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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.

19
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
OPPOSITION TO INDIAN WELLS
VALLEY WATER DISTRICT'S MOTION
FOR ORDER RE "INTERESTED PARTY"
STATUS, OR, IN THE ALTERNATIVE,
LEAVE TO AMEND ANSWER**

Reservation No.: 1000570777

Date: November 21, 2025
Time: 9:00 a.m.
Dept.: CX101

Complaint Filed: September 30, 2020
Writ Hearing: February 4, 2026

Hon. William D. Cluster

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

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1 **I. INTRODUCTION**

2 Defendants and Respondents Indian Wells Valley Groundwater Authority and the Board of
3 Directors for the Indian Wells Valley Groundwater Authority (collectively, the “Authority”)
4 oppose Defendant and Respondent Indian Wells Valley Water District (“District”) motion to be
5 deemed an “interested party,” or, alternatively, for leave to file an amended answer (“Motion”) to
6 Plaintiff and Petitioner Searles Valley Minerals Inc.’s (“Searles”) First Amended Petition for Writ
7 of Mandate and Complaint for Declaratory and Injunctive Relief; and Takings Claims Under the
8 California Constitution (“FAP”). The Motion is procedurally and substantively improper, and
9 should be denied for several reasons.

10 *First*, Searles’ FAP is a petition for writ of mandate and takings complaint, not a reverse
11 validation action filed under Code of Civil Procedure section 860 *et seq.* (“the validation statutes”).
12 The FAP does not allege a reverse validation cause of action, much less mention the validation
13 statutes. Searles’ first cause of action seeks a “writ of mandate or peremptory writ to set aside the
14 GSP, Sustainable Yield Report, Engineer’s Report, Extraction Fee and Replenishment Fee.” The
15 actions taken by the Authority to implement the GSP are not subject to the validation statutes.
16 Water Code section 10726.6, subdivision (e), provides that such implementing actions are to be
17 challenged pursuant to Section 1085 of the Code of Civil Procedure. There is no statute or authority
18 that permits the District to seek a court order to be classified as an “interested party” in Searles’
19 mandamus proceeding or takings complaint, and the District cites none. “Interested party” status is
20 not a procedural mechanism by which the District can challenge the GSP this late in the game. The
21 District has long supported the GSP. It voted to approve the GSP as a member of the Authority; its
22 general counsel participated in strategy session meetings leading up to the preparation and adoption
23 of the GSP; and the District has never pled any contest or challenge to the GSP in this action. The
24 District is not an “interested party” who can challenge the GSP and it would be prejudicial to
25 confer that status on the District with trial beginning in less than three months.

26 *Second*, even if the FAP constitutes a reverse validation action (it does not), the District’s
27 answer is time-barred under Code of Civil Procedure section 862, which requires any interested
28 party to file an answer contesting the government’s action by the deadline prescribed in the

1 summons. The deadline to respond to the summons operates as a limitations period, and cannot be
2 unilaterally extended by court order. (*City of San Diego v. San Diegans for Open Government*
3 (2016) 3 Cal.App.5th 568, 579 (“*City of San Diego*”) [“We view the time limit established by
4 section 862 like a statute of limitations”].) Here, the District was required by the summons and
5 statute to respond to the initial petition and complaint by December 18, 2020. The District’s answer
6 served on January 15, 2021 and filed on April 1, 2021, is untimely and barred.

7 *Third*, the District’s Motion is simply an attempt to adopt an entirely new position in this
8 action that is inconsistent with its previous position. In its answer to the FAP, as in its answer to
9 Searles’ original petition, the District denies Searles’ claims challenging the GSP and other
10 implementing action, lists more than 20 affirmative defenses, and prays that the FAP “be dismissed
11 in its entirety” and that Searles’ “request and prayer for relief *be denied.*” Through this Motion,
12 over five years after Searles’ initial petition was filed, the District now seeks to pivot entirely from
13 opposing Searles’ claims to supporting them. The District seeks “the full right to contest the
14 legality and validity of the actions” of the Authority, including the adoption of the GSP, and to file
15 an amended answer praying that Searles’ “request and prayer for relief *be granted*” on its writ of
16 mandate. The doctrine of estoppel prohibits the District from switching positions in this action. (*M.*
17 *Perez Co., Inc. v. Base Camp Condominiums Assn. No. One* (2003) 111 Cal.App.4th 456, 463
18 [estoppel “prohibits a party from taking inconsistent positions in the same or different judicial
19 proceedings”].)

