



INDIAN WELLS VALLEY WATER DISTRICT



FREQUENTLY ASKED QUESTIONS

REGARDING THE COMPREHENSIVE ADJUDICATION

Why am I being sued by the IWVWD?

The Indian Wells Valley Water District (“District”) has filed a water rights lawsuit to resolve the long-standing conditions in the IWV Groundwater Basin (“Basin”) where water use has exceeded groundwater supply for years. This water rights lawsuit is called a “comprehensive adjudication” and is not like the typical lawsuit that pits one party against the other. Rather, the District has sued all persons who own property overlying the Basin or claim a right to pump or store water in the Basin so that all persons with an interest in the Basin can be involved to assert any rights you may claim.

A comprehensive adjudication requires involving all parties in the lawsuit and importantly, was also the only way to bring the federal government into the lawsuit to finally determine the Federal Reserved Water Right in the Basin. Moreover, unlike typical lawsuits that can become adversarial, the District hopes that this lawsuit will be just the opposite - - that through this lawsuit, all stakeholders can work together to develop a solution for the Basin.

I received legal documents (Notice of Commencement of Groundwater Basin Adjudication, Cross-Complaint, and Form Answer) via Certified Mail a couple of years ago. Why did I just receive what appears to be another copy of these legal documents left at my property? Are they the same documents?

Yes, they are the same documents that the District mailed starting in December 2021. The law governing comprehensive adjudications of groundwater basins required the District to conduct the mailing. Between December 2021 and June 2022, the District mailed these documents by certified mail, return-receipt requested, to more than 18,000 addresses.

Given the number of mailings, it is not surprising that the District did not receive confirmation of receipt for all 18,000+. The law generally requires posting a copy of the returned documents in a conspicuous place on the properties associated with the mailing addresses of those mailings for which confirmation of receipt has not been received. The District conducted this posting from February to March 2024.

I already filed a Form Answer. Do I need to file another Form Answer because I received the legal documents again in March 2024?

No. If you already filed a Form Answer with the Court and sent a copy to the District’s attorneys, you do not need to file the Form Answer again to participate in the comprehensive adjudication.

I have not filed a Form Answer yet. Is it too late to file a Form Answer?

No, it is not too late. The Notice of Commencement of Groundwater Basin Adjudication states that those wishing to participate in the comprehensive adjudication should file the Form Answer with the Court and send a copy to the District's attorneys within 60 days of receiving the Notice.

Note, the court usually charges a filing fee of \$1,000 per defendant; 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.

What if I have questions about how to fill out or file my Form Answer?

A sample completed Form Answer is available on the District's website to give you an idea of how to fill out the Form Answer: <https://www.iwvwd.com/basin-adjudication> (see "Sample Form Answer" by clicking on "How to File An Answer To The Cross-Complaint"). The District's website also has information on filing your form Answer (see "Updated How to File a Form Answer (4-19-24)" by clicking on "How to File An Answer To The Cross-Complaint").

I just received another form (Verified Initial Disclosures). Do I need to fill out this form too?

Yes, all parties who have filed a Form Answer should fill out the Verified Initial Disclosures form. The District's website has more information on the Verified Initial Disclosures form: <https://www.iwvwd.com/basin-adjudication> (click on "Initial Disclosures").

Should well owners only respond to the lawsuit?

No. Any person who owns property overlying the Basin, or pumps or stores water in the Basin, may participate in this lawsuit. For example, if (1) you own any property within the Basin that is not served by the Water District (you have a well), (2) you want to preserve the right to put a well on any property within the basin that you own, or (3) you want to preserve the right to store water in the basin, you might want to participate in the lawsuit to assert those rights.

The lawsuit says District versus a long list of names. Who are the people listed in the lawsuit?

The people and entities listed in the lawsuit are those presently known to the District to pump water from the Basin, primarily because they have registered their wells. You may file an answer and participate even if you are not listed in the lawsuit.

I am listed by name in the lawsuit, do I have to respond and file a form Answer or am I already a party to the lawsuit?

Even if you are already listed as a party to the lawsuit, you still need to formally respond and file an Answer if you wish to participate in the lawsuit.

I am a current de minimis well owner and pump water. I registered my well with the Indian Wells Valley Groundwater Authority ("IWVGA"). Do I still need to file the form

Answer and become a party to the lawsuit?

Yes. Your well registration with the IWVGA will not protect any rights you may claim in the Basin. You need to participate in the lawsuit to assert and protect any rights you may claim.

I am part of a mutual well but the well is on the property of another person. Should I file to be a party to assert my water rights for my property?

Yes. It is unclear how the judgment will impact private property owners with wells. You need to participate in the lawsuit to assert and protect any rights you may claim. Note, whether property owners participate or not, they will be bound by the ultimate judgment the court enters.

I live on 5 acres in the county and presently receive District water. I might want to drill a well in the future and if I don't join the lawsuit, will I be able to get a well permit when I am ready?

It is unclear how the judgment will impact private property owners with wells or wanting to install wells in the future. There is a risk that if you do not participate, your right to install a well in the future could be cut off or impacted. Note, whether property owners participate or not, they will be bound by the ultimate judgment the court enters.

We are part of a 4-property mutual water well. We registered our well with the IWVGA. Do we have to join the lawsuit to be able to continue pumping water?

Yes. Your well registration with the IWVGA will not protect any rights you may claim in the Basin. You need to participate in the lawsuit to assert and protect any rights you may claim.

