

1 RICHARDS, WATSON & GERSHON
A Professional Corporation
2 JAMES L. MARKMAN (BAR NO. 43536)
jmarkman@rwglaw.com
3 KYLE H. BROCHARD (BAR NO. 293369)
kbrochard@rwglaw.com
4 JACOB C. METZ (BAR NO. 341565)
jmetz@rwglaw.com
5 350 South Grand Avenue, 37th Floor
Los Angeles, California 90071
6 Telephone: 213.626.8484
Facsimile: 213.626.0078

7 Attorneys for Defendants and Respondents
8 INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY and BOARD OF DIRECTORS OF THE
9 INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY

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

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 SEARLES MINERALS INC.,
21 Plaintiff and Petitioner,
22 v.

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

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

Date: February 6, 2026
Time: 11:00 a.m.
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Hon. William D. Cluster

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1 ALESHIRE & WYNDER, LLP
KEITH LEMIEUX, State Bar No. 161850
2 *klemieux@awattorneys.com*
MICHAEL LINDEN, State Bar No. 192485
3 *mlinden@awattorneys.com*
ALEX LEMIEUX, State Bar No. 302602
4 *alemieux@awattorneys.com*
2659 Townsgate Rd., Suite 226
5 Westlake Village, California 91361
Telephone: (805)495-4770
6 Facsimile: (805)495-2787

7 General Counsel to
INDIAN WELLS VALLEY GROUNDWATER
8 AUTHORITY and BOARD OF DIRECTORS
OF THE INDIAN WELLS VALLEY
9 GROUNDWATER AUTHORITY

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1 **I. INTRODUCTION**

2 This action is settled and should be dismissed. Defendants and Respondents Indian Wells
3 Valley Groundwater Authority and the Board of Directors for the Indian Wells Valley
4 Groundwater Authority (collectively, the “Authority”) and Plaintiff and Petitioner Searles Valley
5 Minerals Inc. (“Searles”) entered into a settlement agreement to dismiss this action (and other
6 related actions). Searles filed its request for dismissal on November 17, 2025 (ROA 729), prior to
7 the November 21, 2025 hearing on Indian Wells Valley Water District’s (“District’s”) Motion for
8 Order Confirming “Interested Party” Status, or, in the Alternative, Granting Leave to Amend
9 Answer (“Motion”). Accordingly, the Court is jurisdictionally required to dismiss this action by the
10 rules of procedure. Even if the Court addresses the Motion, the District cannot be an “interested
11 party” to Searles’ petition for writ of mandate and, as the Court has already tentatively ruled, it
12 would be inappropriate to permit the District to amend its answer by completely reversing its
13 position five years after the petition for writ of mandate was filed (and after the case has been
14 dismissed by Searles).

15 First, Searles has an absolute right to dismiss this action in its entirety and the Court has a
16 ministerial duty to enter the order of dismissal notwithstanding the District’s pending Motion
17 because, as of November 17, 2025, the District’s answer on file fails to seek affirmative relief
18 against Searles or the Authority. (Code Civ. Proc., § 581; *Klinghoffer v. Barasch* (1970) 4
19 Cal.App.3d 258, 261 [“where no affirmative relief has been sought in the pleadings, the privilege
20 of dismissing belongs to the plaintiff”].) The District’s change of heart is five years too late. The
21 dismissal operates to bar consideration of the District’s Motion.

22 Second, “it is a well-settled proposition of law that where the plaintiff has filed a voluntary
23 dismissal...the court is without jurisdiction to act further, and any subsequent orders of the court
24 are simply void.” (*Gherman v. Colburn* (1971) 18 Cal.App.3d 1046, 1050.) The District does not
25 dispute that Searles’ dismissal is in proper form, therefore the Court’s jurisdiction terminated as of
26 November 17, 2025 when the request for dismissal was filed. Accordingly, the Court should not
27 consider the District’s November 21, 2025 Motion. Even if Searles’ writ of mandate claim is
28 construed as a reverse validation claim, which it is not, Code of Civil Procedure sections 860-870.5

1 (“the Validation Statutes”) do not limit Searles’ absolute right to dismiss this action nor do they
2 provide the Court with unique jurisdictional authority to consider the District’s Motion.

3 Third, the District is not and cannot be an “interested party” because the First Amended
4 Petition (“FAP”) is a petition for writ of mandate, not a reverse validation complaint. The FAP fails
5 to even mention the Validation Statutes, and the only relief that Searles requests is writ relief.
6 Accordingly, the District cannot step into Searles’ shoes to litigate the petition, which is predicated
7 on interference with Searles’ groundwater rights.

8 Fourth, even if Searles properly pled a reverse validation action, “interested party” status
9 does not provide the full right to contest the GSP. The District cannot obtain relief on a claim not
10 contained in its pleadings. (*Schweitzer v. Westminster Investments, Inc.* (2007) 157 Cal.App.4th
11 1195, 1214.) Further, the District is time-barred under the Validation Statutes from asserting any
12 new challenge to the GSP. The Validation Statutes require the District to have raised any and all
13 challenges to the GSP “not later than the date specified in the summons”—here, December 18,
14 2020. (*Moorpark Unified School Dist. v. Superior Court* (1990) 223 Cal.App.3d 954, 958.) The
15 District’s answer fails to assert a challenge to the GSP, and the District is barred from seeking leave
16 to assert a challenge five years later.

