

1 James A. Worth, State Bar No. 147207
2 McMURTREY, HARTSOCK & WORTH
2001 22nd Street, Suite 100
3 Bakersfield, California 93301
Telephone No.: 661.322.4417
4 Fax No.: 661.322.8123
5 Email: jim@mhwlegal.com

Exempt From Fees Per
Govt. Code § 6103

6 John C. Murphy, State Bar No. 94192
7 Douglas J. Evertz, State Bar No. 123066
8 Emily L. Madueno, State Bar No. 251721
MURPHY & EVERTZ LLP
9 650 Town Center Drive, Suite 550
Costa Mesa, California 92626
10 Telephone No.: 714.277.1700
11 Fax No.: 714.277.1777
12 Email: jmurphy@murphyevertz.com
devertz@murphyevertz.com
emadueno@murphyevertz.com

13 Attorneys for Defendant and Cross-Complainant
INDIAN WELLS VALLEY WATER DISTRICT

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

17 MOJAVE PISTACHIOS, LLC; et al.,

18 Plaintiffs,

19 v.

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

22 Defendants.

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27 INDIAN WELLS VALLEY WATER
DISTRICT,

28 Cross-Complainant,

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

[Related to: 30-2021-01187589-CU-WM-CXC
& 30-2021-01188089-CU-WM-CXC]

Assigned For All Purposes To:
The Honorable Kirk Nakamura, Dept. CX103

**INDIAN WELLS VALLEY WATER
DISTRICT'S CROSS-COMPLAINT FOR
COMPREHENSIVE ADJUDICATION
OF THE INDIAN WELLS VALLEY
GROUNDWATER BASIN NO. 6-54
PURSUANT TO SECTION 830 *et seq.* OF
THE CODE OF CIVIL PROCEDURE**

Deemed Verified Pursuant to Code Civ. Proc.
§ 446

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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;
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;
SEARLES VALLEY MINERALS INC.;
MEADOWBROOK DAIRY REAL
ESTATE, LLC;
BIG HORN FIELDS, LLC;
BROWN ROAD FIELDS, LLC;
HIGHWAY 395 FIELDS, LLC;
THE MEADOWBROOK MUTUAL
WATER COMPANY;
UNITED STATES OF AMERICA;
PATRICIA DAVIS DBA AMBERGLOW
RANCH;
PATRICK BLUBAUGH;
MICHELLE BLUBAUGH;
BRADY'S CAFÉ AND MINI MART;
BUTTERMILK ACRES;
CHINA LAKE ACRES MUTUAL WATER
COMPANY;
CHLT WATER GROUP CORPORATION;
CITY OF RIDGECREST;
BETHANY CONDON;
CRESTVIEW WATER SYSTEM;
INDIAN WELLS VALLEY CEMETERY
INC. DBA DESERT MEMORIAL PARK;
DESERT SANDS MUTUAL WATER
COOPERATIVE, INC.;
DIXIE WATER WELL ASSOCIATION;
DONNA SUE WATER COMPANY;
DUNE 3 MUTUAL WATER COMPANY
LLC;

Complaint Filed: November 19, 2019
Trial Date: None Set

1 DUNE V WATER COMPANY;
2 DUNE WATER ONE COMPANY;
3 EAST INYOKERN MUTUAL WATER
4 COMPANY;
5 FERRAN WATER COMPANY;
6 JOHN V. FREEMAN;
7 GATEWAY MARKET WATER SYSTEM;
8 GILBERT MUTUAL WATER
9 ASSOCIATION;
10 HAMMAR WATER COOPERATIVE;
11 HERITAGE VILLAGE MASTER
12 COMMUNITY ASSOCIATION;
13 ARTHUR HICKLE;
14 HOMETOWN WATER ASSOCIATION;
15 TERESE FARMS;
16 IAC WATER COMPANY;
17 INYOKERN COMMUNITY SERVICES
18 DISTRICT;
19 JUMPER STREET WATER
20 COOPERATIVE;
21 COUNTY OF KERN;
22 LIFE WATER COOPERATIVE;
23 CAREY MARVIN;
24 MIRAGE STREET WATER
25 COOPERATIVE;
26 NORTHEAST LELITER COOPERATIVE;
27 NTSP, LLC;
28 OWENS PEAK SOUTH WATER
COMPANY;
OWEN'S PEAK WATER COOPERATIVE;
OWENS PEAK WEST WATER
COMPANY;
DIANA PEARSON;
PINON WATER COMPANY;
QUIST FARMS;
RIDGECREST CHARTER SCHOOL;
LARRY SCHILLER;
SCOTT SHACKLETT;
GALE SHACKLETT;
SIMMONS FARM;
SOUTH DESERT MUTUAL WATER
COMPANY;
SWEET WATER COOPERATIVE;
FRANCA VILLA WATER COMPANY;
TIMOTHY P. VAUGHAN;
WARREN WATER SYSTEMS;
WEST VALLEY MUTUAL WATER
COMPANY;

