



FREQUENTLY ASKED QUESTIONS REGARDING THE INITIAL DISCLOSURES

1. Am I required to make Initial Disclosures? What happens if I don't?

At the March 22, 2024 Status Conference, the Court ordered all parties to the comprehensive adjudication to exchange Initial Disclosures required by Code of Civil Procedure section 842. Please refer to the “Notice of Ruling - 3-22-24 Hearing and Status Conference.pdf” under the “Basin Adjudication | Important Documents” on the Indian Wells Valley Water District’s website devoted to the adjudication (<https://www.iwvwd.com/basin-adjudication>) for a copy of the Court’s Order. It is unclear at this time the consequences for those who do not attempt to comply with the Court’s Order as to Initial Disclosures.

2. The Court is requiring us to make Initial Disclosures. I don't even know what Initial Disclosures are. What are they?

Code of Civil Procedure section 842 governs Initial Disclosures. You can view the text of section 842 at no cost through the California Legislature’s website: <https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

Initial Disclosures in litigation in general are a way that each party to a case can learn (1) what the other party to the case is claiming and (2) where one might look to uncover more information about the claims.

In a comprehensive adjudication, Initial Disclosures under section 842 are a way that each party to the adjudication can learn how much water other parties are pumping from the ground and how the other parties are using the water being pumped. Among other things, section 842 also requires each party to identify: (1) the type of water right that the party claims gives it the right to pump water from the ground; (2) the location of the party’s well; (3) any claim the party wants to make for increased or future use of groundwater; (4) any alternative sources of water (other than water from the ground); and (5) persons with knowledge of the foregoing information.

3. The Court is requiring us to make Initial Disclosures and provide a bunch of information. How do I do that?

(a) Is there a form I can use?

To make your Initial Disclosures, you may use the sample form that the Water District prepared. The sample form is available on the District’s website: <https://www.iwvwd.com/basin-adjudication> in regular pdf format and fillable pdf format (see “Form for Voluntary Use - Initial Disclosures.pdf” or “Fillable Form for Voluntary Use - Initial Disclosures.pdf” by clicking on “Initial Disclosures”). You can fill out the sample form on the computer or you can print it out and write in your responses.

(b) Do I have to use the form the Indian Wells Valley Water District prepared?

No, you are not required to use the sample form that the Water District prepared. The Water District prepared the sample form solely for convenience. Whether you choose to use the Water District's sample form or something else to provide your Initial Disclosures, you may want to review Code of Civil Procedure section 842 for information that the Court is requesting you to provide. You can view the text of section 842 at no cost through the California Legislature's website: <https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

(c) Do I have to complete a form for each property I own in the Indian Wells Valley?

Code of Civil Procedure section 842 requires each party to identify how much groundwater the party is pumping from the ground in the Indian Wells Valley. To provide complete information, that probably means providing the requested information for each property you own in the Indian Wells Valley. Whether you choose to do so on one form altogether or on one form per property is up to you.

Note, this includes property you own that is vacant where you are not pumping any water yet. Note, this does not include property you own that is served by the Indian Wells Valley Water District. You do not need to provide Initial Disclosures for property you own that is served by or that will be served by the Water District if you do not have a well on that property and you have no intention of placing a well on that property. However, if you might want to drill a well on your property in the future even though you are currently served by the Water District, you may want to identify and assert that claim by completing the Initial Disclosures.

4. Do I still need to fill out an Initial Disclosures form if . . .

(a) I already filed the Form Answer?

Yes. The Form Answer was the first step in the comprehensive adjudication through which you became a participant. Initial Disclosures are the next step.

(b) My property is vacant and/or I am not using any water on my property?

Yes. It is helpful to know that no water is being pumped on property yet and that the owner may want to pump water in the future.

(c) I only pump a small amount of water for my home and I consider myself de minimis?

Yes. It is helpful to know how many people are pumping only a small amount of water.

(d) I am part of a mutual well but the well is on the property of another person?

Yes. If you filed the Form Answer to become a party to the comprehensive adjudication, you should now complete the Initial Disclosures.

Note, if you have not yet filed the Form Answer, it is not too late. You probably want to do so before submitting your Initial Disclosures and before June 30, 2024. The court usually charges a filing fee of \$1,000 per party; however, the Court granted the District's request to waive this fee for all property owners. The \$1,000 filing fee charged by the Court is waived from 3/22/24 through 6/30/24. Regardless of when you received the legal documents, you may want to file your Form Answer before June 30, 2024 to avoid the filing fee.

