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INDIAN WELLS VALLEY WATER DISTRICT

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

MOJAVE PISTACHIOS, LLC; et al.,  
  
Plaintiffs,  
  
v.  
  
INDIAN WELLS VALLEY WATER  
DISTRICT; et al.,  
  
Defendants.

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

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

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

**JOINT STATUS CONFERENCE  
STATEMENT**

**Date:** September 1, 2023  
**Time:** 2:30 p.m.  
**Dept.:** CX104

INDIAN WELLS VALLEY WATER  
DISTRICT,

Cross-Complainant,

v.

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

Cross-Defendants.

SEARLES VALLEY MINERALS INC.,

Cross-Complainant,

v.

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

Cross-Defendants.

AND RELATED CASES.

Complaint Filed:  
Trial Date:

November 19, 2019  
None Set

1 **JOINT STATUS CONFERENCE STATEMENT**

2 Defendant, Cross-Complainant, and Cross-Defendant Indian Wells Valley Water District  
3 (“District”) has made a good faith effort to solicit input from parties prior to submission of this  
4 Joint Status Conference Statement.<sup>1</sup>

5 **1. WHAT HAS BEEN DONE IN THE CASE**

6 **A. STATUS OF THE PLEADINGS**

7 On November 19, 2019, Plaintiffs filed a Complaint for Quiet Title, Declaratory Relief  
8 and Injunction Imposing a Physical Solution: Not General Adjudication against District, Searles,  
9 and Meadowbrook. In response to Plaintiffs’ complaint, on June 16, 2021, District filed a  
10 Cross-Complaint for Comprehensive Adjudication of the Basin pursuant to the California  
11 Streamlined Groundwater Adjudication Statutes (Code Civ. Proc., §§ 830-852) (“Comprehensive  
12 Adjudication”). Searles has also filed a cross-complaint seeking a comprehensive groundwater  
13 rights adjudication.  
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19 <sup>1</sup> The following parties have met and conferred and submit this Joint Statement for the September 1, 2023  
20 Status Conference: (1) Plaintiffs and Cross-Defendants Mojave Pistachios, LLC; John Thomas Conaway;  
21 John Thomas Conaway Trust; John Thomas Conaway Living Trust u/d/t August 7, 2008; Nugent Family  
22 Trust; and Sierra Shadows Ranch LP (collectively, “Plaintiffs”); (2) District; (3) Defendant,  
23 Cross-Defendant, and Cross-Complainant Searles Valley Minerals Inc. (“Searles”); (4) Defendants and  
24 Cross-Defendants Meadowbrook Dairy Real Estate, LLC; Big Horn Fields, LLC; Brown Road Fields,  
25 LLC; Highway 395 Fields, LLC; and the Meadowbrook Mutual Water Company (collectively,  
26 “Meadowbrook”); (5) Cross-Defendant United States of America (“United States”); (6) Cross-Defendants  
27 California Department of Fish and Wildlife, California Department of Parks and Recreation, and  
28 California 53rd District Agricultural Association (collectively, “State”); (7) Cross-Defendant City of  
Ridgecrest (“City of Ridgecrest”); (8) Cross-Defendant Little Lake Ranch, Inc. (“Little Lake”);  
(9) Cross-Defendant BT-OH, LLC (“BT-OH”); (10) Cross-Defendant Inyokern Community Services  
District (“ICSD”); (11) Cross-Defendant Indian Wells Valley Groundwater Authority (“Authority”);  
(12) Cross-Defendant the City of Los Angeles, acting by and through its Department of Water and Power  
 (“LADWP”); (13) Cross-Defendant Granite Construction Company, erroneously named as Granite  
 Construction Water System (“Granite”); and (14) Cross-Defendant Ridgecrest Mobile Home Estates,  
 LLC (“Ridgecrest Estates”). (Plaintiffs, District, Searles, Meadowbrook, United States, State, City of  
 Ridgecrest, Little Lake, BT-OH, ICSD, Authority, LADWP, Granite, and Ridgecrest Estates are  
 collectively referred to as “Parties.”)