20 *Finally*, the District’s alternative relief for leave to amend is improper and prejudicial. It is
21 improper because the District’s initial answer failed to comply with Code of Civil Procedure
22 section 862, and therefore the District cannot obtain leave to amend an untimely answer. Relatedly,
23 the District’s proposed “amended answer” functionally amounts to a completely new, not an
24 amended, answer because it seeks to materially change the vast majority of its allegations and the
25 prayer for relief, which is time-barred and cannot be permitted at this late juncture. (*Community*
26 *Youth Athletic Center v. City of National City* (2009) 170 Cal.App.4th 416, 428 [any matters
27 “which could have been adjudicated in a validation action...must be raised within the [60-day]
28 statutory limitations period in section 860 *et seq.* or they are waived”].) The District’s proposed

1 amended answer also seeks to plead facts and theories that were rejected by this Court multiple
2 times in its prior demurrer rulings and order to strike. In addition, the District is a member of the
3 Authority, voted to approve the GSP, and its members, including general counsel, were present in
4 closed session meetings when Searles’ action was initially filed. The Authority would be severely
5 prejudiced if the District is given leave to amend its answer, allowing it to effectively “switch
6 sides” on Searles’ writ cause of action on the eve of trial.

7 **II. BRIEF BACKGROUND**

8 **A. Factual Background**

9 The Sustainable Groundwater Management Act (“SGMA”) of 2014 provided for the
10 creation of local groundwater sustainability agencies (“GSAs”). (*Mojave Pistachios, LLC v.*
11 *Superior Court* (2024) 99 Cal.App.5th 605, 612 (“*Mojave*”); Wat. Code, § 10720 et seq.) GSAs are
12 tasked with developing and implementing groundwater sustainability plans (“GSPs”) to sustainably
13 manage California’s overdrafted groundwater basins by 2040. (Wat. Code §§ 10720.7, subd. (a);
14 10727; 10727.2, subd. (b)(1); 10723-10724.) The Authority is a joint powers authority created
15 under SGMA to serve as the GSA managing the Indian Wells Valley Groundwater Basin
16 (“Basin”). (FAP, ¶ 11; Declaration of W. Keith Lemieux (“Lemieux Decl.”), ¶ 3.) The Authority is
17 comprised of five general members—City of Ridgecrest, County of Inyo, County of Kern, County
18 of San Bernardino, and the District—who make up its Board of Directors. (FAP, ¶ 47; Lemieux
19 Decl., ¶ 3.)

20 The Department of Water Resources (“DWR”) has designated the Basin as a high-priority
21 basin subject to critical conditions of overdraft. (FAP, ¶ 19.) “[G]roundwater levels in the Basin
22 have been steadily declining since 1945” with estimated “total annual outflows of 32,640 acre-feet
23 and total annual inflows of 7,650 acre-feet, meaning the Basin sustains an average loss of
24 groundwater storage of about 25,000 acre-feet per year.” (*Mojave, supra*, 99 Cal.App.5th at 614.)
25 The Authority adopted a GSP for the Basin, which was approved by DWR. The District’s
26 representative, Ron Kicinski, and its legal counsel, James Worth, participated in closed and open
27 sessions of the of Board of Directors regarding the preparation and adoption of the GSP. (Lemieux
28 Decl., ¶¶ 4-8, Exhs. B-D.) The District voted to approve the GSP. (FAP, ¶ 11; Lemieux Decl., ¶ 8,

1 Ex. D.)

2 The GSP is designed to bring the Basin into balance and eliminate the undesirable and
3 unsustainable groundwater conditions in the Basin. (*Mojave, supra*, 99 Cal.App.5th at 617.)
4 Subsequently, the Authority took actions to implement the GSP, including adopting a groundwater
5 extraction fee (“Extraction Fee”) and a groundwater replenishment fee (“Replenishment Fee”). (*Id.*
6 at 619-620, fn. 13; FAP, ¶ 69, 80.) The Authority has also adopted a Sustainable Yield Report for
7 the Basin. (*Mojave, supra*, 99 Cal.App.5th at 618; FAP, ¶ 59.)

8 SGMA provides that a challenge to the validity of a GSP may be brought under the
9 validation statutes. (Wat. Code, § 10726.6(a).) Importantly, the validation statutes only apply to
10 determine the validity of the GSP. Any other “actions by a groundwater sustainability agency are
11 subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure.” (§ 10726.6(e).)

