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INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY

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

MOJAVE PISTACHIOS, LLC, et al.,

Plaintiffs,

v.

INDIAN WELLS VALLEY WATER
DISTRICT, et al. ,

Defendants.

AND CROSS-COMPLAINTS AND
RELATED ACTIONS.

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

(Related to Case Nos.:
30-2021-01187589-CU-WM-CXC;
30-2021-01188089-CU-WM-CXC;
30-2022-01239487-CU-MC-CJC; 30-2022-
01239479-CU-MC-CJC; 30-2022 01249146-
CU-MC-CJC)

**INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY AND
CITY OF RIDGECREST'S JOINT
STATEMENT IN SUPPORT OF
PROPOSED ORDER APPOINTING
SPECIAL MASTER RE: PHASE 2
TRIAL (EXHIBIT B)**

Judge: Hon. William D. Claster

Date: October 30, 2026

Time: 1:30

Dept.: CX101

Trial Date: June 8, 2026

[Exempt from filing fees pursuant to Govt. Code § 6103]

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I. INTRODUCTION

The Indian Wells Valley Groundwater Authority (“Authority”) and the City of Ridgecrest (“City”) request that the Court enter the Proposed Order Appointing Special Master Re: Phase 2 Trial submitted by the City, the Authority and the United States as Exhibit B to the October 30, 2026, Joint Status Conference Statement (“Exhibit B”), rather than the version submitted by the Indian Wells Valley Water District, Searles Valley Minerals Inc. and the Meadowbrook Dairy entities (collectively, the “TWG Parties”) as Exhibit A (“Exhibit A”).

First, Exhibit B is consistent with Code of Civil Procedure section 846, the statute that governs a special master’s draft report, the parties’ objections to the draft report, and the special master’s submission of the final report to the court. Exhibit A limits the parties to 45 days to object to the draft report when the statute provides 60 days, and Exhibit A omits the statute’s provision for a hearing on the objections. The Court should enter the order that complies with the statute, and provides the parties with sufficient time to review and, if needed, object to the complex technical matters.

Second, Exhibit B states the definition of safe yield the Court has instructed the parties to use, as opposed to the Exhibit A, which adds language that the Court has not previously adopted.

Third, Exhibit B lists the Authority’s Technical Report as a document to be provided to the special master since it is not on the admitted exhibit list. Exhibit B also properly states the evidentiary effect the Legislature assigned to the Technical Report. Exhibit A does not provide the special master with the Technical Report and makes no reference to the Technical Report in an attempt to conceal it from the special master.

Fourth, Exhibit B confines the special master to the trial record without forbidding him from using the professional expertise for which he is being appointed.

Finally, Exhibit B deletes two sentences the TWG Parties added to the Judicial Council’s civil jury instructions, one of which departs from the pattern instructions and the other of which repeats an instruction already given.

II. EXHIBIT B IS CONSISTENT WITH CODE OF CIVIL PROCEDURE SECTION 846

Code of Civil Procedure section 845 prescribes the procedures for the preparation of the special master’s report and recommendation. First, the special master “shall make a draft report available to the parties and shall allow at least 60 days for the parties to submit written objections to the draft report.” (Code Civ. Proc., § 846, subd. (a).) An objection “shall identify the specific grounds and evidence on which the objection is based.” (*Id.*, subd. (b).) The special master “may hold hearings, as he or she deems appropriate, to gather information or address issues raised in the objections to the draft report.” (*Id.*, subd. (c).) Finally, the special master “shall consider the objections to the draft report and develop a final report that shall be filed with the court together with supporting evidence.” (*Id.*, subd. (d).)

Paragraph 3(d) of Exhibit B tracks the statute. It provides the parties 60 days to object to the draft report; requires objections to state their grounds and evidence; provides that the special master “may notice and hold hearings, as he or she deems appropriate, to gather information or address issues raised in the objections to the draft report;” and requires a final report that considers the objections. (Joint Statement, Exh. B, p. 8:16-24.) Paragraph 3(d) of Exhibit A, on the other hand, allows only 45 days and omits the hearing provision. (Joint Statement, Exh. A, p. 8:22-27.) The hearing language that the TWG Parties characterize as an invitation to “a new evidentiary proceeding” does nothing of the sort. (TWG Order Brief, pp. 6:28-7:2.) It simply ensures the special master is able to properly consider the evidence before him. Further, Exhibit B channels any such hearing through the Court by cross-referencing paragraph 2(j)(ii), which requires matters be submitted to the Court, and a noticed hearing be held at which “all Parties and the Special Master shall have an opportunity to be heard.” (Joint Statement, Exh. B, pp. 7:10-12, 8:20-22.)