1           B.     STATUS OF ASSIGNMENT BY CHAIRPERSON OF THE JUDICIAL  
2                    COUNCIL OF A JUDGE TO PRESIDE IN ALL PROCEEDINGS

3           On March 30, 2023, the Court granted the joint ex parte application of District, Plaintiffs,  
4 Searles, Meadowbrook, Little Lake, BT-OH, ICSD, Granite, Cross-Defendant Michael P.  
5 Henson, and Cross-Defendant Tamera Walters and entered an Order Referring Action to Judicial  
6 Council for Judicial Assignment (Code Civ. Proc., § 838(a)) (“Referral Order”). On April 4,  
7 2023, the Court sent a copy of the Referral Order to the Judicial Council. On April 5, 2023,  
8 District emailed and mailed a copy of the Referral Order to the Judicial Council. On April 18,  
9 2023, District contacted the Judicial Council and confirmed its receipt of the Referral Order.  
10 District followed up with the Judicial Council on May 8, 2023.

11           Having received no word from the Judicial Council in response to the Referral Order, on  
12 August 2, 2023, District filed a Petition for Original Writ of Mandate or Other Appropriate  
13 Relief in the California Supreme Court. District’s petition requests that the California Supreme  
14 Court issue a writ of mandate or other appropriate relief assigning a judge to preside in all  
15 proceedings in the Comprehensive Adjudication. District’s petition confirmed this Court’s  
16 willingness to preside over the Comprehensive Adjudication.

17           C.     STATUS OF NOTICE AND SERVICE

18           District has completed and complied with all notice and service requirements required by  
19 Code of Civil Procedure section 830 *et seq.* and Court orders regarding notice and service.

20           D.     STATUS OF PARTICIPATION BY DE MINIMIS PUMPERS

21           Pursuant to Code of Civil Procedure section 833(d), if a court finds that claims of right to  
22 pump only “minor” quantities of water, not exceeding five acre-feet of water per year, would not  
23 have a material effect on the groundwater rights of other parties, the court may exempt those  
24 claimants with respect to those claims from a comprehensive adjudication. (Code Civ. Proc.,  
25 § 833(d).)

26           Under the Sustainable Groundwater Management Act of 2014 (“SGMA”), a “de  
27 minimis” pumper is defined as a person who extracts, for domestic purposes, two acre-feet of  
28 groundwater or less per year. (Wat. Code, § 10721(e).) Authority currently exempts de minimis

1 pumpers from the payment of Authority's Replenishment Fee and certain other GSP-related  
2 programs.

3 United States' position is that the McCarran Amendment's waiver of sovereign immunity  
4 for a comprehensive state court adjudication requires joinder of all groundwater right users and  
5 potential claimants. (See, *infra*, § 1.F for further discussion.)

6 No determination has been made whether to exempt minor water pumpers. The Court  
7 has paused or stayed participation by such parties since the initial Case Management Conference  
8 on May 20, 2022.

9 E. STATUS OF RELATED PROCEEDINGS

10 (1) *Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater*  
11 *Authority; et al.*, OCSC Case No. 30-2021-01187589-CU-WM-CXC (the "Mojave Pistachios  
12 Action") (consolidated with the Searles Action; related to all cases listed on the caption; and  
13 pending before The Honorable William Claster): On September 30, 2020, Mojave Pistachios,  
14 LLC and Paul G. Nugent and Mary E. Nugent, Trustees of the Nugent Family Trust dated  
15 June 20, 2011 (collectively, "Mojave Pistachios") filed a Petition for Writ of Mandamus and  
16 Complaint against Authority. On January 6, 2023, Mojave Pistachios filed a Fourth Amended  
17 Petition for Writ of Mandamus and Complaint. Through its petition, Mojave Pistachios alleges,  
18 inter alia, that Authority adopted a Groundwater Sustainability Plan on January 16, 2020  
19 ("GSP") that is illegal and technically deficient.