17 Fifth, the District admits that the primary purpose of the Motion is to challenge the
18 Replenishment Fee. The Replenishment Fee, however, is not before this Court. In two previous
19 rulings, and a published Court of Appeal decision, it has been held that the pay first, litigate later
20 rule (“Pay First Rule”) bars Searles’ challenge to the Replenishment Fee. (*Mojave Pistachios, LLC*
21 *v. Superior Court* (2024) 99 Cal.App.5th 605, 633, reh’g denied (Mar. 4, 2024), review denied
22 (May 15, 2024) (“*Mojave Pistachios*”).) The District has no authority or capacity to revive the
23 challenge to the Replenishment Fee in this action. Additionally, if this action is deemed to be a
24 reverse validation action, *the Replenishment Fee is not subject to the Validation*
25 *Statutes. Therefore, there is no right to challenge the replenishment fee as an “interested party.”*

26 Finally, in addition to the prejudice demonstrated in the Authority’s opposition brief,
27 significant public policy harms would result if the District gets its way in “assum[ing] Searles’ lead
28 role in contesting the GSP.” Most importantly, it could invalidate the settlement agreement

1 between the Authority and Searles as both parties understood that by entering into the settlement
 2 that this action would be dismissed in its entirety. The settlement agreement is a multifaceted
 3 agreement that not only resolved pending litigation, but also made progress on managing the Indian
 4 Wells Valley Groundwater Basin (“Basin”) by providing Searles a path to reclaimed water.
 5 Therefore, whatever public benefits are conferred by granting the District’s tardy Motion are more
 6 than outweighed by public policy interests.

7 Moreover, granting the District’s Motion and permitting it to maintain a reverse validation
 8 action would require a continuance of the June 1, 2026, Phase 2 trial in the comprehensive
 9 adjudication. Validation actions “shall be given preference over all other civil actions before the
 10 court in the matter of setting the same for hearing or trial.” (Code Civ. Proc., § 867.) The GSP
 11 established the safe and sustainable yield for the Basin. Any challenge to the GSP and its
 12 determination of safe yield, must be given preference over the adjudication and the result would be
 13 binding on all, obviating the need for Phase 2. (See *id.*, § 870.)

14 **II. ARGUMENT**

15 **A. Searles Has the Absolute Right to Dismiss This Action in Its Entirety Because,**
 16 **as of November 17, 2025, the District’s Answer Does Not Seek Affirmative**
 17 **Relief**

18 Subject to certain exceptions not relevant here, a plaintiff has the absolute, unqualified right
 19 to voluntarily dismiss an action “at any time before the actual commencement of trial.” (*Wells v.*
 20 *Marina City Properties, Inc.* (1981) 29 Cal.3d 781, 784.) The plaintiff’s dismissal power is limited
 21 only if the opposing party has properly plead affirmative relief *before the dismissal request.* (Code
 22 Civ. Proc., § 581, subd. (i); *Klinghoffer v. Barasch* (1970) 4 Cal.App.3d 258, 261.) However, if
 23 “there was no pleading on file seeking affirmative relief within the meaning of Code of Civil
 24 Procedure section 581,...it would therefore appear that plaintiff had an absolute right to dismiss,
 25 and that the dismissal was effective as of that date.” (*Egley v. Superior Court* (1970) 6 Cal.App.3d
 26 476, 482–483; *Roski v. Superior Court* (1971) 17 Cal.App.3d 841, 845 [same].) “Neither the clerk
 27 nor the trial court has any discretion in the matter. Numerous cases note that voluntary dismissal of
 28 a lawsuit terminates the trial court’s jurisdiction over the matter.” (*O’Dell v. Freightliner Corp.*

1 (1992) 10 Cal.App.4th 645, 659.)

2 Under Code of Civil Procedure section 581, Searles has the unilateral right to dismiss this
3 action because, as of November 17, 2025, there was no cross-complaint or other pleading on file
4 seeking affirmative relief. The District’s answer does not assert any challenge against the Authority
5 and, as to Searles, the District’s answer seeks to have the FAP “be dismissed in its entirety” and
6 requests that Searles’ “prayer for relief be denied.” (District’s Answer to FAP, p. 26; *Sullivan v.*
7 *Compton* (1943) 61 Cal.App.2d 500, 504 [“A negative prayer that ‘plaintiffs take nothing’ cannot
8 be construed to be a positive allegation that defendants take something. Such negation can mean
9 only what it says; it cannot be a request for affirmative relief”].) During the last five years, the
10 District never once raised a challenge to the validity of the GSP. The District only sought to
11 dismiss Searles’ action. Accordingly, the Court must respect Searles’ statutory right to dismiss this
12 action and perform its ministerial duty of entering the order of dismissal. (6 Witkin, Cal.Proc.
13 (2025) Proceedings Without Trial, § 330 [“neither the clerk nor the court has any discretion in the
14 matter” of a voluntary dismissal].)