1 YELLOW BIRD WATER
2 COOPERATIVE;
3 FRANK BELLINO;
4 EL SOLANA MOBILE HOME & RV
5 PARK LLC;
6 SIERRA BREEZE MUTUAL WATER
7 COMPANY;
8 SUZANNE AMA;
9 DOUGLAS SMITH;
10 JOHN HALL;
11 MARY HALL;
12 MICHAEL KINNE;
13 PLUTO WEST WATER COMPANY;
14 CAMEO KENNELS;
15 LURINE M. NORWOOD;
16 PHILIP M. NORWOOD;
17 MICHELLE RICHTER;
18 SCOTT BOTTORFF;
19 JANIS BOTTORFF;
20 SOPHIE DODGE;
21 PAUL VON SCHLEMMER;
22 JULIE VON SCHLEMMER;
23 DEL SOL WATER COOPERATIVE;
24 DOMESTIC WATER SYSTEMS, INC.;
25 ROBERT DICKSON;
26 SANDY'S OASIS MOBILE HOME PARK;
27 GRANITE CONSTRUCTION WATER
28 SYSTEM; and
ROES 1 TO 100,000, inclusive,

Cross-Defendants.

1 Cross-Complainant INDIAN WELLS VALLEY WATER DISTRICT (“District”) alleges
2 as follows:

3 **Introduction**

4 1. This Cross-Complaint requests that the Court conduct a comprehensive
5 adjudication pursuant to Title 10, Chapter 7 of the Code of Civil Procedure (sections 830 *et seq.*),
6 in which the Court would determine all rights to extract (aka pump) groundwater in the Indian
7 Wells Valley Groundwater Basin No. 6-54 (“Basin”), whether based on appropriation, overlying
8 right, or other basis of right, and all rights to use of storage space in the Basin; enter judgment
9 based upon the criteria set forth in section 850 of the Code of Civil Procedure; and impose a
10 physical solution pursuant to section 849 of the Code of Civil Procedure (“Comprehensive
11 Adjudication”).

12 2. The Comprehensive Adjudication is necessary to protect the limited water supply
13 that is vital to the public health, safety, and welfare of all persons and entities that depend upon
14 waters from the Basin; to ensure its reasonable use pursuant to Article X, section 2 of the
15 California Constitution; and to sustainably manage the Basin pursuant to the Sustainable
16 Groundwater Management Act (Water Code sections 10720-10737.8) (“SGMA”).

17 **Jurisdiction and Venue**

18 3. This Court has subject matter jurisdiction to comprehensively adjudicate rights to
19 extract groundwater in the Basin and use the Basin’s storage space, and to impose a physical
20 solution in this action pursuant to Code of Civil Procedure section 834.

21 4. Pursuant to section 838 of the Code of Civil Procedure, any judge of the Superior
22 Court of California, County of Kern, County of Inyo, and County of San Bernardino is
23 disqualified because Kern County, Inyo County, and San Bernardino County overlie the Basin.

24 5. Pursuant to section 838 of the Code of Civil Procedure, this Comprehensive
25 Adjudication is presumed to be a complex action under Rule 3.400 of the California Rules of
26 Court.

27 6. Pursuant to section 838 of the Code of Civil Procedure, sections 170.6 and 394 of
28 the Code of Civil Procedure do not apply to this Comprehensive Adjudication.

1 Parties

2 7. The District is a county water district formed pursuant to Water Code
3 section 30000 *et seq.* and a public agency of the State of California located in the County of
4 Kern. The District operates wells that extract groundwater from the Basin and provides water
5 services to the residents of the City of Ridgecrest and surrounding communities. Pursuant to
6 Water Code sections 106 and 106.5, the District has a prior and paramount right to Basin water
7 as against all non-municipal uses.