20 A status conference in the Mojave Pistachios Action is set to occur on September 1, 2023  
21 in this Department. However, the Mojave Pistachios Action is currently stayed pursuant to an  
22 order of the Court of Appeal, Fourth Appellate District, Division Three. On April 26, 2023, the  
23 Court of Appeal issued an Order to Show Cause as to why mandate or other appropriate relief  
24 should not issue on Mojave Pistachios' February 21, 2023 petition for writ of mandate. The  
25 Order to Show Cause stayed the Mojave Pistachios Action pending further order of the Court of  
26 Appeal. Briefing in the Court of Appeal has been completed, oral argument has been requested,  
27 and the parties await scheduling of oral argument.

1 Mojave Pistachios has elected to prepare the administrative record. Authority filed an  
2 answer to Mojave Pistachios' Fourth Amended Petition and Complaint on April 24, 2023, just  
3 two days before the Court of Appeal stayed this action. The administrative record has not been  
4 prepared in the consolidated cases, and will not be finalized or certified until the Court of Appeal  
5 issues a decision on the petition for writ of mandate. Its timing may be further influenced by  
6 Searles' contemplated amendment of its complaint to add a Public Records Act cause of action.  
7 (See, *infra*, § 1.E(2) for further discussion.)

8 (2) *Searles Valley Minerals Inc. v. Indian Wells Valley Groundwater*  
9 *Authority; et al.*, OCSC Case No. 30-2021-01188089-CU-WM-CXC (the "Searles Action")  
10 (consolidated with the Mojave Pistachios Action, which is the lead case; related to all cases listed  
11 on the caption; and pending before The Honorable William Claster): On September 29, 2020,  
12 Searles filed a Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief;  
13 and Takings Claims under the California Constitution against Authority and Authority's Board  
14 of Directors. On or about August 25, 2021, Searles filed a First Amended Petition for Writ of  
15 Mandate and Complaint for Declaratory and Injunctive Relief; and Takings Claim under the  
16 California Constitution. Through its petition, Searles challenges the validity of Authority's GSP.

17 A status conference in the Searles Action is set to occur on September 1, 2023 in this  
18 Department.

19 Authority filed an Answer to Searles' First Amended Petition and Complaint on  
20 April 24, 2023, just two days before the Mojave Pistachios Action was stayed. Given that the  
21 administrative records for both the Mojave Pistachios and Searles Actions are likely to be mostly  
22 similar, the administrative record has not been prepared in the consolidated cases. Moreover,  
23 Searles intends to file a motion for leave to amend its operative complaint to add a Public  
24 Records Act cause of action for Authority's failure to comply with Searles' request for public  
25 records for the administrative record.

26 (3) *Indian Wells Valley Groundwater Authority v. Mojave Pistachios, LLC; et*  
27 *al.*, OCSC Case No. 30-2022-01239479-CU-MC-CJC (related to all cases listed on the caption;  
28 and pending before The Honorable William Claster): On January 5, 2022, Authority filed a

1 Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater  
2 Fees; and Civil Penalties against Mojave Pistachios. Through its complaint, Authority seeks to  
3 enjoin Mojave Pistachios from operating groundwater wells without payment of Basin  
4 Replenishment Fees, delinquent groundwater extraction charges, and civil penalties. Mojave  
5 Pistachios filed an Answer on April 11, 2022. A status conference in this matter is set to occur  
6 on September 1, 2023 in this Department.

7 Authority contends the case is at issue and Authority requests that a trial date be set.  
8 Authority also intends to file a motion for preliminary injunction in this action. At the  
9 June 2, 2023 status conference, this Court ordered that Authority shall not schedule a hearing on  
10 its intended motion for preliminary injunction prior to October 1, 2023 and that any opposition to  
11 such motion shall not be due until after the Court of Appeal issues a decision on the petition for  
12 writ of mandate pending in the Mojave Pistachios Action.

