claster, Dept. CX104

I, Marcella Correa, declare:

I am a resident of the State of California and over the age of eighteen years and not a party to the within action. My business address is 1 Civic Center Circle, P.O. Box 1059, Brea, California 92822. My email address is [mcorrea@rwglaw.com](mailto:mcorrea@rwglaw.com). On January 26, 2026, I served the within document(s) described as:

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY’S RESPONSE TO INDIAN WELLS VALLEY WATER DISTRICT’S SUPPLEMENTAL BRIEF REGARDING MOTION FOR ORDER RE “INTERESTED PARTY” STATUS, OR, IN THE ALTERNATIVE, LEAVE TO AMEND ANSWER**

on the interested parties in this action as stated on the attached service list.

(BY E-MAIL) By transmitting a true copy of the foregoing document(s) to the e-mail addresses set forth above.

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

Executed on January 26, 2026, at San Dimas, California.

  
\_\_\_\_\_  
Marcella Correa

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