8 8. Defendants named herein as All Persons Who Claim a Right to Extract
9 Groundwater in the Indian Wells Valley Groundwater Basin No. 6-54 Whether Based on
10 Appropriation, Overlying Right, or Other Basis of Right, and/or Who Claim a Right to Use of
11 Storage Space in the Basin are all persons or entities who claim a right to extract groundwater in
12 the Basin whether based on appropriation, overlying right, or other basis or right and/or who
13 claim a right to use storage space within the Basin.

14 9. The District is informed and believes that the following named defendants own an
15 interest in one or more parcels in the Basin, and/or extract or store water in the Basin, and/or
16 claim rights or interests in the Basin:

17 a. Mojave Pistachios, LLC is a California limited liability company
18 organized and existing under the laws of the State of California.

19 b. John Thomas Conaway is an individual.

20 c. John Thomas Conaway Trust, which lacks the ability to sue or be sued,
21 should have been named through its trustee, who on information and belief the District believes
22 to be John Thomas Conaway.

23 d. John Thomas Conaway Living Trust, which lacks the ability to sue or be
24 sued, should have been named through its trustee, who on information and belief the District
25 believes to be John Thomas Conaway.

26 e. Sierra Shadows Ranch LP is a California limited partnership organized
27 and existing under the laws of the State of California.

28

- 1 f. Nugent Family Trust, which lacks the ability to sue or be sued, should
2 have been named through its trustee, who on information and belief the District believes to be
3 Paul G. Nugent.
- 4 g. Searles Valley Minerals Inc. is a Delaware corporation organized and
5 existing under the laws of the State of Delaware.
- 6 h. Meadowbrook Dairy Real Estate, LLC is a California limited liability
7 company organized and existing under the laws of the State of California.
- 8 i. Big Horn Fields, LLC is a California limited liability company organized
9 and existing under the laws of the State of California.
- 10 j. Brown Road Fields, LLC is a California limited liability company
11 organized and existing under the laws of the State of California.
- 12 k. Highway 395 Fields, LLC is a California limited liability company
13 organized and existing under the laws of the State of California.
- 14 l. The Meadowbrook Mutual Water Company is a mutual water company
15 and California corporation organized and existing under the laws of the State of California.
- 16 m. Patricia Davis is an individual doing business as Amberglow Ranch.
- 17 n. Patrick Blubaugh is an individual.
- 18 o. Michelle Blubaugh is an individual.
- 19 p. Brady's Café and Mini Mart is a business, form unknown.
- 20 q. Buttermilk Acres is a business, form unknown.
- 21 r. China Lake Acres Mutual Water Company is a California corporation
22 organized and existing under the laws of the State of California and is registered with the
23 California State Water Resources Control Board.
- 24 s. CHLT Water Group Corporation is a cooperative water group.
- 25 t. City of Ridgecrest is a general law city that overlies the Basin.
- 26 u. Bethany Condon is an individual.
- 27 v. Crestview Water System is a water system, form unknown.
- 28

1 w. Indian Wells Valley Cemetery Inc. is a California corporation organized
2 and existing under the laws of the State of California and doing business as Desert Memorial
3 Park.

4 x. Desert Sands Mutual Water Cooperative, Inc. is a California corporation
5 organized and existing under the laws of the State of California.

6 y. Dixie Water Well Association is a water association.

7 z. Donna Sue Water Company is a California corporation organized and
8 existing under the laws of the State of California.

9 aa. Dune 3 Mutual Water Company LLC is a Nevada limited liability
10 company organized and existing under the laws of the State of Nevada and is registered with the
11 California State Water Resources Control Board.

12 bb. Dune V Water Company is a water system, form unknown.

13 cc. Dune Water One Company is a water system, form unknown.

14 dd. East Inyokern Mutual Water Company is a California corporation
15 organized and existing under the laws of the State of California and is registered with the
16 California State Water Resources Control Board.

17 ee. Ferran Water Company is a California corporation organized and existing
18 under the laws of the State of California.

19 ff. John V. Freeman is an individual.

20 gg. Gateway Market Water System is a water system, form unknown,
21 registered with the California State Water Resources Control Board.

22 hh. Gilbert Mutual Water Association is a water association.

23 ii. Hammar Water Cooperative is a cooperative water group.

24 jj. Heritage Village Master Community Association is a California
25 corporation organized and existing under the laws of the State of California.

26 kk. Arthur Hickle is an individual.

27 ll. Hometown Water Association is a water association registered with the
28 California State Water Resources Control Board.

