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12 INDIAN WELLS VALLEY WATER DISTRICT

13  
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

16 MOJAVE PISTACHIOS, LLC; et al.,

17 Plaintiffs,

18 v.

19 INDIAN WELLS VALLEY WATER  
20 DISTRICT; et al.,

21 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. CX101

**STATUS CONFERENCE STATEMENT  
BY DEFENDANT,  
CROSS-COMPLAINANT, AND  
CROSS-DEFENDANT INDIAN WELLS  
VALLEY WATER DISTRICT (6/14/2024)**

**Date: June 14, 2024  
Time: 1:30 p.m.  
Dept.: CX101**

{00277438.2 }

1 INDIAN WELLS VALLEY WATER  
2 DISTRICT,

3 Cross-Complainant,

4 v.

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

14 Cross-Defendants.

15 SEARLES VALLEY MINERALS INC.,

16 Cross-Complainant,

17 v.

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

27 Cross-Defendants.

28 AND RELATED CASES.

Complaint Filed: November 19, 2019  
Phase 1 Trial Date: April 28, 2025

1 **STATUS CONFERENCE STATEMENT**

2 Defendant, Cross-Complainant, and Cross-Defendant Indian Wells Valley Water District  
3 (“District”)<sup>1</sup> submits this Status Conference Statement for the June 14, 2024 Status Conference.

4 **1. Initial Disclosures**

5 Code of Civil Procedure section 842 provides, “Except as otherwise stipulated by the  
6 parties or ordered by the court, within six months of appearing in a comprehensive adjudication,  
7 a party shall serve on the other parties and the special master, if one is appointed, an initial  
8 disclosure” that includes certain information, such as the quantity of groundwater extracted from  
9 the Indian Wells Valley Groundwater Basin (“Basin”), the type of water rights claimed, a general  
10 description of the purpose to which the groundwater has been put, and the location of each well  
11 or other source through which the party extracts groundwater. (Code Civ. Proc., § 842(a).)

12 The exchange of initial disclosures occurred on May 17, 2024 for all parties who had  
13 filed answers in the comprehensive adjudication before March 22, 2024. For all other parties  
14 filing answers on or after March 22, 2024, their initial disclosures are due within sixty (60) days  
15 of filing their answers.

16  
17 **2. Basin Boundary**

18 At the March 22, 2024 Status Conference, the Court set a hearing on an Order to Show  
19 Cause Re: Basin Boundary for June 14, 2024, concurrent with this Status Conference. (ROA,  
20 1258.) On April 15, 2024, the Court issued an Order to Show Cause. (ROA, 1281.) On April  
21 16, 2024, the District gave notice of the Order to Show Cause. (ROA, 1284.)

22 The Order to Show Cause ordered any party who contends that the boundary of the Basin  
23 and the area to be adjudicated in this proceeding is not as described by the California Department  
24

25  
26 <sup>1</sup> The District added Section 4 upon the request of, and through input from, (1) Plaintiffs and Cross-Defendants  
27 Mojave Pistachios, LLC; John Thomas Conaway; John Thomas Conaway Trust; John Thomas Conaway Living  
28 Trust u/d/t August 7, 2008; Nugent Family Trust; and Sierra Shadows Ranch LP (collectively, “Plaintiffs”);  
(2) Cross-Defendant Inyokern Community Services District (“ICSD”); (3) Defendant, Cross-Defendant, and  
Cross-Complainant Searles Valley Minerals Inc. (“Searles”); and (4) Cross-Defendant Indian Wells Valley  
Groundwater Authority (“IWVGA” or “Authority”).

1 of Water Resources (“DWR”) in California’s Groundwater (known as “Bulletin 118”), Update  
2 2020, as Groundwater Basin No. 6-054 to file, on or before May 22, 2024, a statement, brief,  
3 and/or declaration with the Court describing and/or attaching the evidence that supports any facts  
4 serving as the basis for that party’s objection to the DWR Bulletin 118 boundary of the Basin to  
5 be used in this proceeding.

6 The District has not received any objections to the Basin boundaries and is not aware of  
7 any having been filed with the Court.

8  
9 **3. Phase 1 Trial**

10 At the March 22, 2024 Status Conference and hearing on the District’s motion to set the  
11 first phase of trial, the Court set a phase 1 trial to adjudicate the federal reserved water right  
12 claim of Cross-Defendant United States of America (“Phase 1 Trial”). The Phase 1 Trial is set to  
13 occur on April 28, 2025 in this Department. (ROA, 1257.)