If I send in the form answer, do I become liable for the litigation costs of the District lawsuit?

No. If you choose to retain an attorney, you will be responsible for your attorney's fees and costs. You are not responsible for the fees and costs of other parties. The court usually charges a filing fee of \$1,000 per defendant; 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.

Is the District suing all property owners to secure all rights to all water in the Basin? If you don't sign the form, do you give the District your water rights?

No, the District is not attempting to acquire all of the Basin water through the adjudication. Whether property owners participate or not, they will be bound by the ultimate judgment the court enters. It is unclear how the judgment will impact private property owners' water rights.

Most of the e-file providers talk about court filing fees in addition to their fee for filing the adjudication form. What are the court fees if a property owner does the filing themselves.

Whether one uses the filing providers or files him/herself, the court usually charges a filing fee of \$1,000 per defendant. However, the Court recently 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.

The lawsuit is between the District and Mojave Pistachio. Is the District asking property owners to take sides against Mojave Pistachio?

No. The District provided notice to all property owners so that all owners are aware of the lawsuit and can participate in the lawsuit to assert their own rights.

The County has said the Navy has asserted their Federal Reserve Water Right. What is a FRWR and why is important to determine the quantity of the Federal Right?

Federal reserved water rights are water rights connected to federal land. Such right arises when as in this instance, the federal government, such as the Navy, owns land that can benefit from use of Basin groundwater. When the federal government reserved the land for its own use, it also reserved the rights to water connected to the land. The extent of the federal government's water right depends on the specific purpose for which the federal government reserved the land. However much water is needed to serve the federal government's purposes for the land, determines the quantity of the federal right.

Normally, the federal government cannot be sued in state court. However, the federal government allows an exception for comprehensive adjudications. Simply put, a comprehensive adjudication is the only way to determine the federal government's water right and this requires the participation of all interested persons in the Basin. It is important to determine the quantity of the federal government's water right so the Court can determine how much water is available for other pumpers in the Basin.

Why are people saying that this is the only way to get the Navy to participate? Why can't the District, the IWVGA and the Navy sit at a table and write a contract that says the Navy has a right to a certain amount of water?

The Federal government has been and is clear on this issue, the only way to determine the federal reserved water right is through a comprehensive adjudication lawsuit. The District believes that the Federal government will participate in water rights discussions as part of the comprehensive adjudication.

The City Council mentioned other adjudication lawsuits. Is there a link to where I can read about those lawsuits?

Here is a link to the Antelope Valley Watermaster's website: <https://avwatermaster.net/>. Documents related to the adjudication may be found under the "Resources" tab, "Judgment/Legal" subtab.

Why is the District refusing to cooperate with other members of the IWVGA?

The District is not refusing to cooperate with any members of the IWVGA. There are ongoing discussions between the District, City and Kern County regarding the water issues facing the IWV Valley. While the

IWVGA members may have different opinions on the best way to move forward, they continue to meet and discuss ways to cooperatively move forward.

There have been public comments that the District is spreading misinformation. Is this a true statement? How can the public get the facts?

The District is not spreading misinformation. Locally elected public officials have differing opinions on the adjudication and have stated their opinions in public. A difference of opinion should not be described as “spreading misinformation”.

Facts and questions regarding the adjudication should be directed to the District as the District filed the adjudication. Information regarding the adjudication can be found at the District’s Website, <https://www.iwvwd.com/basin-adjudication>.

How does this impact Searles Valley Minerals and the residents of Trona?

Searles Valley Minerals is a party to the comprehensive adjudication and has filed a cross-complaint similar to the District’s adjudication requesting a determination of water rights. Searles is asserting its right to pump water on behalf of its industrial activities, as well as to continue providing domestic water to residents of Trona.

Will this hurt Searles Valley Minerals or does this help prove the plant and Trona was using water first?

It is unclear how the judgment will impact Searles but they are actively participating in the lawsuit and the District expects Searles to vigorously defend and prove-up any rights they may claim.

Who will be in charge of issuing well permits under the adjudication?

The County of Kern has well permitting authority within Kern County which includes the portion of the IWV Basin within Kern County. The same applies for the counties of San Bernardino and Inyo.

The District is presently not aware of anything that would change well permitting authority.

Will new well permits be limited under the adjudication?

It is too early in the adjudication to know whether well permits will be limited.

Will the well permits cost more under the adjudication?

It is too early in the adjudication to know whether well permit costs will increase under the adjudication. The cost will probably continue to be determined by the County as the authorizing agency. Any additional fees may or may not be related to the adjudication.

Will new wells be allowed the same pumping right as existing wells?

It is unclear how the judgment will impact private property owners with wells or those wanting to install

wells in the future. There is a risk that if you do not participate, your right to install a well in the future could be cut off or impacted. Note, whether property owners participate or not, they will be bound by the ultimate judgment the court enters.

Will all existing wells have the same pumping rights as the GSA registered wells?

The determination of a pumper's rights is not expected to be related to well registration with the IWVGA.

What kind of administrative body will control the adjudication operation?

The answer assumes this is regarding operation post court judgment. It is too early in the adjudication to know what type of administrative body will control the operation post judgment. Past courts have appointed a "Watermaster" post judgment or an agency may be appointed.

How will the administrative body be funded?

This largely depends on the type of administrative body selected.

Will new California water use conservation laws be applied uniformly across the basin?

The District assumes that any water use conservation laws will be applied consistent with the applicable law.

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
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YOU CAN ALSO VISIT US ON FACEBOOK AND TWITTER

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