12 **B. Procedural Background**

13 On September 29, 2020, Searles filed its initial Petition for Writ of Mandate and Complaint
14 (“Petition”) challenging actions that the Authority took to adopt and implement the GSP. (ROA 43)
15 Searles’ Petition asserts five causes of action: (1) petition for writ of mandate, (2) declaratory relief,
16 (3) regulatory taking of private property without just compensation under the California
17 Constitution (total takings); (4) regulatory taking of private property without just compensation
18 under the California Constitution (partial takings), and (5) physical taking of private property
19 without just compensation under the California Constitution. (Petition, ¶¶ 92-133.) Searles’
20 Summons required all person seeking to contest the legality or validity of the matter to appear by
21 filing an answer “not later than December 18, 2020.” (ROA 47.) On November 20, 2020, the
22 District served and filed a Certificate of Inability to Respond, unilaterally requesting an extension
23 to appear and respond through January 15, 2021. (ROA 19.) On January 15, 2021, the District
24 served and attempted to file its answer. (Declaration of Douglas J. Evertz (“Evertz Decl.”), ¶ 6.) On
25 April 1, 2021, the District filed its answer, identifying itself as Respondent and Defendant, denying
26 Searles’ claims challenging the GSP and other implementing action, and praying that the Petition
27 “be dismissed in its entirety” and that Searles’ “request and prayer for relief *be denied*.” (ROA 64.)

28 On June 21, 2021, the Authority demurred to the Petition (ROA 189), and the Court

1 sustained the Authority’s demurrer to the second through fifth causes of action with leave to
2 amend. (ROA 207 [August 5, 2021 Minute Order], pp. 4-5.) Among other things, the Court
3 determined that the causes of action are barred by the pay first, litigate late rule (“Pay First Rule”)
4 because Searles cannot seek to invalidate or impede collection of the Extraction Fee and
5 Replenishment Fee without having paid the fees. (*Ibid.*) On August 25, 2021, Searles filed its FAP,
6 asserting the same causes of action and removing some, but not all, allegations regarding the
7 Replenishment Fee. (ROA 220.) On October 25, 2021, the Authority demurred and moved to strike
8 portions of Searles’ FAP. (ROA 254.) The Court sustained the Authority’s demurrer to the fifth
9 cause of action (physical takings), without leave to amend, and granted the Authority’s motion to
10 strike any allegations seeking a declaration of Searles’ groundwater rights, as well as all of Searles’
11 allegations regarding the Replenishment Fee (except as to ¶¶ 115-122 of the FAP). (ROA 599
12 [December 21, 2022 Minute Order], p. 8.) In its Order, the Court further stated that the Authority’s
13 “implementing actions, unlike a GSP, can’t be directly challenged under the validation statutes.”
14 (*Id.*, p. 7.) On January 5, 2023, the District filed an answer to Searles’ FAP. (ROA 610 [FAP].) As
15 with its answer to the original Petition, the District referred to itself as a Respondent and
16 Defendant, denied all of the allegations, listed over 20 affirmative defenses, and prayed that the
17 “Complaint be dismissed in its entirety and SVM take nothing by its Complaint.” (FAP, pp. 21-26
18 [Affirmative Defenses], Prayer, ¶ 1.)

19 On August 19, 2025, the parties stipulated to “bifurcate the action such that the first cause
20 of action seeking a writ of mandate will be tried on February 4, 2026, and the remaining causes of
21 action will be stayed pending resolution of the first cause of action.” (ROA 695.) Trial on Searles’
22 writ of mandate cause of action is set for February 4, 2026. (ROA 693.)

23 On August 29, 2025, during a meet and confer in advance of trial, the District informed
24 counsel for the Authority for the first time that it views its role in the case as an interested party
25 aligned with Searles challenging the legality and validity of the Authority’s actions, despite its
26 answers which alleges otherwise. (Evertz Decl., ¶ 14.) This Motion followed.

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1 **III. ARGUMENT**

2 **A. The District Lacks Standing to be an “Interested Party” in Searles’ Petition for**
3 **Writ of Mandate and Takings Complaint**

4 The FAP is not a reverse validation action. The District incorrectly assumes throughout its
5 Motion that Searles “filed a reverse validation action against the Authority,” and it is on that basis
6 that it seeks an order for “interested party” status. (Motion, pp. 1-4.) In reality, Searles pled a
7 petition for writ of mandate and a takings complaint that alleges harms specific to Searles in which
8 the District cannot join as an “interested party.” The Authority would have raised this jurisdictional
9 issue earlier had it known the District was taking a completely different position than what is
10 alleged in its answer.

11 The FAP asserts five separate causes of action related to various actions the Authority took
12 to manage the Basin in compliance with SGMA. (FAP, ¶¶ 92-131.) The first cause of action seeks a
13 “writ of mandate or peremptory writ to set aside the GSP, Sustainable Yield Report, Engineer’s
14 Report, Extraction Fee and Replenishment Fee.” (FAP, ¶ 108.) Searles cites both Code of Civil
15 Procedure sections 1085 and 1094.5 as authority for its first cause of action. (FAP, ¶¶ 97-98.) The
16 second cause of action seeks declaratory relief with respect to whether the Extraction Fee paid by
17 Searles complies with Proposition 26. (FAP, ¶¶ 109-114.) The third and fourth causes of action are
18 takings claims in which Searles does not challenge the validity of the Authority’s actions but
19 instead seeks just compensation. (FAP, ¶¶ 115-127.)