15 Validation actions are subject to the same rules of dismissal as any other action. Code Civil
16 Procedure section 581 applies broadly to “any civil action or special proceeding,” which includes
17 reverse validation actions as well as other *in rem* proceedings. (Code Civ. Proc., § 581, subd.
18 (a)(1).) Indeed, the Validation Statutes specifically contemplate a public agency’s right to
19 voluntarily dismiss a validation action. (*See id.*, § 867.5.) The legislative history of Code of Civil
20 Procedure section 867.5 explains that certain public agencies would file validation actions and then
21 voluntarily dismiss those actions if a challenge was raised, as a tactic to evade judicial review. (*San*
22 *Diegans for Open Government v. City of San Diego* (2015) 242 Cal.App.4th 416, 430.) To address
23 the issue, the Validation Statutes were amended to allow for an answering party to file a reverse
24 validation within 30 days after the public agency dismisses its validation action. The Legislature
25 could have modified or limited the right to dismiss a validation or reverse validation action, but it
26 did not. (*Jaynes v. Stockton* (1961) 193 Cal.App.2d 47, 56 [courts “will not presume ‘that the
27 legislature in the enactment of statutes intends to overthrow long-established principles of law”];
28 *Wilson v. Safeway Stores, Inc.* (1997) 52 Cal.App.4th 267, 272 [courts should not “rewrite a statute

1 to make express an intention that did not find itself expressed in the language of that provision”.)
2 Neither the Validation Statutes nor Code of Civil Procedure section 581 limits Searles’ right to
3 dismiss this action in its entirety. (Contra, Code Civ. Proc., § 581, subd. (k) [expressly providing
4 that a class action may not be voluntarily dismissed “unless and until notice that the court deems
5 adequate has been given and the court orders the dismissal”].) This Court should not disregard the
6 statutory procedures that permit Searles to unilaterally dismiss this action and terminate the Court’s
7 jurisdiction.

8 **B. The Court Is Without Jurisdiction to Act on the District’s November 21, 2025**
9 **Motion Because Searles’ Dismissal Is Effective November 17, 2025**

10 Long-standing and basic principles of procedure dictate that a voluntary dismissal “is
11 accomplished by filing with the clerk a written request therefor. If in proper form, the dismissal is
12 effective immediately.” (*S. B. Beach Properties v. Berti* (2006) 39 Cal.4th 374, 380.) “[V]oluntary
13 dismissal is a ministerial act, not a judicial act, and not appealable.” (*H.D. Arnaiz, Ltd. v. County of*
14 *San Joaquin* (2002) 96 Cal.App.4th 1357, 1365.) “[I]t is a well-settled proposition of law that
15 where the plaintiff has filed a voluntary dismissal of an action pursuant to section 581, subdivision
16 1, the court is without jurisdiction to act further, and any subsequent orders of the court are simply
17 void.” (*Gherman v. Colburn* (1971) 18 Cal.App.3d 1046, 1050; *Associated Convalescent*
18 *Enterprises v. Carl Marks & Co., Inc.* (1973) 33 Cal.App.3d 116, 120 [“Following entry of such
19 dismissal, the trial court is without jurisdiction to act further in the action”].)

20 In *Egly v. Superior Court* (1970) 6 Cal.App.3d 476, 483 (“*Egly*”), plaintiffs settled with
21 defendants, and filed a request for dismissal with prejudice on December 22, 1969. (*Id.* at 478.)
22 Several weeks prior to the dismissal, on December 8, 1969, a real party in interest filed a motion
23 for leave to file a complaint in intervention in the action, which was set to be heard on December
24 23, 1969. (*Ibid.*) The Court of Appeal held that the trial court lacked jurisdiction to consider the
25 pending motion because “plaintiff had an absolute right to dismiss, and that the dismissal was
26 effective as of that date.” (*Id.* at 482-483.) The Court of Appeal explained that “the effect of the
27 filing of a proper request for dismissal is ipso facto, to dismiss the case” such that the court cannot
28 consider pending motions or make subsequent orders because “the court has been ousted of

1 jurisdiction by the act alone of plaintiff.” (*Id.* at 479-480.)

2 Here, as in *Egly*, dismissal is not complex or debatable. The District does not dispute
3 Searles’ request for dismissal is in proper form. The Court must therefore perform its ministerial
4 duty to dismiss this action with prejudice and should not consider the District’s meritless Motion.
5 The District is similar to the real party in interest in *Egly* because, at the time of dismissal, the
6 District does not have a pleading on file contesting the legality or validity of any of the Authority’s
7 actions nor does it seek any affirmative relief as against the Authority. Although the District’s
8 pending Motion seeks leave to amend its answer to assert entirely new claims against the
9 Authority, the Court would, as in *Egly*, act “in excess of its jurisdiction” to consider the Motion
10 because it was scheduled to be heard on November 21, 2025—*after the dismissal*. (*Egly, supra*, 6
11 Cal.App.3d at 480.)