- 1 mm. Terese Farms is a business, form unknown.
- 2 nn. IAC Water Company is a water system, form unknown.
- 3 oo. Inyokern Community Services District is a special district of the County
- 4 of Kern.
- 5 pp. Jumper Street Water Cooperative is a cooperative water group.
- 6 qq. County of Kern is a political subdivision of the State of California.
- 7 rr. Life Water Cooperative is a cooperative water group.
- 8 ss. Carey Marvin is an individual.
- 9 tt. Mirage Street Water Cooperative is a cooperative water group.
- 10 uu. Northeast Leliter Cooperative is a cooperative water group registered with
- 11 the California State Water Resources Control Board.
- 12 vv. NTSP, LLC is a California limited liability company organized and
- 13 existing under the laws of the State of California.
- 14 ww. Owens Peak South Water Company is a water company, form unknown,
- 15 registered with the California State Water Resources Control Board.
- 16 xx. Owen's Peak Water Cooperative is a cooperative water group.
- 17 yy. Owens Peak West Water Company is a water company, form unknown,
- 18 registered with the California State Water Resources Control Board.
- 19 zz. Diana Pearson is an individual.
- 20 aaa. Pinon Water Company is a water company, form unknown.
- 21 bbb. Quist Farms is a business, form unknown.
- 22 ccc. Ridgecrest Charter School is a California corporation organized and
- 23 existing under the laws of the State of California.
- 24 ddd. Larry Schiller is an individual.
- 25 eee. Scott Shacklett is an individual.
- 26 fff. Gale Shacklett is an individual.
- 27 ggg. Simmons Farm is a business, form unknown.
- 28

- 1 hhh. South Desert Mutual Water Company is a water company, form unknown,
2 registered with the California State Water Resources Control Board.
- 3 iii. Sweet Water Cooperative is a cooperative water group registered with the
4 California State Water Resources Control Board.
- 5 jjj. Franca Villa Water Company is a California corporation organized and
6 existing under the laws of the State of California.
- 7 kkk. Timothy P. Vaughan is an individual.
- 8 ll. Warren Water Systems is a California corporation organized and existing
9 under the laws of the State of California.
- 10 mmm. West Valley Mutual Water Company is a California corporation organized
11 and existing under the laws of the State of California and registered with the California State
12 Water Resources Control Board.
- 13 nnn. Yellow Bird Water Cooperative is a cooperative water group.
- 14 ooo. Frank Bellino is an individual.
- 15 ppp. El Solana Mobile Home & RV Park LLC is a California limited liability
16 company organized and existing under the laws of the State of California.
- 17 qqq. Sierra Breeze Mutual Water Company is a California corporation
18 organized and existing under the laws of the State of California and registered with the
19 California State Water Resources Control Board.
- 20 rrr. Suzanne Ama is an individual.
- 21 sss. Douglas Smith is an individual.
- 22 ttt. John Hall is an individual.
- 23 uuu. Mary Hall is an individual.
- 24 vvv. Michael Kinne is an individual.
- 25 www. Pluto West Water Company is a water company, form unknown.
- 26 xxx. Cameo Kennels is a business, form unknown.
- 27 yyy. Lurine M. Norwood is an individual.
- 28 zzz. Philip M. Norwood is an individual.

- 1 aaaa. Michelle Richter is an individual.
- 2 bbbb. Scott Bottorff is an individual.
- 3 cccc. Janis Bottorff is an individual.
- 4 dddd. Sophie Dodge is an individual.
- 5 eeee. Paul Von Schlemmer is an individual.
- 6 ffff. Julie Von Schlemmer is an individual.
- 7 gggg. Del Sol Water Cooperative is a cooperative water group.
- 8 hhhh. Domestic Water Systems, Inc. is a California corporation organized and
- 9 existing under the laws of the State of California.
- 10 iiii. Robert Dickson is an individual.
- 11 jjjj. Sandy's Oasis Mobile Home Park is a business, form unknown.
- 12 kkkk. Granite Construction Water System is a water system, form unknown,
- 13 registered with the California State Water Resources Control Board.