The same point explains two smaller differences. Exhibit B’s Finding D cites subdivision (a) of section 845 rather than subdivision (a)(4) alone, because the special

1 master's assignment is to investigate technical issues under subdivision (a)(1), which is
2 what makes section 846 apply. (Joint Statement, Exh. B, p. 3:12-14; Exh. A, p. 3:12-14.)
3 And Exhibit B's paragraph 2(j)(ii) provides that questions from the special master other
4 than legal and procedural ones will be addressed at a noticed hearing where the parties and
5 the special master are heard, leaving the conduct of that hearing to the Court. (Joint
6 Statement, Exh. B, p. 7:10-12.) Exhibit A decides now that any such hearing will proceed
7 "through their counsel only and not through any witnesses." (Joint Statement, Exh. A, p.
8 7:8-15.) The issue has not yet arisen. The Court should preserve that decision for itself
9 based on the particular facts and circumstances that arise.

10 **III. INSTRUCTION NO. 13 PROVIDES THE COURT'S SAFE YIELD**

11 **DEFINITION**

12 Instruction No. 13 in Exhibit B reads in full:

13 "Safe yield" means the condition of a groundwater basin when the total
14 average annual groundwater extractions are equal to, or less than, the total
15 average annual groundwater recharge, either naturally or artificially. "Safe
16 yield" is defined as the maximum quantity of water which can be withdrawn
annually from a ground water supply under a given set of conditions without
causing an undesirable result.

17 (Joint Statement, Exh. B, pp. 13:26-14:2.)

18 The first sentence is the definition in Water Code section 37900, subdivision (a)(21),
19 which the Court previously instructed the parties to use. The second sentence is the
20 sentence from *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 278 that
21 the Court quoted in its August 5, 2024 order. (ROA 1465, § IV.) Exhibit B supplies the
22 special master with the Court's definition of safe yield.

23 The TWG Parties' contend that section 37900 "applies only to the Paso Robles
24 Basin Water District." (TWG Order Brief, p. 3:8-13.) Exhibit B does not apply the Paso
25 Robles Basin Water District Act to this Basin. It adopts, as the Court's instruction, a
26 formulation of safe yield that the Court itself identified as clear. The question for the special
27 master is what the words mean, and the definition in Water Code section 37900 tells the
28 special master in plain terms how to understand the concept of safe yield and undesirable

1 results: Withdrawals that exceed average annual recharge lower groundwater levels year
2 after year; that is the meaning of “undesirable result” in *San Fernando*. The two sentences
3 state one concept. The Legislature used the same concept when it defined the sustainable
4 yield that every groundwater sustainability agency must achieve. (Wat. Code, § 10721.)

5 Exhibit A deletes the first sentence and adds that “undesirable result” refers only “to
6 a gradual lowering of the ground water levels resulting eventually in depletion of the
7 supply.” (Joint Statement, Exh. A, p. 14:7-11.) The phrase is pulled from *San Fernando*,
8 but it invites the question that was contested at trial—how long a decline must continue
9 before it is “undesirable,” and it leaves the special master without the Court’s answer. The
10 Court, consistent with the caselaw, determined that extractions may not exceed average
11 annual recharge, which is consistent with instruction No. 13 in Exhibit B.

12 **IV. THE TECHNICAL REPORT IS PRIMA FACIE EVIDENCE AND SHOULD**
13 **BE PROVIDED TO THE SPECIAL MASTER**

14 In advance of the Phase 2 trial, the Authority submitted its Technical Report to the
15 Court pursuant to Code of Civil Procedure section 845, subdivision (d), which provides that
16 the Technical Report “shall be prima facie evidence of the physical facts found in the
17 report, but the court shall hear evidence that may be offered by any party to rebut the report
18 or the prima facie evidence.” (Code Civ. Proc., § 845, subd. (d)(1), (4).) The special master
19 should be aware of the Technical Report and its evidentiary effect because any unrebutted
20 physical facts must be accepted as true. Moreover, contrary to the TWG’s assertion, the
21 Technical Report does not appear on the Court’s exhibit list as a marked, admitted exhibit.
22 (TWG Order Brief, p. 4:24-27.) As such, it must be specifically referenced in the Order and
23 provided to the special master.

24 Exhibit B does this. Paragraph 2(h)(xiii) lists the report among the materials the
25 Court will provide to the special master. (Joint Statement, Exh. B, p. 6:16-17.) The report is
26 a submission to the Court under section 845, subdivision (d), and listing it removes any
27 doubt that the special master will receive it in the form the statute contemplates.

28 Instruction No. 15 then instructs the special master what the Legislature said about

1 the report. It reads in full:

2 The Indian Wells Valley Groundwater Authority submitted a Technical
3 Report to the Court in May 2026, under Code of Civil Procedure section
4 845(d)(1). That report is “prima facie evidence of the physical facts found in
the report,” but the Special Master shall consider evidence offered at trial to
rebut the report or the prima facie evidence. (Code Civ. Proc., § 845(d)(4).)

5 (Joint Statement, Exh. B, p. 14:7-13.)