14 On June 7, 2024, the District submitted a Stipulation and Proposed Case Management  
15 Order for the Phase 1 Trial following meet and confer efforts with the other parties, including the  
16 United States.

17  
18 **4. Status of Related Proceedings**

19 (1) *Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater*  
20 *Authority; et al.*, OCSC Case No. 30-2021-01187589-CU-WM-CXC (the “Mojave Pistachios  
21 Action”) (consolidated with the Searles Action; related to all cases listed on the caption; and  
22 pending before The Honorable William Claster): On September 30, 2020, Mojave Pistachios,  
23 LLC and Paul G. Nugent and Mary E. Nugent, Trustees of the Nugent Family Trust dated  
24 June 20, 2011 (collectively, “Mojave Pistachios”) filed a Petition for Writ of Mandamus and  
25 Complaint against the Indian Wells Valley Groundwater Authority (“IWVGA”). On January 6,  
26 2023, Mojave Pistachios filed a Fourth Amended Petition for Writ of Mandamus and Complaint.  
27 Through its petition, Mojave Pistachios alleges, *inter alia*, that IWVGA adopted a GSP on  
28 January 16, 2020 that is illegal and technically deficient.

1 The Mojave Pistachios Action was stayed pursuant to an April 26, 2023 order of the  
2 Court of Appeal, Fourth Appellate District, Division Three after Mojave Pistachios filed a  
3 petition for writ of mandate in that court on February 21, 2023. On February 8, 2024, the Court  
4 of Appeal issued its opinion denying the petition for writ of mandate. On February 23, 2024,  
5 Mojave Pistachios petitioned the Court of Appeal for rehearing, and rehearing was denied on  
6 March 4. On March 19, 2024, Mojave Pistachios petitioned the California Supreme Court for  
7 review of the opinion. The petition for review of the opinion was denied with no explanation or  
8 analysis on May 15, 2024. Mojave Pistachios now intends to file a petition for writ of certiorari  
9 in the United States Supreme Court on or before August 13, 2024, raising constitutional issues of  
10 due process and unlawful takings.

11 Mojave Pistachios has elected to prepare the administrative record. IWVGA filed an  
12 answer to Mojave Pistachios' Fourth Amended Petition and Complaint on April 24, 2023, just  
13 two days before the Court of Appeal stayed this action. The administrative record has not been  
14 prepared in the consolidated cases due to the Court of Appeal-imposed stay. Its timing may be  
15 further influenced by Searles' contemplated amendment of its complaint to add a Public Records  
16 Act cause of action (see, *infra*, § 4(2) for further discussion) and by a further stay of proceedings  
17 in the event review is granted by the United States Supreme Court. Absent cooperation by the  
18 IWVGA, Mojave Pistachios may also seek intervention by this Court in resolving the IWVGA's  
19 refusal to produce the documents comprising the administrative record in response to Mojave  
20 Pistachios' March 16, 2023 California Public Records Act request.

21 The Authority believes that Mojave has all, or substantially all of the documents  
22 necessary to prepare the administrative record. If Mojave continues to fail to produce a Record,  
23 the Authority intends to move to bifurcate the matter to try Mojave's challenge to the GSP first  
24 (as that is a validation action entitled to preference), and will prepare the Record as to that claim.

25 A status conference in the Mojave Pistachios Action is set to occur on June 14, 2024 in  
26 this Department.

27 (2) *Searles Valley Minerals Inc. v. Indian Wells Valley Groundwater*  
28 *Authority; et al.*, OCSC Case No. 30-2021-01188089-CU-WM-CXC (the "Searles Action")

1 (consolidated with the Mojave Pistachios Action, which is the lead case; related to all cases listed  
2 on the caption; and pending before The Honorable William Claster): On September 29, 2020,  
3 Searles filed a Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief;  
4 and Takings Claims under the California Constitution against IWVGA and IWVGA’s Board of  
5 Directors. On or about August 25, 2021, Searles filed a First Amended Petition for Writ of  
6 Mandate and Complaint for Declaratory and Injunctive Relief; and Takings Claim under the  
7 California Constitution. Through its petition, Searles challenges the validity of IWVGA’s GSP.

8 This case is consolidated with the Mojave Pistachios Action and, therefore, the stay  
9 imposed by the Court of Appeal on April 26, 2023 also applied to the Searles Action.

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

17 The Authority contends that to the extent Searles believes it has claims against the  
18 Authority separate from those in the current action, those are not appropriate here and should not  
19 delay this proceeding. As stated above, if Mojave fails to produce an Administrative Record as to  
20 all current claims, the Authority will move to bifurcate the claims and seek authority to prepare  
21 the administrative record as to the GSP.