14 10. The District is informed and believes that the United States of America (“United

15 States”) claims rights to the Basin water subject to adjudication in this action by virtue of owning

16 real property overlying the Basin, including Naval Air Weapons Station China Lake (“NAWS

17 China Lake”) and lands managed by the United States Bureau of Land Management (“BLM”)

18 and United States Forest Service (“FS”). The District is also informed and believes that the

19 United States claims rights to the Basin under Federal Laws and pursuant to the Federal

20 Reserved Water Rights Doctrine. (*Cappaert v. United States*, 426 U.S. 128 (1976).) For reasons

21 explained in this cross-complaint, the United States is a necessary party to this action pursuant to

22 the McCarran Amendment, 43 U.S.C. section 666. Under the McCarran Amendment, the United

23 States, as a necessary party to this action, is deemed to have waived any right to plead that the

24 laws of California are not applicable, or that the United States is not subject to such laws by

25 virtue of its sovereignty. Under the McCarran Amendment, the United States, as a necessary

26 party to this action, is subject to the judgments, orders, and decrees of this Court. The District is

27 informed and believes that under the McCarran Amendment, the United States is not susceptible

28 to costs in this suit.

1 sustainability agency for the Basin. Thereafter, on January 16, 2020, the Authority adopted
2 Resolution 01-20, a resolution adopting a groundwater sustainability plan (“Plan”) for the Basin.

3 21. The Plan does not change or alter existing water rights. Water Code
4 section 10720.5(b) specifically provides that nothing in SGMA “determines or alters surface
5 water rights or groundwater rights under common law or any provision of law....” Similarly,
6 pursuant to Water Code section 10720.3, any claimed Federal Reserved Water Right is beyond
7 the jurisdiction of the Authority to regulate under the Plan.

8 22. This cross-complaint seeks a judicial determination of rights to all water within
9 the Basin. A comprehensive adjudication is necessary to protect and conserve the limited water
10 supply that is vital to the public health, safety, and welfare of all persons and entities in the
11 Basin. The District brings this action to protect the general welfare of the Basin; protect the
12 District’s right to pump groundwater and provide water to the public; prevent degradation of the
13 quality of the groundwater supply; stop land subsidence; and avoid higher water costs to the
14 public. The District is informed and believes that only a comprehensive adjudication and order
15 of the Court comprehensively determining all rights to extract groundwater will be sufficient to
16 protect the District’s water supplies and bring viable sustainability to the Basin.

17 23. Any judgment and physical solution in this proceeding approved by the Court will
18 be submitted to DWR for review and approval pursuant to Water Code sections 10733.6 and
19 10737.4

20 FIRST CAUSE OF ACTION

21 (Code Civ. Proc. §§ 830-852 - Comprehensive Adjudication
22 and Physical Solution - Against All Cross-Defendants)

23 24. The District incorporates by reference the allegations of paragraphs 1 through 23.

24 25. The Basin has been, and presently is, in a condition of long-term overdraft for a
25 period of longer than ten years consistent with Code of Civil Procedure sections 832(d) and
26 847(a).

1 26. There is presently no viable means to cure the Basin's overdraft through artificial
2 recharge or other supply augmentation strategy under current Basin conditions and cumulative
3 average annual extraction/pumping quantities.

4 27. The District has the right to utilize water from the Basin to meet existing public
5 water needs and also to utilize increased amounts of water from the Basin as may be necessary to
6 meet future public needs. The District's rights to the Basin's water exist both as a result of the
7 priority and extent of its appropriative and prescriptive rights.

8 28. Disputes have arisen regarding the parties' respective rights to extract
9 groundwater from the Basin. This action is necessary to comprehensively determine and
10 adjudicate all groundwater rights in the Basin and provide a physical solution for continuous and
11 long-term management of the Basin, consistent with the reasonable and beneficial use doctrine
12 under Article X, section 2 of the California Constitution.