20 The FAP does not allege a reverse validation cause of action nor does it allege that any
21 cause of action is brought pursuant to the validation statutes. By contrast, the complaint filed by
22 Mojave Pistachios, LLC, and Paul G. Nugent and Mary E. Nugent, Trustees of the Nugent Family
23 Trust (collectively, “Mojave”) in the consolidated Case No. 30-2021-01187589 expressly pleads a
24 “reverse validation” cause of action to determine the validity of the “GSP pursuant to Code of Civil
25 Procedure sections 860, *et seq.*” (ROA 612 [Mojave’s Fourth Amended Petition and Complaint],
26 ¶¶ 446-453.)

27 While the Authority’s adoption of its GSP is subject to the validation statutes under Water
28 Code section 10726.6(a), Searles pled a writ of mandate cause action. The first cause of action

1 “petitions this court for writ of mandate or peremptory writ” and seeks “judicial review pursuant to
2 Section 1085 of the Code of Civil Procedure.” (FAP, ¶¶ 96, 108.) Searles’ writ of mandate cause of
3 action is not the same as reverse validation cause of action. (See Code Civ. Proc., § 869
4 [distinguishing writ of mandate from a validation action].) Searles writ of mandate cause of action
5 challenges various actions taken by the Authority including “the GSP, Sustainable Yield Report,
6 Engineer’s Report, Extraction Fee and Replenishment Fee.” (FAP, ¶ 108.) Other than the GSP, all
7 of the other challenged actions are not subject to the validation statutes and may only be challenged
8 in a mandamus proceeding pursuant to Section 1085 of the Code of Civil Procedure. (Wat. Code, §
9 10726.6, subs. (a) & (e).) The mere fact that Searles includes a challenge to the GSP in its writ of
10 mandate cause of action does not convert it into a validation action. Indeed, the validation statutes
11 are an inappropriate procedural vehicle to challenge all of the Authority’s actions in Searles’ writ of
12 mandate cause of action other than the GSP.

13 Searles acknowledges in the FAP that it “file[d] this lawsuit to protect *its groundwater*
14 *rights* in the Indian Wells Valley Groundwater Basin.” (FAP, ¶ 1, emphasis added.) Searles pled an
15 ordinary *in personam* mandamus proceeding to protect its water rights, and therefore the District
16 lacks standing to participate as an “interested party” and to litigate alongside Searles. Searles
17 alleges it has “standing to litigate the petition for writ of mandate and causes of action herein based
18 on Searles Valley Minerals’ status as a groundwater pumper in the relevant groundwater basin that
19 is subject to the decisions and actions of defendant Authority.” (FAP, ¶ 7.) Searles claims that it is
20 injured by the Authority’s actions, which cause “severe economic harm and damage to Searles
21 Valley Minerals by threatening its continued business operations as well as the jobs and
22 communities that depend on Searles Valley Minerals, and further threatens the only drinking water
23 supply for the Trona community residents and local businesses.” (FAP, ¶ 8.) The District does not
24 have standing to litigate Searles’ harms as an “interested party,” and this Court should decline the
25 District’s request to be made such a party.

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1 **To the Extent this Proceeding Constitutes a Reverse Validation Proceeding, the**
2 **District’s Answer is Untimely and Barred, and the District Waived any Right**
3 **to Contest the Validity of the Authority’s Actions**

4 **1. The District’s Answer is Time-Barred Because It Failed to File its**
5 **Answer by the Date Specified in Searles’ Summons**

6 A validation action is “a lawsuit filed and prosecuted for the purpose of securing a
7 judgment determining the validity of a particular local governmental decision or act.” (*N.T. Hill*
8 *Inc. v. City of Fresno* (1999) 72 Cal.App.4th 977, 991.) The validation statutes “provide an
9 expedited process by which certain public agency actions may be determined valid and not subject
10 to attack.” (*Golden Gate Hill Development Co., Inc. v. County of Alameda* (2015) 242 Cal.App.4th
11 760, 765.) The validation statutes provide a 60-day period during which an action may be brought
12 and if no action is brought, the public is forever barred from contesting the validity of the agency’s
13 action. (*Id.*, at 765–766; Code Civ. Proc., § 860.) The summons in a validation action must be
14 directed to all persons interested in the matter. (Code Civ. Proc., § 861.1) Under Code of Civil
15 Procedure section 862, “[a]ny party interested may, not later than the date specified in the
16 summons, appear and contest the legality or validity of the matter sought to be determined.” (*Id.*, §
17 862.) As the Court of Appeal explained in *City of San Diego*:

18 “[T]he time limit established by section 862 [operates] like a statute of limitations.
19 Put differently, if any interested party appears in a validation action after the time
20 period permitted by the applicable summons, the government would have a valid
defense, preventing that interested party from further challenging the government’s
proposed action.”