12 The District’s contention that it has “the right to actively litigate the case just as fully as
13 [Searles]” simply because it filed an answer is without merit because it ignores the substance of its
14 answer. (District’s Reply, p. 1:6-7.) The District’s answer is not “similar to a cross-complaint.” In
15 fact it has nothing in common with a cross-complaint. (*Id.*, p. 1:4-6.) To the contrary, it seeks to
16 dismiss Searles’ case. (District’s Answer to FAP, p. 26.) The three cases cited by the District are
17 inapposite. (District’s Reply, p. 1; District’s Objection to Dismissal, p. 1.)

18 In *City of San Diego v. San Diegans for Open Government* (2016) 3 Cal.App.5th 568 (“*City*
19 *of San Diego*”), San Diegans For Open Government (“SDOG”) filed an answer challenging the
20 City of San Diego’s (“San Diego”) complaint in a validation action regarding its plan to levy a
21 special tax to finance the expansion of the San Diego Convention Center. (*Id.*, at 571.) When it
22 filed its answer, SDOG was a suspended corporation and lacked the capacity to appear. (*Id.* at 571-
23 572.) SDOG’s status was not revived until after the period to appear in the validation action had
24 expired. (*Id.* at 573.) The Court of Appeal concluded that SDOG cannot be a prevailing party and
25 cannot recover attorney’s fees because “the time limit established by section 862 [operates] like a
26 statute of limitations.” (*Id.* at 579-580.) *City of San Diego* does not support the proposition that the
27 District can reverse its position on a fundamental issue after the limitations period and litigate this
28 action after dismissal.

1 Next, in *Committee for Responsible Planning v. City of Indian Wells* (1990) 225
 2 Cal.App.3d 191 (“*Indian Wells*”), five separate validation actions were filed challenging the City of
 3 Indian Wells’ (“Indian Wells”) redevelopment projects, which were consolidated for trial. (*Indian*
 4 *Wells, supra*, 225 Cal.App.3d at 193-194.) Indian Wells settled with one party, and judgment was
 5 entered as to that party in each action in which the party appeared. (*Id.* at 194-195.) The Court of
 6 Appeal determined that the consolidation requirement of Code of Civil Procedure section 865
 7 requires a complete consolidation, preventing separate judgments as to various parties. (*Id.* at 195,
 8 198.) *Indian Wells* has no applicability here, a case in which there are not consolidated reverse
 9 validation actions pending which would require dismissal by all parties in the action to terminate
 10 the litigation. Further, here the District’s answer supports the GSP and all of the Authority’s
 11 actions.¹

12 Finally, in the *Quantification Settlement Agreement Cases* (2011) 201 Cal.App.4th 758, the
 13 Imperial Irrigation District and several other parties entered into the “Quantification Settlement
 14 Agreement” to resolve disputes over Colorado River water. (*Id.* at 773.) The district filed a
 15 validation action to determine the validity of the Quantification Settlement Agreement and related
 16 agreements. (*Id.* at 773-774.) The trial court determined that all but one of the agreements—
 17 including the Quantification Settlement Agreement—were invalid. (*Id.* at 774.) The Court of
 18 Appeal reversed and remanded the validation action. (*Id.* at 829, 836.) The Court of Appeal further
 19 instructed the trial court to not adjudicate claims or defenses based on the federal Clean Air Act or
 20 NEPA because the issues are not subject to validation statutes. (*Id.* at 836.) The *Quantification*
 21 *Settlement Agreement Cases* do not hold that the District, a non-contesting party, can litigate this
 22 action after dismissal. Rather, the *Quantification Settlement Agreement Cases* are instructive as to
 23 the applicability of the validation statutes, which apply only when statutorily referenced. Here, as
 24 explained below and in the Authority’s opposition to the District’s Motion, the District improperly
 25 seeks to reverse its five year old position in order to challenge the Replenishment Fee, the
 26

27 ¹ As further evidence, the Court has already dismissed Mojave Pistachios complaint in this action,
 28 which did include a proper reverse validation action cause of action, and was consolidated with the
 Searles action.

1 Sustainable Yield Report, Engineer’s Report, Extraction Fee, and other “implementing actions,” all
2 of which that are not subject to the Validation Statutes. (See Authority’s Opp., pp. 12-13.)

3 None of these cases are helpful to the District. There is nothing in any of these cases that
4 stands for the proposition that the District has the right to actively litigate Searles’ case simply
5 because it filed an answer. The Court should dismiss this action and not depart from well-settled
6 dismissal procedures.