6 The TWG Parties do not dispute that “[t]he evidentiary significance of the 2026
7 Technical Report is already established by statute,” but contend that the instruction
8 “elevate[s] the 2026 Technical Report above the remainder of the evidentiary record.” (TWG
9 Order Brief, p. 5:19--22.) An instruction that simply quotes the statute does not “elevate” the
10 report. It informs a special master without legal training the legal effect of a document the
11 Legislature singled out. The TWG Parties’ own order instructs the special master on the legal
12 effect of sustained objections, stricken testimony, limited-purpose exhibits and the parties’
13 briefs. (Joint Statement, Exh. A, pp. 11-13, Instruction Nos. 1, 5-8.) Instruction No. 15 is the
14 same kind of instruction. It also preserves every point the TWG Parties make. It tells the
15 special master that the prima facie showing is rebuttable and that he must consider the rebuttal
16 evidence, and paragraph 2(n) of both orders reserves to the Court every finding of fact and
17 every determination of weight. (Joint Statement, Exh. B, pp. 7:24-8:2.) What the TWG
18 Parties ask is that the special master evaluate the evidence without being told the statutory
19 rule. That is not neutrality.

20 **V. EXHIBIT B CONFINES THE SPECIAL MASTER TO THE RECORD**
21 **WITHOUT FORBIDDING HIM TO USE HIS EXPERTISE**

22 The TWG Parties contend that Exhibit B “would permit the consideration of extra-
23 record material.” (TWG Order Brief, p. 2:20-22.) It does not. Both orders list the materials
24 the Court will provide. (Joint Statement, Exh. B, pp. 5:20-6:17.) Both provide that the
25 appointment “shall not re-open evidence” and that “no additional exhibits or witness
26 testimony will be admitted into evidence or provided for demonstrative purposes.” (*Id.* at p.
27 6:18-20.) Both require the final report to “identify the evidentiary basis in the trial record
28 for his or her recommendation, including citation to principal testimony, exhibits,

assumptions, methodologies, and factual findings relied upon.” (*Id.* at p. 5:14-17.) Both forbid the special master to communicate with any witness or to contact any party or counsel, and both forbid ex parte communications. (*Id.* at p. 7:13-19.) Both route every question from the special master through the Court on notice to the parties. (*Id.* at pp. 6:21-7:12.)

The only difference is two sentences in paragraph 2(k) of Exhibit A, that the report “must be based solely on the Phase 2 Trial record, materials identified in this Order, and the governing law identified by this Court,” and that the special master “shall not engage in any independent investigation and shall not rely on any outside materials.” (Joint Statement, Exh. A, p. 7:16-19.) The first sentence adds nothing to the requirement that the report cite its evidentiary basis in the trial record. The second would forbid the special master to use what he is being appointed for: his expertise and knowledge.

The Court is appointing a special master because the record is highly technical and the Court is seeking the assistance and professional judgment of someone trained in the field. That judgment rests on professional knowledge, on standard references in the field, and on the methods the profession uses to test a water budget or a model. A sentence that bars reliance on “any outside materials” bars all of that, or invites a dispute about whether it does. Indeed, the TWG Parties anticipate the special master may need to rely on extra-record material and knowledge in the field and Exhibit A permits the special master to ask the Court for leave to consider extra-record material. (TWG Order Brief, p. 6:10-16.) Exhibit B provides the same route through paragraph 2(j), but avoids the special master having to regularly seek permission from the Court to rely on his own professional knowledge and standards in the field.

VI. INSTRUCTION NOS. 9 AND 11 MIRROR THE JUDICIAL COUNCIL’S CIVIL JURY INSTRUCTIONS

The two orders’ instructions are drawn from the Judicial Council’s civil jury instructions. Instruction No. 9 is consistent with CACI No. 208, Deposition as Substantive Evidence, which tells the trier of fact to consider deposition testimony presented at trial “in

the same way as you consider testimony given in court,” and says nothing more. Exhibit A adds a paragraph on impeachment that is not part of the pattern instruction and that ends by reserving credibility determinations to the Court. (Joint Statement, Exh. A, p. 13:10-17.) Exhibit B provides the pattern instruction as written, and paragraph 2(n) already reserves credibility to the Court. (Joint Statement, Exh. B, p. 13:6-10.)

Instruction No. 11 is consistent with CACI No. 220, Experts—Questions Containing Assumed Facts. Exhibit A adds two sentences directing the special master to disregard any hypothetical question to which an objection was sustained. (Joint Statement, Exh. A, p. 13:26-28.) Instruction No. 5 already tells the special master that when an objection was sustained “the attorney’s question should be ignored” and that any answer already given “must” be ignored. (Joint Statement, Exh. B, p. 12:1-9.) Repeating it a second time adds nothing and invites the special master to wonder why that category was singled out. Exhibit B gives the pattern instruction as written.

VII. CONCLUSION

The Authority and the City respectfully request that the Court enter the proposed order submitted as Exhibit B to the Joint Status Conference Statement.

Dated: October 28, 2026

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