21 (*City of San Diego, supra*, 3 Cal.App.5th at 579.)

22 Here, Searles’ summons required any party to respond to the petition and complaint by
23 December 18, 2020. (ROA 47) The District served and attempted to file its answer on January 15,
24 2021—nearly a month after the limitations period expired. (Evertz Decl., ¶ 6.) The District actually
25 filed its answer on April 1, 2021. (ROA 64.) Because the District failed to appear during the
26 prescribed time, the District is barred from challenging the GSP. The District’s reliance on the
27 extension it obtained through its Certificate of Inability to Respond is misplaced. (Motion, pp. 2-3;
28 Evertz Decl., ¶ 4.) “A statute of limitations prescribes the period beyond which actions may not be

1 brought” and cannot be extended, even by unilateral court order, unless tolled. (*Ellis v. U.S.*
2 *Security Associates* (2014) 224 Cal.App.4th 1213, 1221, cleaned up; *Levy v. Stewart* (1870) 78
3 U.S. 244, 249 [statute of limitations “proceed upon the presumption that claims are extinguished
4 whenever they are not litigated in the proper forum within the prescribed period”].) The District
5 and the Authority did not enter into a tolling agreement nor did the Authority provide an extension
6 to file an untimely answer. (Evertz Decl., ¶ 5 [“I requested a courtesy extension to file the District’s
7 answer...Counsel for Searles, Jeffrey Dunn, agreed. I received no reply or objection from counsel
8 for the Authority”].) Thus, the District’s answer must be rejected as untimely. (*Law Finance*
9 *Group, LLC v. Key* (2023) 14 Cal.5th 932, 950 [“mandatory procedural rules—like many statutes
10 of limitations or other filing deadlines—serve important policy goals, and courts must enforce them
11 when properly raised”].)

12 **2. The District Waived Its Ability to Contest the Authority’s Actions**
13 **by Failing to Contest Within the Limitations Period**

14 The District contends that “no California court has recognized that an interested party’s
15 filing of a defensive pleading in a reverse validation case constitutes a waiver of the right to raise
16 affirmative challenges in the case.” (Motion, p. 3.) That is simply false. In *Community Youth*
17 *Athletic Center v. City of National City* (2009) 170 Cal.App.4th 416, 428, the Court held that any
18 matters “which could have been adjudicated in a validation action...must be raised within the [60-
19 day] statutory limitations period in section 860 *et seq.* or they are waived.” (*Community Youth*
20 *Athletic Center v. City of National City* (2009) 170 Cal.App.4th 416, 428.) Code of Civil Procedure
21 section 869 states, in pertinent part, “[n]o contest except by the public agency or its officer or agent
22 of any thing or matter under this chapter shall be made other than within the time and the manner
23 herein specified.” (emphasis added.) “Read in conjunction with the rest of the statutory scheme, the
24 first sentence of section 869 means that any *contest* of a matter subject to validation proceedings,
25 other than one brought by the agency involved, ***must be asserted not later than the date specified***
26 ***in the summons.***” (*Moorpark Unified School Dist. v. Superior Court* (1990) 223 Cal.App.3d 954,
27 958, emphasis added.)

28 Here, the District waived its ability to contest to the legality and validity of the actions

1 taken by the Authority because the District failed to file a timely answer, and the answer the
2 District filed does not contest any of the Authority’s actions. To the contrary, the District’s answer
3 is an unequivocal denial of and defense to Searles’ allegations contesting the Authority’s actions.
4 Thus, the District is barred under Code of Civil Procedure section 869 from contesting, or seeking
5 leave to amend to contest, the Authority’s actions at issue in the FAP because the limitations period
6 ran years ago.

7 **C. The District Should Be Estopped from Adopting an Entirely Inconsistent**
8 **Position than that Alleged in its Answer**

9 General principles of estoppel prohibit “a party from taking inconsistent positions in the
10 same or different judicial proceedings.” (*M. Perez Co., Inc. v. Base Camp Condominiums Assn. No.*
11 *One* (2003) 111 Cal.App.4th 456, 463; *J. C. Peacock, Inc. v. Hasko* (1960) 184 Cal.App.2d 142,
12 149 [“A party cannot in the same action or proceeding ‘Blow hot and cold’ at different stages”].)
13 Yet, that is precisely what the District seeks to do.