7 **C. The District Cannot “Assume Searles’ Lead Role” in This Action Because**
8 **Searles Filed a Petition for Writ of Mandate, Not a Reverse Validation Action**

9 A validation action is distinct from a traditional mandamus action challenging a public
10 agency decision. (*Hills for Everyone v. Local Agency Formation Com.* (1980) 105 Cal.App.3d 461,
11 467 (“*Hills*”). The Validation Statutes themselves distinguish a validation action from a mandamus
12 action. (See Code Civ. Proc., § 869 [availability of remedy under Validation Statutes “shall not be
13 construed to preclude the use by such public agency or its officers or agents, of mandamus or any
14 other remedy to determine the validity of any thing or matter”].) A validation action is an *in rem*
15 proceeding for purposes of determining the validity of a public agency’s decision or act. (*N.T. Hill*
16 *Inc. v. City of Fresno* (1999) 72 Cal.App.4th 977, 991.) A traditional mandamus action, on the
17 other hand, is an *in personam* proceeding for the purposes of ensuring that a public agency
18 performs legal, usually ministerial, duties; and an administrative mandamus proceeding is to review
19 the final adjudicative action of an administrative body. (*Conlan v. Bonta* (2002) 102 Cal.App.4th
20 745, 752.)

21 Here, Searles first cause of action is for a “Petition for Writ of Mandate.” (FAP, ¶¶ 92-
22 108.) Searles unequivocally petitions for a “writ of mandate or peremptory writ to set aside the
23 GSP, Sustainable Yield Report, Engineer’s Report, Extraction Fee and Replenishment Fee.” (FAP,
24 ¶ 108.) None of these challenged actions are subject to the Validation Statutes other than the GSP
25 (*see* Wat. Code, § 10726.6, subs. (a) & (e)) and Searles challenges each of these actions under
26 Code of Civil Procedure sections 1085 and 1094.5, *not* the Validation Statutes. (FAP, ¶¶ 96, 97-98,
27 108.) The FAP further alleges that the Authority has a “ministerial duty” to comply with certain
28 constitutional mandates, and seeks a writ to compel compliance. (*Id.*, at ¶¶ 105-106.) Nowhere in

1 the FAP does Searles even mention the term “validation.” Although the GSP may be challenged
 2 through a reverse validation claim, that does not mean that Searles properly pled such a claim. The
 3 mere fact that Searles published its summons does not convert the petition for writ of mandate into
 4 a reverse validation complaint when every allegation sounds in mandamus.

5 The District answered Searles’ FAP as a “Respondent and Defendant” denying nearly all of
 6 the Searles’ allegations. The District cannot be an “interested party” in Searles petition for writ of
 7 mandate nor can it “assume Searles’ lead role in contesting the GSP now that Searles and the
 8 Authority have settled” because the FAP is based on the alleged interference with Searles’ water
 9 rights, not the District’s water rights. (District’s Reply, p. 10:11-13.) The Authority would have
 10 demurred on such grounds had the District not sought relief consistent with the Authority’s position
 11 (i.e., that Searles’ FAP “be dismissed in its entirety”).

12 **D. “Interested Party” Status Alone Does Not Allow the District to Contest the GSP**
 13 **and the District Is Time-Barred From Doing So Under the Validation Statutes**

14 The District seeks “interested party” status on the mistaken presumption that such status
 15 confers the full right to contest the GSP. (District’s Reply, p. 1:6-7.) It does not. The District cannot
 16 obtain relief on a claim not contained in its pleadings. (*Schweitzer v. Westminster Investments, Inc.*
 17 (2007) 157 Cal.App.4th 1195, 1214 [“[i]t is axiomatic that ‘the pleadings establish the scope of an
 18 action and, absent an amendment to the pleadings, parties cannot introduce evidence about issues
 19 outside the pleadings’”].) The District seeks leave to amend *in the alternative* to confirming
 20 “interested party” status, therefore the Court should not consider leave to amend if it finds the
 21 District to be an interested party. Regardless, the Court should deny leave to amend because the
 22 District waived its right to challenge the validity of the GSP under the Validation Statutes.

23 In a reverse validation action, “[a]ny party interested may, not later than the date specified
 24 in the summons, *appear* and *contest* the legality or validity of the matter sought to be determined.”
 25 (Code Civ. Proc., § 862, emphasis added.) Code of Civil Procedure section 869 provides that “[n]o
 26 *contest*...shall be made other than within the time and the manner herein specified.” (emphasis
 27 added.) “Read in conjunction with the rest of the statutory scheme, the first sentence of section 869
 28 means that any contest of a matter subject to validation proceedings, other than one brought by the

1 agency involved, *must be asserted not later than the date specified in the summons.*” (*Moorpark*
2 *Unified School Dist. v. Superior Court* (1990) 223 Cal.App.3d 954, 958, emphasis added.) “[T]he
3 time limit established by section 862 [operates] like a statute of limitations” for contesting the
4 validity of the public agency’s action. (*City of San Diego v. San Diegans for Open Government*
5 (2016) 3 Cal.App.5th 568, 579.)