13 (4) *Indian Wells Valley Groundwater Authority v. Searles Valley Minerals*  
14 *Inc.*, OCSC Case No. 30-2022-01239487-CU-MC-CJC (related to all cases listed on the caption;  
15 and pending before The Honorable William Claster): On January 5, 2022, Authority filed a  
16 Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater  
17 Fees; and Civil Penalties against Searles. Through its complaint, Authority seeks to enjoin  
18 Searles from operating groundwater wells without payment of Basin Replenishment Fees,  
19 delinquent groundwater extraction charges, and civil penalties. Searles filed an Answer on  
20 April 19, 2022. A status conference in this matter is set to occur on September 1, 2023 in this  
21 Department.

22 Authority contends the case is at issue and Authority requests that a trial date be set.  
23 Authority also intends to file a motion for preliminary injunction in this action. At the  
24 June 2, 2023 status conference, this Court ordered that Authority shall not schedule a hearing on  
25 its intended motion for preliminary injunction prior to October 1, 2023 and that any opposition to  
26 such motion shall not be due until after the Court of Appeal issues a decision on the petition for  
27 writ of mandate pending in the Mojave Pistachios Action.

1 (5) *Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater*  
2 *Authority; et al.*, OCSC Case No. 30-2022-01249146-CU-MC-CJC (related to all cases listed on  
3 the caption; and pending before The Honorable William Claster): On March 9, 2022, Mojave  
4 Pistachios filed a Complaint for Refund of Extraction Fees Paid against Authority, seeking to  
5 recover fee payments levied by Authority pursuant to Ordinance No. 02-20, as later amended by  
6 Ordinance Nos. 02-20 and 05-20, which impose a \$105 per acre-foot groundwater extraction fee,  
7 which Authority states is necessary to finance the estimated costs to develop and adopt the GSP.  
8 On August 24, 2022, the Court stayed the matter pending a resolution of the Mojave Pistachios  
9 Action. A status conference in this matter is set to occur on September 1, 2023 in this  
10 Department.

11 (6) *Indian Wells Valley Groundwater Authority v. Inyo Kern Community*  
12 *Services District*, Kern County Superior Court Case No. BCV-22-100281 (Notice of Related  
13 Case filed by Mojave Pistachios on April 26, 2022, but not yet acted upon): On  
14 February 1, 2022, Authority filed a Complaint for Preliminary and Permanent Injunction;  
15 Recovery of Delinquent Groundwater Extraction Fees; Imposition of Civil Penalties against  
16 ICSD. Through its complaint, Authority seeks to enjoin ICSD from operating groundwater wells  
17 without payment of Basin Replenishment Fees, delinquent groundwater extraction charges, and  
18 civil penalties. ICSD filed an Answer on November 18, 2022. This action is not pending in this  
19 Court. It is Authority's position that this action is not related to the Comprehensive Adjudication  
20 or the cases related to the Comprehensive Adjudication. A status conference in this matter is set  
21 to occur on November 9, 2023.

22 F. THIS COURT'S JURISDICTION OVER THE COMPREHENSIVE  
23 ADJUDICATION PURSUANT TO THE STREAMLINED GROUNDWATER  
24 ADJUDICATION STATUTES

25 United States is party to the Comprehensive Adjudication under the McCarran  
26 Amendment (43 U.S.C. § 666; *United States v. District Court in and for Eagle County*, 401 U.S.  
27 520 (1971).)  
28



District's position is that the California Streamlined Groundwater Adjudication Statutes (Code Civ. Proc., §§ 830-852) establish a procedure that, if followed, provides for the conduct of a comprehensive adjudication consistent with, and in satisfaction of, the McCarran Amendment. (Code Civ. Proc., § 830(b)(6).) In other words, satisfying all notice and service requirements under Code of Civil Procedure section 830 *et seq.* and related court orders, as District has, establishes a court's jurisdiction over all those claiming an interest or potential interest in extraction of water from, or use of storage space within, the Basin, including de minimis pumpers and non-users. District will seek to bind all joined parties, including all minor water pumpers, through a final judgment and physical solution, subject to the Court's continuing jurisdiction.