14 The GSP was adopted by the Authority in January 2020 with the District voting to approve
15 it. (FAP, ¶ 33; Lemieux Decl., ¶ 8, Ex. D.) The District also voted to adopt the Authority’s
16 Sustainable Yield Report to provide further information to the public regarding the calculation of
17 the sustainable yield. (Lemieux Decl., ¶ 9, Ex. E.) In its initial answer to Searles’ Petition, the
18 District denied Searles’ allegations challenging the GSP and other implementing actions, and
19 prayed that Searles’ Petition “be dismissed in its entirety” and that Searles’ “**request and prayer**
20 **for relief be denied.**” (Answer to Petition, p. 27.) The District further alleged thirty affirmative
21 defenses to Searles’ Petition. (*Id.*, pp. 21-27.) On January 5, 2023, the District filed its operative
22 answer to Searles’ FAP which, again, denied Searles’ allegations and requested that the FAP be
23 dismissed. (Answer to FAP, p. 26.) The District alleges twenty-five affirmative defense to the FAP,
24 including failure to state facts sufficient to constitute a cause of action. (Answer to FAP, p. 26.)
25 The District does not contest the legality or validity of any of the Authority’s actions.

26 Through this Motion, over five years after Searles’ Petition was filed, the District seeks to
27 pivot entirely from its two previous answers. The District seeks “the full right to contest the legality
28 and validity of the actions” of the Authority, including the adoption of the GSP, and to file an

1 amended answer praying that Searles’ “**request and prayer for relief *be granted***” on its writ of
2 mandate. (Motion, p. 1; Evertz Decl., Exhibit 13[Proposed Amended Answer to FAP], p. 26.) The
3 District provides no explanation in its moving papers for its sudden reversal. Rather, the District
4 glosses over its inconsistent allegations and affirmative defenses stating:

5 “When an interested party files an answer denying allegations in a reverse
6 validation petition, that party is simply engaging in defensive pleadings
7 required by the procedural rules to appear in the case. The interested party’s
8 right to participate does not depend on the specific allegations of the party’s
9 answer.”

8 (Motion, p. 3.)

9 That is absurd. There are no “procedural rules” that forced the District’s hand into denying
10 nearly all of the allegations in Searles’ FAP and alleging affirmative defenses. The contention that
11 the District’s participation in this action “does not depend on the specific allegations of the
12 [District’s] answer” is contrary to foundational pleading rules and doctrine. (*Brown v. Sweet* (1928)
13 95 Cal.App. 117, 125 [“It is well settled by a long line of decisions in this state that ‘the plaintiff
14 must recover, if at all, upon the case made by the pleadings... We do not understand the rule to be
15 any different when applied to a defendant’].) The answer serves the critical function of
16 putting at issue the material allegations of the complaint by either denying or admitting those
17 allegations. (*Fleming v. Bennett* (1941) 18 Cal.2d 518, 522 [“Pleadings on the part of a defendant
18 generally are for the purpose of narrowing the issues”].) The District is not free to take positions as
19 it sees fit untethered from its pleadings. Indeed, there would be no reason for the District to seek
20 leave to amend if the District’s “right to participate does not depend on the specific allegations of
21 the party’s answer.”

22 **D. The District’s Motion for Leave to Amend Should Be Denied Because It is**
23 **Procedurally and Substantively Improper, and Prejudicial to the Authority**

24 **1. The Court Should Deny Leave to Amend Because the Limitations**
25 **Period to Challenge the Authority’s Actions Expired**

26 Even if this action is a validation proceeding, the District’s attempt to contest the validity of
27 the Authority’s actions vis-à-vis a motion for leave to amend is time-barred under the validation
28 statutes. The District had until December 18, 2020 to contest validity of the GSP. The District

1 failed to file a timely answer. Nevertheless, the answer the District filed did not contest the validity
2 of the GSP, or any actions taken by the Authority for that matter. The validation statutes require the
3 District to raise any contest to the validity of the GSP within the limitations period or suffer waiver.
4 The District’s motion for leave to amend—however, styled or phrased—is a backdoor attempt to
5 circumvent the strict limitations period to contest the legality and validity of the Authority’s
6 actions. The District’s answer is not a mere placeholder for the District to decide whether, when
7 and how it may contest or defend the Authority’s actions.

8 **2. The Court Should Deny Leave to Amend Because the Motion Fails to**
9 **Comply with the California Rules of Court**

10 California Code of Civil Procedure section 473(a) provides that the Court, in its discretion,
11 may allow a party to amend a pleading subject to conditions specified in the statute. But such party
12 must comply with California Rules of Court (“CRC”), Rule 3.1324, which the District failed to do.