6 Here, the District failed *to appear and contest* the GSP by the date specified in Searles’
7 summons: December 18, 2020. The District filed its answer and appeared on April 1, 2021, without
8 Court order, and failed to assert any contest to the GSP in its answer. (See November 21, 2025
9 Minute Order, p. 6.) The District is now time-barred from amending its answer to assert a contest.
10 Indeed, the sole purpose of the Validation Statutes is to “provide an expedited process by which
11 certain public agency actions may be determined valid and not subject to attack.” (*Golden Gate*
12 *Hill Development Co., Inc. v. County of Alameda* (2015) 242 Cal.App.4th 760, 765.) The District’s
13 dilatory tactics are precisely what the Validation Statutes intended to avoid especially where, as
14 here, the Authority needs to have certainty that its GSP is immune from future legal challenges
15 before it invests substantial time and cost in carrying it out. (Code Civ. Proc., § 867 [validation
16 actions “shall be speedily heard and determined”]; *Friedland v. City of Long Beach* (1998) 62
17 Cal.App.4th 835, 843 [“key objective of a validation action is to limit the extent to which delay due
18 to litigation may impair a public agency’s ability to operate financially”].)

19 To the extent there is any ambiguity as to whether Code of Civil Procedure sections 862 and
20 869 require party’s to assert a contest “not later than the date specified in the summons,” the
21 Validation Statutes “should be construed so as to uphold their purpose, i.e., ‘the acting agency’s
22 need to settle promptly all questions about the validity of its action.’” (*McLeod v. Vista Unified*
23 *School Dist.* (2008) 158 Cal.App.4th 1156, 1166.) Permitting the District to contest and “actively
24 litigate the case just as fully as [Searles]” six years after the District voted to approve the GSP, and
25 five years after Searles’ action was filed would undermine the core purpose of *promptly settling* the
26 GSP’s validity. Additionally, basic principles of standing, civil procedure and common sense
27 dictate that the District cannot switch from one side of the proverbial “v” to the other on the eve of
28 trial, after the plaintiff and named defendant have settled the case, and in a manner that is *consistent*

1 with the answer the District has on file no less.

2 **E. The District Cannot Challenge the Replenishment Fee Because It Is Not Before**
3 **the Court and It Is Not Subject to the Validation Statutes**

4 At the November 21, 2025 hearing, the District revealed that “behind the curtain” the
5 primary purpose of its Motion is to amend its answer to challenge the Replenishment Fee.
6 (Declaration of Keith Lemieux (“Lemieux Decl.”), ¶ 4, Ex. F [Transcript, p. 33].) The District
7 admitted that it is “less about there being some sort of collateral estoppel like effect on the findings
8 in support of the GSP, and more about stopping the Authority from going forward on
9 implementation plans that are going to cost a lot of money.” (*Ibid.*) The District, however, cannot
10 challenge, directly or indirectly, the Replenishment Fee or any actions taken to implement the GSP
11 as an “interested party” in this action.

12 First, as a factual matter, the Replenishment Fee is not part of the GSP. On January 16,
13 2020 the Authority adopted its GSP. Then, separately, the Authority took the following actions:
14 adopted a report on the Basin’s sustainable yield (Sustainable Yield Report) on June 18, 2020;
15 adopted its Engineer’s Report and increased the pumping fee (Extraction Fee) on July 16, 2020;
16 and adopted a Replenishment Fee on August 21, 2020.

17 Second, if this is a validation proceeding, as the District contends it is, the proceeding is
18 limited to contesting the GSP. The District cannot challenge the Replenishment Fee as an
19 “interested party” because it is not subject to the Validation Statutes. Water Code section 10726.6,
20 subdivision (a), expressly provides that a challenge to the validity of a GSP may be brought under
21 the Validation Statutes, but any other “actions by a groundwater sustainability agency are subject to
22 judicial review pursuant to Section 1085 of the Code of Civil Procedure.” (Wat. Code, §
23 10726.6(e); see also December 21, 2022 Minute Order (ROA 599), p. 7 [recognizing that the
24 Replenishment Fee and other “implementing actions, unlike a GSP, can’t be directly challenged
25 under the validation statutes”].)

26 Third, the District cannot challenge the Replenishment Fee because it is no longer before
27 this Court. The Court sustained the Authority’s demurrer, holding that the Pay First Rule bars
28 Searles’ challenge to the Replenishment Fee. (ROA 207 [August 5, 2021 Minute Order]; ROA 599

1 [December 21, 2022 Minute Order].) The Court struck all allegations in the FAP regarding the
2 Replenishment Fee, except ¶¶ 115-122 in Searles’ regulatory takings cause of action, which also is
3 not subject to validation and does not involve the District. (ROA 599 [December 21, 2022 Minute
4 Order], p. 8.) The statute of limitations period to challenge the Replenishment Fee has expired.
5 (Wat. Code, § 10726.6(c) [“Any judicial action or proceeding to attack, review, set aside, void, or
6 annul ... [a] fee imposed pursuant to Section 10730, 10730.2, 10730.4 shall be commenced within
7 180 days following the adoption for the ordinance or resolution.”].) Further, it is law of the case
8 here that “any cause of action that attacks the propriety of the Replenishment Fee or attempts to
9 impede its prompt collection cannot proceed.” (*Mojave Pistachios, supra*, 99 Cal.App.5th at 633.)