Accordingly, District remains amenable to a stipulated order recognizing this Court's jurisdiction over all water users, including all minor water pumpers, in satisfaction of the McCarran Amendment.

**2. RECOMMENDED DATES AND TIMES**

**A. NEXT STATUS CONFERENCE**

The Parties recommend the next status conference be set in approximately sixty (60) days.

**B. UPCOMING LAW AND MOTION HEARING RE TRIAL SETTING**

As stated in the Joint Statement for the March 17, 2023 Status Conference, as soon as the Judicial Council makes its judicial assignment, District, Plaintiffs, Searles, and Meadowbrook will file a motion and propose, among other things, the scheduling of trial, potential trial dates, discovery scheduling, and a deadline for initial disclosures. The motion will also brief the issue of the Court's authority to determine safe yield and to impose a physical solution.

Authority, County of Kern, and City of Ridgecrest agree that the issues of trial scheduling and scope of proceedings should be addressed, and suggest that when the Court is formally assigned by the Judicial Council, that a briefing schedule be set to allow parties to submit their proposals and to respond.

1 C. JURISDICTION OVER ALL WATER USERS IN SATISFACTION OF THE  
2 MCCARRAN AMENDMENT

3 United States proposes that in order to meet the requirements for maintaining jurisdiction  
4 over United States, the parties stipulate to an order recognizing the Court's jurisdiction over all  
5 water users, including minor water users, and the material effect of minor water users on the  
6 groundwater rights of other parties. (See Code Civ. Proc., § 833(d).) Should the parties not be  
7 willing to stipulate to the Court's jurisdiction over minor water users, United States' position is  
8 that the question of whether minor water users are going to be exempted pursuant to Code of  
9 Civil Procedure section 833(d) is a threshold jurisdictional issue which must be resolved prior to  
10 any phasing of the trial.

11 **3. SUMMARY OF REQUESTS**

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

- 14 A. EXPERT DISCLOSURES: Continue to refrain from setting a deadline for expert  
15 disclosures pursuant to Code of Civil Procedure section 843 until the setting of  
16 trial or any phase of trial, and then set disclosure deadlines accordingly.
- 17 B. DISCOVERY STAY: Continue the stay on discovery until the setting of trial or  
18 any phase of trial, and then lift the discovery stay accordingly.
- 19 C. INITIAL DISCLOSURES: Continue the stay on initial disclosures through a  
20 further status conference in approximately sixty (60) days.
- 21 D. NEXT STATUS CONFERENCE: Set a further status conference in  
22 approximately sixty (60) days.

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27 *Signatures begin on the following page*  
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DATED: August 25, 2023

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Elisabeth L. Esposito  
Scott S. Slater  
Robert J. Saperstein  
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Attorneys for Plaintiffs & Cross-Defendants  
MOJAVE PISTACHIOS, LLC;  
JOHN THOMAS CONAWAY;  
JOHN THOMAS CONAWAY TRUST;  
JOHN THOMAS CONAWAY LIVING TRUST u/d/t  
August 7, 2008;  
NUGENT FAMILY TRUST;  
SIERRA SHADOWS RANCH LP  
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INYOKERN COMMUNITY SERVICES DISTRICT

DATED: August 25, 2023

MURPHY & EVERTZ LLP

By: /s/ Douglas J. Evertz  
Douglas J. Evertz  
Emily L. Madueno  
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Cross-Defendant  
INDIAN WELLS VALLEY WATER DISTRICT

1 DATED: August 25, 2023

BEST BEST & KRIEGER LLP

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3  
4 By: /s/ Jeffrey V. Dunn

5 Eric L. Garner  
6 Jeffrey V. Dunn  
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8 Attorneys for Defendant, Cross-Defendant, &  
Cross-Complainant  
SEARLES VALLEY MINERALS INC.