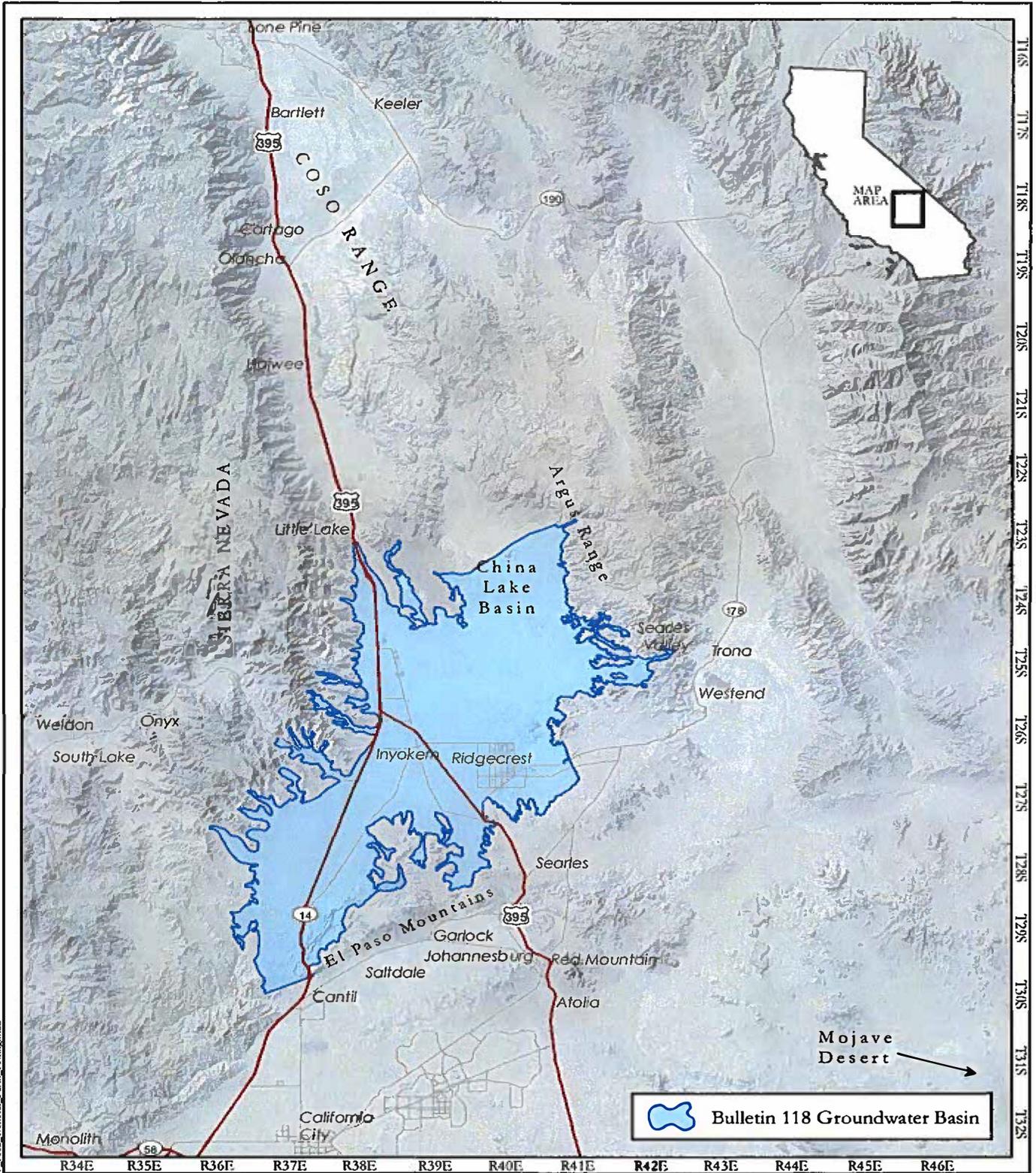
13 29. Pursuant to Code of Civil Procedure section 849, the court has the authority and
14 duty to impose a physical solution on the parties to a comprehensive adjudication where
15 necessary and consistent with Article X, section 2 of the California Constitution. A physical
16 solution is a common-sense approach to resolving water rights litigation that seeks to satisfy the
17 reasonable and beneficial needs of parties through various practical measures. Pursuant to Code
18 of Civil Procedure section 852, this Court must determine, impose, and retain continuing
19 jurisdiction to enforce a physical solution upon the parties who pump water from the Basin, and
20 therefore prevent irreparable injury and undesirable results to the Basin.

21 30. Pursuant to Code of Civil Procedure section 847, and upon a showing the Basin is
22 in a condition of long-term overdraft, the Court may impose a preliminary injunction which may
23 include, (a) a moratorium on new or increased appropriations from the Basin, (b) a limitation on,
24 or reduction in, the extraction of water from the Basin, (c) an allocation among the parties
25 establishing amounts of extraction allowed from the Basin during the pendency of this
26 comprehensive adjudication, and (d) procedures for voluntary transfers of water.

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EXHIBIT A

FIGURE 2-1



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GENERAL BASIN SETTING
INDIAN WELLS VALLEY GROUNDWATER BASIN
(DWR BULLETIN 118 BASIN NO. 6-054)