10 Finally, even if the GSP were to be invalidated in this action, it would not invalidate the
11 Replenishment Fee. The Authority is statutorily required to sustainably manage the high-priority,
12 critically overdrafted Basin by 2040. (Wat. Code §§ 10720.7, subd. (a); 10727; 10727.2, subd.
13 (b)(1); 10723-10724.) And the ability to raise funds to manage a basin are not dependent on the
14 validity of a GSP. (See Wat. Code, §§ 10730 [authorizing implementation of fees to manage a
15 basin, including during preparation of a GSP]; 10730.2 [authorizing adoption of fees after adoption
16 of a GSP].) The Replenishment Fee remains a valid management tool for achieving sustainability
17 irrespective of whether the GSP is found to be invalid by the Court, or inadequate or incomplete by
18 the Department of Water Resources (“DWR”).

19 **F. Allowing the District to Maintain Searles’ Action Could Invalidate the**
20 **Settlement Agreement and Result in Other Significant Practical Ramifications**

21 In its opposition brief, the Authority demonstrated significant prejudice that would result if
22 the District is permitted leave to amend its five-year-old answer on the eve of trial. Recently, on
23 November 13, 2025, the Authority and Searles entered into a complex and multifaceted settlement
24 agreement requiring, among other things, mutual dismissals of all of the cases against each other.
25 (Lemieux, Decl., ¶ 2.) The settlement discussions occurred during the entirety of 2025 and the
26 District was aware of the discussion and knew that settlement was possible. (*Id.*, ¶¶ 2, 4, Ex. F
27 [Transcript, pp. 25, 27-28].) The District also admits that “as early as early as May 7, 2021...that it
28 viewed itself as similarly situated to Searles—not the Authority—in this case.” (Motion, p. 6.) Yet,

1 instead of seeking leave to amend, the District sat on its hands and did nothing.

2 Before this Motion was heard, the Authority filed a request for dismissal of its Complaint
3 for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater Fees; and Civil
4 Penalties against Searles in *Indian Wells Valley Groundwater Authority v. Searles Valley Minerals*
5 *Inc.*, OCSC Case No. 30-2022-01239487 (“Injunction Action”); and Searles filed a request for
6 dismissal of this action as well as its Petition for Writ of Mandate Directing the Disclosure of
7 Public Records under California’s Public Records Act and Complaint for Declaratory Relief
8 against the Authority in *Searles Valley Minerals Inc. v. Indian Wells Valley Groundwater*
9 *Authority*, OCSC Case No. 30-2025-01457804 (“PRA Action”). (Lemieux, Decl., ¶ 2.) The
10 dismissals were entered, with prejudice, in the Injunction Action and the PRA Action. (*Ibid.*)

11 The Authority and Searles entered into the settlement agreement with the understanding,
12 based on the rules of dismissal referenced herein, that this Court would dismiss this action in its
13 entirety. (Lemieux, Decl., ¶ 2.) Counsel for Searles’ confirmed that understanding at the November
14 21, 2025 hearing, stating: “I want to be very clear that our agreement was that we would file that
15 request for dismissal. And our understanding was that by doing so, our case would go away. So I
16 want to make that clear.” (*Id.*, ¶ 4, Ex. F [Transcript, pp. 32-33].) In the event the Court permits the
17 District to maintain this action as an “interested party,” it could unravel the settlement agreement
18 due to a mistake of law and failure of consideration. The Authority would have grounds to
19 invalidate the settlement agreement and vacate the dismissal in the Injunction Action against
20 Searles pursuant to Code of Civil Procedure section 473. (*H.D. Arnaiz, Ltd. v. County of San*
21 *Joaquin* (2002) 96 Cal.App.4th 1357, 1369.)

22 In addition to resolving the pending litigation, the settlement agreement was a significant
23 step toward managing the Basin and resolving the comprehensive adjudication. Under the
24 settlement agreement, the Authority agreed to terminate its option agreement to purchase reclaimed
25 water from the City of Ridgecrest in order to make approximately 2,000 acre-feet (“af”) of
26 reclaimed water available to Searles. (Lemieux, Decl., ¶ 3.) Searles is also entitled to purchase and
27 receive imported water through the pipeline project being funded by the Replenishment Fee,
28 thereby significantly reducing 2,000 af of demand on the critically overdrafted Basin with a

1 sustainable yield of 7,650 af. (*Ibid.*) This large public benefit is now called into doubt by the
2 pending Motion.

3 Finally, validation actions “shall be given preference over all other civil actions before the
4 court in the matter of setting the same for hearing or trial.” (Code Civ. Proc., § 867.) Therefore, if
5 the District successfully commandeers Searles’ action, it would require a continuance of the Phase
6 2 trial in the adjudication that is currently set to commence on June 1, 2026. The Court would be
7 statutorily obligated to determine the validity of the GSP before preceding to a trial on safe yield. It
8 is unlikely that the reverse validation action could be completed in the next five months, especially
9 given the fact that the District’s challenges to the GSP are presently unknown. Discovery would
10 need to occur and likely a record prepared. Moreover, a judgment in a validation action involving
11 the GSP, which includes sustainable yield and safe yield determinations, would be binding in the
12 adjudication and thereby render the Phase 2 trial in the adjudication moot. (Code Civ. Proc., § 870
13 [“judgment ... shall notwithstanding any other provision of law ... thereupon become and thereafter
14 be forever binding and conclusive, as to *all matters therein adjudicated or which at that time could*
15 *have been adjudicated* ... and the judgment shall permanently enjoin the institution by any person
16 of any action or proceeding raising any issues as to which the judgment is binding and
17 conclusive”].)