9 DATED: August 25, 2023

FENNEMORE LLP

10  
11  
12 By: /s/ Derek R. Hoffman

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17 BIG HORN FIELDS, LLC;  
18 BROWN ROAD FIELDS, LLC;  
HIGHWAY 395 FIELDS, LLC;  
THE MEADOWBROOK MUTUAL WATER  
COMPANY

19 DATED: August 25, 2023

U.S. DEPARTMENT OF JUSTICE

20  
21  
22 By: /s/ David W. Gehlert

23 R. Lee Leininger  
24 David W. Gehlert  
25 Attorneys for Cross-Defendant  
26 THE UNITED STATES OF AMERICA  
27  
28

1 DATED: August 25, 2023

OFFICE OF THE ATTORNEY GENERAL

2  
3  
4 By: /s/ Noah Golden-Krasner

5 Noah Golden-Krasner  
6 Attorneys for Cross-Defendants  
7 CALIFORNIA DEPARTMENT OF FISH AND  
8 WILDLIFE;  
9 CALIFORNIA DEPARTMENT OF PARKS AND  
RECREATION;  
CALIFORNIA 53<sup>rd</sup> DISTRICT AGRICULTURAL  
ASSOCIATION

10 DATED: August 25, 2023

ALESHIRE & WYNDER, LLP

11  
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13 By: /s/ W. Keith Lemieux

14 W. Keith Lemieux  
15 Alex Lemieux  
16 Attorneys for Cross-Defendants  
17 CITY OF RIDGECREST;  
INDIAN WELLS VALLEY GROUNDWATER  
AUTHORITY

1 DATED: August 25, 2023

RICHARDS, WATSON & GERSHON

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4 By: /s/ Kyle Brochard

5 James L. Markman

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Attorneys for Cross-Defendant

INDIAN WELLS VALLEY GROUNDWATER  
AUTHORITY

10  
11 DATED: August 25, 2023

ARNOLD LaROCHELLE MATHEWS VANCONAS &  
ZIRBEL LLP

12  
13  
14 By: /s/ Gary D. Arnold

15 Gary D. Arnold

16 Attorneys for Cross-Defendant

LITTLE LAKE RANCH, INC.

17 DATED: August 25, 2023

LAW OFFICES OF YOUNG WOOLDRIDGE, LLP

18  
19  
20 By: /s/ Brett A. Stroud

21 Brett A. Stroud

22 Attorneys for Cross-Defendant

23 BT-OH, LLC

1 DATED: August 25, 2023

OFFICE OF THE LOS ANGELES CITY ATTORNEY

2  
3  
4 By: /s/ Nicholas J. Karno

5 Melanie A. Tory

6 Nicholas J. Karno

7 Attorneys for Cross-Defendant

8 THE CITY OF LOS ANGELES, ACTING BY AND

THROUGH ITS DEPARTMENT OF WATER AND

POWER

9 DATED: August 25, 2023

LeBEAU THELEN, LLP

10  
11  
12 By: /s/ Robert G. Kuhs

13 Robert G. Kuhs

14 Briar R. Keeler

15 Attorneys for Cross-Defendant

16 GRANITE CONSTRUCTION COMPANY,

erroneously named as Granite Construction Water

System

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DATED: August 25, 2023

OSSENTJUK & BOTTI

By: /s/ David A. Ossentjuk

David A. Ossentjuk

Attorneys for Cross-Defendant

RIDGECREST MOBILE HOME ESTATES, LLC