22 A status conference in the Searles Action is set to occur on June 14, 2024 in this  
23 Department.

24 (3) *Indian Wells Valley Groundwater Authority v. Mojave Pistachios, LLC; et*  
25 *al.*, OCSC Case No. 30-2022-01239479-CU-MC-CJC (related to all cases listed on the caption;  
26 and pending before The Honorable William Claster): On January 5, 2022, IWVGA filed a  
27 Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater  
28 Fees; and Civil Penalties against Mojave Pistachios. Through its complaint, IWVGA seeks to

1 enjoin Mojave Pistachios from operating groundwater wells without payment of Basin  
2 Replenishment Fees, delinquent groundwater extraction charges, and civil penalties. Mojave  
3 Pistachios filed an Answer on April 11, 2022. A status conference in this matter is set to occur  
4 on June 14, 2024 in this Department.

5 On March 13, 2022, the IWVGA filed a motion for preliminary injunction in this action.  
6 The matter was originally set for hearing on April 12, 2024, but was continued on the court's  
7 own motion to June 14, 2024 in this Department.

8 (4) *Indian Wells Valley Groundwater Authority v. Searles Valley Minerals*  
9 *Inc.*, OCSC Case No. 30-2022-01239487-CU-MC-CJC (related to all cases listed on the caption;  
10 and pending before The Honorable William Claster): On January 5, 2022, IWVGA filed a  
11 Complaint for Preliminary and Permanent Injunction; Recovery of Delinquent Groundwater  
12 Fees; and Civil Penalties against Searles. Through its complaint, IWVGA seeks to enjoin  
13 Searles from operating groundwater wells without payment of Basin Replenishment Fees,  
14 delinquent groundwater extraction charges, and civil penalties. Searles filed an Answer on  
15 April 19, 2022. A status conference in this matter is set to occur on June 14, 2024 in this  
16 Department.

17 (5) *Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater*  
18 *Authority; et al.*, OCSC Case No. 30-2022-01249146-CU-MC-CJC (related to all cases listed on  
19 the caption; and pending before The Honorable William Claster): On March 9, 2022, Mojave  
20 Pistachios filed a Complaint for Refund of Extraction Fees Paid against IWVGA, seeking to  
21 recover fee payments levied by IWVGA pursuant to Ordinance No. 02-18, as later amended by  
22 Ordinance Nos. 02-20 and 05-20, which impose a \$105 per acre-foot groundwater extraction fee  
23 that IWVGA states is necessary to finance the estimated costs to develop and adopt the GSP. On  
24 August 24, 2022, the Court stayed the matter pending a resolution of the Mojave Pistachios  
25 Action. A status conference in this matter is set to occur on June 14, 2024 in this Department.

26 (6) *Indian Wells Valley Groundwater Authority v. Inyo Kern Community*  
27 *Services District*, Kern County Superior Court Case No. BCV-22-100281 (Notice of Related  
28 Case filed by Mojave Pistachios on April 26, 2022, but not yet acted upon): On

1 February 1, 2022, IWVGA filed a Complaint for Preliminary and Permanent Injunction;  
2 Recovery of Delinquent Groundwater Extraction Fees; Imposition of Civil Penalties against  
3 ICSD. Through its complaint, IWVGA seeks to enjoin ICSD from operating groundwater wells  
4 without payment of Basin Replenishment Fees, delinquent groundwater extraction charges, and  
5 civil penalties. ICSD filed an Answer on November 18, 2022. This action is not pending in this  
6 Court.

7 The parties are conducting good faith settlement negotiations in an effort to settle the  
8 matter completely. If settlement negotiations are unsuccessful, ICSD intends to move to transfer  
9 this action to the Orange County Superior Court pursuant to Code of Civil Procedure section 394  
10 and to coordinate or consolidate it with the cases listed in the caption. It is IWVGA's position  
11 that this action is not related to the Comprehensive Adjudication or the cases related to the  
12 Comprehensive Adjudication. It is ICSD's position that the IWVGA has waived any objection  
13 by failing to timely respond to the Notice of Related Case pursuant to California Rules of Court,  
14 rule 3.300(g). A status conference in this matter is set to occur on September 30, 2024.

15  
16 DATED: June 7, 2024

MURPHY & EVERTZ LLP

17  
18  
19 By: /s/ Douglas J. Evertz

Douglas J. Evertz

Emily L. Madueno

Attorneys for Defendant, Cross-Complainant, &  
Cross-Defendant

INDIAN WELLS VALLEY WATER DISTRICT