13 CRC Rule 3.1324(a) requires a party seeking to amend a pleading before trial to state what
14 allegations in the previous pleading are proposed to be deleted or added, and where, by page,
15 paragraph, and line number. The District’s declarations and exhibits filed therewith fail to identify
16 by page, paragraph, and line number any allegations it proposes to add or delete. To add to the
17 confusion, the proposed amended answer asserts multiple affirmative defenses challenging the
18 sufficiency of each of Searles’ causes of action, including an affirmative defense that Searles’
19 “Complaint and each purported cause of action alleged therein, is barred, in whole or in part, for
20 failure to state facts sufficient to constitute a cause of action.” (Evertz Decl., Exhibit 13 [Proposed
21 Amended Answer to FAP], p. 21.) Yet, in its Motion, the District contradicts itself, stating that it
22 “seeks to confirm it is similarly situated to Searles—not the Authority—on the first cause of action,
23 and that the District too contests the legality and validity of the Authority’s actions.” (Motion, p. 6.)
24 It is still not clear whether the District is contesting the Authority’s actions or defending against
25 Searles’ causes of action.

26 CRC Rule 3.1324(b) requires the moving party to file a declaration specifying the effect of
27 the amendment, why it is “necessary and proper,” when the facts giving rise to the amendment
28 were discovered and the reason why leave was not sought earlier. The conclusory declaration of

1 Douglas J. Evertz fails to meet these requirements. The only declaratory statements that bear on
2 CRC Rule 3.1324(b) is ¶ 14 of Mr. Evertz’s declaration, which states that in an August 29, 2025
3 “Teams meeting...I informed counsel that the District views its role in the case aligned with
4 petitioner (Searles)” and that the Authority’s counsel “objected to the District assuming a role
5 aligned with petitioner in the case, the District having filed an answer denying the allegations of the
6 petition and seeking to have the petition dismissed. Unable to agree, and agreeing to disagree, I
7 informed counsel that the district would file the attached motion to confirm its role in the case.”
8 (Evertz Decl., ¶ 14.) This statement does not explain the effect of any amendment, why any
9 amendment is “necessary and proper,” or when the District became aware of facts and information
10 that led it to admit allegations that it previously denied, and completely reverse its position on the
11 first cause of action. The District’s failure to comply with the CRC’s procedural requirements is yet
12 another basis to deny the motion.

13 **3. The Court Should Deny Leave to Amend Because the Motion**
14 **Improperly Seeks to Reinstate Challenges to the Replenishment Fee and**
15 **Other Matters That Were Rejected by this Court in Prior Rulings**

16 In two previous rulings, this Court held that the Pay First Rule bars Searles’ challenge to the
17 Replenishment Fee. (ROA 207 [August 5, 2021 Minute Order]; ROA 599 [December 21, 2022
18 Minute Order].) The Court struck all allegations in the FAP regarding the Replenishment Fee,
19 except ¶¶ 115-122 in Searles’ regulatory takings cause of action, which does not involve the
20 District. (ROA 599 [December 21, 2022 Minute Order], p. 8.) In its December 21, 2022 Order, the
21 Court agreed with the Authority “that implementing actions, unlike a GSP, can’t be directly
22 challenged under the validation statutes.” (*Id.*, p. 7.) The District’s proposed amendments to
23 reinstate challenges to the Replenishment Fee as well as challenges to other implementing actions
24 are not in conformity with the Court’s prior rulings.

25 Moreover, if this is a validation proceeding, as the District contends it is, the proceeding is
26 limited to contesting the GSP. The District cannot link arms with Searles on its first cause of action
27 challenging the Sustainable Yield Report, Engineer’s Report, Extraction Fee, or any other
28 “implementing action” because those actions are not subject to the validation statutes. This Court

1 lacks *in rem* jurisdiction over the implementing actions and, therefore, the District cannot amend its
2 answer to challenge those actions as an “interested party” under Code of Civil Procedure section
3 862.

4 **4. The Court Should Deny Leave to Amend Because the District’s Delay is**
5 **Inexcusable and it is Unfairly Prejudicial to the Authority**

6 The policy of liberal amendment to pleadings applies “only where no prejudice is shown to
7 the adverse party.” (*Melican v. Regents of Univ. of Cal.* (2007) 151 Cal.App.4th 168, 175.)
8 Numerous cases have held that the liberality in favor of allowing leave to amend does not apply
9 where, as here, the party seeking to amend is guilty of delay or the opposing party would be
10 prejudiced. (See *Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 486-87; *Bedolla v.*
11 *Logan & Frazer* (1975) 52 Cal. App. 3d 118, 136 [“The law is well settled that a long deferred
12 presentation of the proposed amendment without a showing of the excuse for the delay is itself a
13 significant factor to uphold the trial court’s denial of the amendment”].) Where “inexcusable delay
14 and probable prejudice to the opposing party” is shown, denial of leave to amend is appropriate.
15 (*Estate of Murphy* (1978) 82 Cal. App. 3d 304, 311.)