(e) I get my water from the Indian Wells Valley Water District?

No. You do not need to provide Initial Disclosures for property you own that is served by or that will be served by the Indian Wells Valley Water District if you do not have a well on that property and have no intention of placing a well on that property.

Note, if you might want to drill a well on your property in the future even though you are currently served by the Water District, you may want to identify and assert that claim by completing the Initial Disclosures.

(f) I registered my well with the Indian Wells Valley Groundwater Authority?

Yes. Your well registration with the Indian Wells Valley Groundwater Authority will not protect any rights you may claim in the Indian Wells Valley Groundwater Basin. You need to identify and assert your claim to water rights through the Initial Disclosures.

5. Once I fill out my Initial Disclosures form, what do I do with it?

(a) Do I have to send my completed Initial Disclosures form to the court?

Code of Civil Procedure section 842 does not appear to impose a requirement that the completed form be sent to the Court, but there is no harm in attempting to file your form just in case. The worst that can happen is that the Court Clerk will reject your form. There should be no filing fee for submitting this type of document to the Court.

Documents to be filed may be filed by U.S. Mail. Any mailing should be addressed as follows:

Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701
Attention: Civil Clerk/filings

When mailing documents to be filed, the original document plus a copy should be included so that the Court Clerk can return the copy to you stamped as filed. A self-addressed, stamped envelope should also be included for the Clerk to use to return your file-stamped document.

(b) Do I have to send my completed Initial Disclosures Form to anyone other than the Court?

Code of Civil Procedure section 842 requires that you serve all parties to the adjudication with a copy of your Initial Disclosures. However, the Indian Wells Valley Water District understands that the prospect of having to serve over 300 people, whether by email or mail, may be daunting. The Water District is offering to circulate completed Initial Disclosures forms. If you complete the form and send it to the Water District's attorneys, they will circulate to all other parties. To send a copy to the Water District's attorneys, you may email or mail it as follows:

Email: iwvgb@murphyvertz.com

Mail: Murphy & Evertz LLP
650 Town Center Drive, Suite 550
Costa Mesa, CA 92626
Attn: Emily Madueno

If you prefer to serve your Initial Disclosures yourself, you are still welcome to do so. Page 10 of the Sample Initial Disclosures Form is a proof of service to show that you sent your Initial Disclosures to all parties listed on the service list. The service list is located at pages 11 to 64 of the Sample Initial Disclosures Form. Most parties can be served a copy via email, though a dozen or so require service by U.S. Mail as indicated on the service list. You may contact the Water District's attorneys (iwvvgb@murphyevertz.com; (714) 277-1750) to obtain two lists to assist you with service. One list contains the email addresses for those who may be served via email. The second list contains the mailing addresses of those requiring mail service.

Note, the Water District's attorneys will create a private Dropbox folder to serve as a central repository for all Initial Disclosures in the adjudication. A link to the folder will be provided to all parties.

6. Is there a deadline to complete my Initial Disclosures form? If so, what is the deadline?

Yes. At the March 22, 2024 Status Conference, the Court ordered the exchange of Initial Disclosures required by Code of Civil Procedure section 842 to occur no later than May 17, 2024 for all parties who had already appeared in the case (i.e., filed an answer in the adjudication) as of the March 22, 2024 Status Conference. For any party making its first appearance in the case (i.e., filing an answer in the adjudication) after March 22, 2024, the Court ordered that the party shall exchange its Initial Disclosures within 60 days from the date of that party's appearance in the case (i.e., from the date that party files its answer in the adjudication).

7. I haven't filed a Form Answer yet. Do I need to file a Form Answer before I submit my Initial Disclosures?

It is not too late to file a Form Answer. You probably want to do so before submitting your Initial Disclosures and before June 30, 2024. The court usually charges a filing fee of \$1,000 per party; however, the Court granted the District's request to waive this fee for all property owners. The \$1,000 filing fee charged by the Court is waived from 3/22/24 through 6/30/24. Regardless of when you received the legal documents, you may want to file your Form Answer before June 30, 2024 to avoid the filing fee.

The District will update this page and provide new information as it becomes available.

IF YOU HAVE ANY ADDITIONAL QUESTIONS REGARDING THE
ADJUDICATION, PLEASE CONTACT THE DISTRICT AT
iwvwd@iwvwd.com

YOU CAN ALSO VISIT US ON FACEBOOK AND TWITTER