18 At bottom, the Authority and Searles made good faith efforts to resolve their litigation and
19 to work towards sustainably managing the Basin. The District’s obstructionist posture only
20 jeopardizes those efforts.

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1 **III. CONCLUSION**

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

5
6 Dated: January 12, 2026

RICHARDS, WATSON & GERSHON
A Professional Corporation
JAMES L. MARKMAN
KYLE H. BROCHARD
JACOB C. METZ

9
10 By: 
11 KYLE H. BROCHARD
12 Attorneys for Defendants and Respondents
13 INDIAN WELLS VALLEY GROUNDWATER
14 AUTHORITY and BOARD OF DIRECTORS
15 OF THE INDIAN WELLS VALLEY
16 GROUNDWATER AUTHORITY

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 January 12, 2026, I served the within document(s) described as:

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY’S
SUPPLEMENTAL BRIEF IN 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 January 12, 2026, at San Dimas, California.



Marcella Correa

SERVICE LIST

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10
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13
14
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16
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18
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James A. Worth
McMURTREY, HARTSOCK & WORTH
2001 22nd Street, Suite 100
Bakersfield, California 93301
Telephone No.: 661.322.4417
Fax No.: 661.322.8123
Email: jim@mhwlegal.com

Attorneys for Respondent and Defendant
INDIAN WELLS VALLEY WATER
DISTRICT

John C. Murphy, State Bar No. 94192
Douglas J. Evertz, State Bar No. 123066
Emily L. Madueno, State Bar No. 251721
MURPHY & EVERTZ LLP
650 Town Center Drive, Suite 550
Costa Mesa, California 92626
Telephone No.: 714.277.1700
Fax No.: 714.277.1777
Email: jmurphy@murphyevertz.com
devertz@murphyevertz.com
emadueno@murphyevertz.com

Scott S. Slater, Esq.
Amy M. Steinfeld, Esq.
Elisabeth L. Esposito, Esq.
Kimberly E. Leefatt, Esq.
Robert J. Saperstein, Esq.
Brownstein Hyatt Farber Schreck, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
Tel.: (805) 963-7000
Fax: (805) 965-4333
Email: SSlater@bhfs.com;
ASteinfeld@bhfs.com; EEsposito@bhfs.com;
KLeefatt@bhfs.com; rsaperstein@bhfs.com

Attorneys for Petitioners and Plaintiffs
MOJAVE PISTACHIOS, LLC; PAUL G.
NUGENT AND MARY E. NUGENT,
TRUSTEES OF THE NUGENT FAMILY
TRUST DATED JUNE 20, 2011

Wayne Keith Lemieux, Jr.
Michael Linden
Alex Lemieux
Aleshire & Wynder LLP
340 N. Westlake Blvd., Ste. 115
Thousand Oaks, CA 91362
Tel.: (805) 495-4770
Fax: (805) 495-2787
Email: klemieux@awattorneys.com
mlinden@awattorneys.com;
alemieux@awattorneys.com

Attorneys for Respondents and Defendants
INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY; BOARD
OF DIRECTORS OF THE INDIAN WELLS
VALLEY GROUNDWATER AUTHORITY

1 Phillip Hall, Esq.
2 Kern County Office of County Counsel
3 1115 Truxtun Avenue, 4th Floor
4 Bakersfield, CA 93301
5 Tel.: (661) 868-3826
6 Fax: (661) 868-3809
7 Email: phall@kerncounty.com

Attorneys for Respondents and Defendants
INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY; BOARD
OF DIRECTORS OF THE INDIAN WELLS
VALLEY GROUNDWATER AUTHORITY

8 Eric L. Garner, Esq.
9 Jeffrey V. Dunn, Esq.
10 Wendy Y. Wang, Esq.
11 Sarah Christopher Foley, Esq.
12 Amanda K. Wells, Esq.
13 Katrina L. Wraight, Esq.
14 Best & Krieger LLP
15 18101 Von Karman Avenue, Suite 1000
16 Irvine, CA 92612
17 Tel.: (949) 263-2600
18 Fax: (949) 260-0972
19 Email: eric.garner@bbklaw.com;
20 jeffrey.dunn@bbklaw.com;
21 wendy.wang@bbklaw.com;
22 sarah.foley@bbklaw.com;
23 amanda.wells@bbklaw.com;
24 katrina.wraight@bbklaw.com

Attorneys for Petitioner and Plaintiff
SEARLES VALLEY MINERALS INC.