16 The District admits that “as early as early as May 7, 2021, when it filed its Non-Opposition
17 and Non-Joinder to Searles’ Motion for Preliminary Injunction (ROA 106) that it viewed itself as
18 similarly situated to Searles—not the Authority—in this case.” (Motion, p. 6.) The District should
19 have known at that time that its answer contained allegations and affirmative defenses rejecting
20 Searles’ causes of action. Yet, the District does not offer any valid justification for waiting over
21 four years to seek leave to amend its answer. Only upon the Authority’s counsel pointing out
22 during a recent meet-and-confer that the District “filed an answer denying the allegations of the
23 petition and seeking to have the petition dismissed” did the District “realize[] it should seek leave
24 to amend.” (Evertz Decl., ¶ 14; Motion, p. 6.) To the extent the District was ignorant of its own
25 allegations in its pleadings, that is an insufficient justification for the lengthy delay in seeking leave
26 to amend. The Court should exercise its discretion to refuse the District’s motion for leave to
27 amend because “even if a good amendment is proposed in proper form, unwarranted delay in
28 presenting it may - of itself- be a valid reason for denial.” (*Record v. Reason* (1999) 73 Cal. App.

1 4th 472, 486; *Fair v. Bakhtiari* (2011) 195 Cal.App.4th 1135, 1147 [“In spite of this policy of
2 liberality, a court may deny a good amendment in proper form where there is unwarranted delay in
3 presenting it”].)

4 Leave should also be denied due to the unfair prejudice to the Authority. The District
5 dismissively contends that the proposed amendments will not prejudice the Authority stating:
6 “Leave to amend will not delay the February 4, 2026 writ hearing, result in the loss of critical
7 evidence, add to the Authority’s costs of preparing for the hearing, or increase the Authority’s
8 discovery burden.” (Motion, pp. 5-6.) Not so. The District’s Motion provides no insight into the
9 reasons why it contests the validity of the GSP, which would require discovery. The District’s
10 Motion also seeks to reinstate a number of challenges to actions taken by the Authority that are
11 outside the scope of this writ proceeding (e.g., challenge to the Replenishment Fee) and cannot be
12 subject to a validation proceeding. (Motion, pp. 6-7.) The Authority would have filed a demurrer, a
13 motion to bifurcate the purported validation claims, a motion to strike the allegations in accordance
14 with the Court’s ruling on the Authority’s prior demurrers and motion to strike, a motion for
15 summary judgment, and conducted discovery as to the District’s position. (*P&D Consultants, Inc.*
16 *v. City of Carlsbad* (2011) 190 Cal.App.4th 1332, 1345 [denying leave to amend where the
17 proposed amendment would require additional discovery and possible pretrial motion practice and
18 no explanation was given for the delay].)

19 Allowing the District leave to amend would prejudice the Authority because it improperly
20 expands the issues to be litigated and allows the District to essentially “switch sides” on the eve of
21 trial. (*Young v. Berry Equip. Rentals, Inc.* 39 (1976) 55 Cal. App. 3d 35 [“unexcused delay” is
22 grounds for denial of leave to amend, especially where amendment “interjects a new issue ... which
23 may require further investigation or discovery procedures”].) The District’s proposed amendments
24 given the advanced stage of this litigation threatens the orderly administration of this case pending
25 trial. It should not be allowed.

26 Allowing the District leave to amend would also dramatically prejudice the Authority
27 because the District’s attorney James Worth was legal counsel to the Authority during the
28 preparation of the GSP; the District’s representative on the Authority voted to approve the GSP;


1 and the District’s representative was present in closed session meetings with attorneys following
2 the filing of Searles’ Petition. Allowing the Authority’s legal counsel during preparation of the
3 GSP—counsel that is still under contract with the Authority and regularly attends closed session
4 meetings where discussions regarding implementation of the GSP occur—to challenge the GSP
5 would be prejudicial and potentially involve a conflict of interest. (Lemieux Decl., ¶¶ 4-8; Exs. A-
6 D.)

7 **IV. CONCLUSION**

8 Based on the foregoing, the Court should deny the District’s motion to be deemed an
9 “interested party” and for leave to file an amended answer.

10 Dated: November 10, 2025

RICHARDS, WATSON & GERSHON
A Professional Corporation

11
12 By: 

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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. On November 10, 2025, I served the within document(s) described as:

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY’S
OPPOSITION TO INDIAN WELLS VALLEY WATER DISTRICT’S
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 November 10, 2025, at San Dimas, California.



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