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9 INDIAN WELLS VALLEY GROUNDWATER  
AUTHORITY

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ORANGE**

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14 MOJAVE PISTACHIOS, LLC; et al. ,  
15 Plaintiffs,  
16 v.  
17 INDIAN WELLS VALLEY WATER  
DISTRICT; et al.,  
18 Defendants.

19  
20 AND CROSS-COMPLAINTS AND  
RELATED ACTIONS

Case No. 30-2021-01187275-CU-OR-CJC  
(Related to Case Nos.:  
30-2021-01187589-CU-WM-CXC;  
30-2021-01188089-CU-WM-CXC;  
30-2022-01239487-CU-MC-CJC; 30-2022-  
01239479-CU-MC-CJC; 30-2022 01249146-  
CU-MC-CJC)

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT FROM  
THE INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY; CITY  
OF RIDGECREST; AND COUNTY OF  
KERN**

Date: December 2, 2022  
Time: 1:30 PM  
Dept: CX104

Judge: Hon. William D. Cluster

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

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1 **2. Phase 1 Trial**

2 The “Phase 1 trial on Sustainable Yield” proposed by the November 23rd Parties is  
3 inconsistent with the Sustainable Groundwater Management Act (“SGMA”). (Wat. Code,  
4 § 10720, et seq.) Specifically, Water Code section 10737.2 prohibits adjudications from  
5 interfering with the adoption and implementation of groundwater sustainability plans and  
6 expressly mandates that adjudications must be conducted in a manner that “avoids  
7 redundancy and unnecessary costs in the development of technical information.” (Wat.  
8 Code, § 10737.2.)

9 It is undeniable that the Basin is subject to SGMA. The Department of Water  
10 Resources (“DWR”) has designated the Basin as a high priority critically overdrafted basin  
11 and, therefore, a groundwater sustainability plan (“GSP”) for the Basin was required to be  
12 submitted to DWR by January 31, 2020. The Authority submitted a GSP, as required by the  
13 Legislature, which found a sustainable yield for the Basin of 7,650 acre-feet per year. That  
14 plan was approved by DWR on January 13, 2022. DWR specifically concluded that the  
15 GSP “demonstrates a thorough technical understanding of the basin based on the best  
16 available science and information.”

17 The adoption of SGMA, including Water Code section 10737.2, streamlined the  
18 adjudication process for groundwater basins subject to SGMA. The adjudication of a Basin  
19 required to have a GSP under SGMA does not provide a second bite at the apple for  
20 challenging actions taken by a groundwater sustainability agency. The November 23rd  
21 Parties’ proposal of a Phase 1 Trial on sustainable yield may have been reasonable in the  
22 pre-SGMA world, but it is incompatible with the post-SGMA legal landscape. Notably,  
23 Water Code section 10737.2 provides in full:

24 In an adjudication action for a basin required to have a groundwater  
25 sustainability plan under this part, the court shall manage the proceedings in  
26 a manner that minimizes interference with the timely completion and  
27 implementation of a groundwater sustainability plan, avoids redundancy and  
28 unnecessary costs in the development of technical information and a physical  
solution, and is consistent with the attainment of sustainable groundwater  
management within the timeframes established by this part.

1 (Wat. Code, § 10737.2.)

2       Additionally, Section 848(a)(1) of the Code of Civil Procedure provides that “a court  
3 may stay a comprehensive adjudication ... in order to facilitate ... [a]doption of a  
4 groundwater sustainability plan that provides for a physical solution....”

5       Here, the Authority has already adopted its GSP for the Basin as required by SGMA,  
6 and that GSP was approved by DWR on January 13, 2022. The Authority’s GSP is one of  
7 only a handful of GSPs in the entire state to be approved by DWR, and DWR expressly  
8 found that the GSP—which includes the sustainable yield— represented “the best available  
9 science and information.” Redetermining the sustainable yield would not only interfere  
10 with the DWR-approved GSP but it would be duplicative of the Authority’s actions and  
11 involve an incredibly large amount of unnecessary costs and time. The November 23rd  
12 Parties could have challenged DWR’s approval, but did not. To now seek to determine the  
13 sustainable yield from scratch in a Phase 1 Trial contravenes SGMA. At a minimum, a  
14 briefing schedule and hearing date should be set to determine how this action should be  
15 phased and managed in harmony with SGMA to avoid redundancy and to determine, in the  
16 first instance, whether the Court has jurisdiction to evaluate the sustainable yield of the  
17 Basin.<sup>1</sup>

18 **3. Discovery Issues**

19       The Joint Parties oppose the request to further delay initial disclosures. A further  
20 extension of time for exchange of initial disclosures under Code of Civil Procedure section  
21 842 would cause unnecessary delay. The parties to this adjudication action will very likely  
22 need to make initial disclosures, and there is no basis for further extending the time for  
23 exchanging that information. Because the November 23rd Parties provided no reason for  
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25 <sup>1</sup> It is the position of the Department of Water Resources that SGMA reserves for DWR the  
26 evaluation of the scientific and technical aspects of a GSP and its implementation, while  
27 reserving a limited role for courts. (See Application and Proposed Amicus Curiae Brief of  
28 California Department of Water Resources, *California Sportfishing Protection Alliance v.*  
*All Persons Interested in the Matter, et al.*, Merced County Superior Court Case No.:  
JCCP5185.)

1 again requesting an extension of time, the Court should move this case forward by setting a  
2 date by which the exchange of initial disclosures must be completed.

4 Dated: November 29, 2022

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10 Dated: November 29, 2022

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17 Dated: November 29, 2022

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