

Indian Wells Valley Groundwater Adjudication

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Case Name: Indian Wells Valley Water District v All Persons Who Claim a Right to Extract Groundwater in the Indian Wells Valley Groundwater Basin, etc., et al.

Case No: 0-2021-01187275-CU-OR-CJC

Date Filed: Nov. 19, 2019.

Court: Orange County, Civil Complex Center

Parties Involved

The main parties in the Indian Wells Valley Water District adjudication include a variety of stakeholders, each with vested interests in the groundwater resources of the region. Here are some of the key participants:

1. **Indian Wells Valley Water District (IWWVD):** As the lead agency, IWWVD initiated the adjudication to address and clarify water rights in the basin. This lawsuit aims to define and regulate water use among basin stakeholders to manage the critical overdraft of the region's groundwater.
2. **Mojave Pistachios and Other Agricultural Interests:** Mojave Pistachios, which began operations in the valley around 2010, is a major agricultural user that has challenged the groundwater management and associated replenishment fees. Agricultural stakeholders face significant usage restrictions and fees designed to fund imported water projects, which they argue are costly and impact their operations.
3. **Searles Valley Mineral Co.:** This industrial entity, involved in mineral extraction at Searles Lake, has some of the oldest water rights in the valley. Searles Valley Minerals filed a lawsuit against the replenishment fees, arguing that these costs threaten its business. The company asserts that its historic rights should exempt it from recent restrictions and fees.
4. **U.S. Navy (China Lake Naval Air Weapons Station):** The Navy, a significant water user in the basin, holds a federal reserved water right, which traditionally exempts it from state-imposed restrictions. However, the adjudication will allow for a judicial review of its water rights alongside other users, helping to clarify its role in basin sustainability efforts.
5. **Individual Property Owners and Small Well Owners:** Many smaller landowners, including those with domestic wells, are encouraged to participate to protect their existing or future water rights. Non-participation could lead to limitations on their ability to

drill or use wells in the future, making the adjudication relevant to virtually all local residents.

Indian Wells Valley Groundwater Basin

The Indian Wells Valley Groundwater Basin (IWWGB) lies in the Northwestern Mojave Desert, between the Southeastern Sierra Nevada and the El Paso Mountains. It crosses into parts of Inyo, Kern, and San Bernardino County. Roughly 600 square miles, the IWWGB has been designated as a high-priority, critically overdrafted basin by DWR. It has no significant surface water or water importation infrastructure, meaning groundwater is the only local source of safe water for domestic, agricultural, and industrial use. Groundwater levels have been declining consistently for years, and many of the Basin's shallow wells have begun to run dry.

Ridgecrest is the only major city in the IWWGB, with a population of 28,088 (as of 2023). It sits next to the Air Weapons Station China Lake (China Lake). China Lake spans 1,100,000 acres, making it the U.S. Navy's largest landholding. Ridgecrest and China Lake are the largest domestic users of groundwater in the basin.

IWWWD Groundwater Sustainability Agency:

The IWWWD GSA was formed in 2016. Its principal members are the City of Ridgecrest, Inyo County, Kern County, San Bernardino County, and the Indian Wells Valley Water District itself, all of whom are board members. The U.S. Department of the Interior Bureau of Land Management and China Lake Base are associate members without voting power.

IWWWD Groundwater Sustainability Plan:

Following its formation, the IWWWD GSA created a Policy Advisory Committee (PAC) and a Technical Advisory Committee (TAC) to help develop the Basin's GSP. Members of these committees represented a wide degree of local interests, ranging from agricultural and industrial to municipal and domestic water users. Members of the TAC were required to have technical expertise in groundwater management.

After reviewing the available scientific data, the GSA and TAC developed a water budget estimating an annual natural recharge of 7,650 Acre-Feet and an annual loss of 21,880 – 32,640 Acre-Feet, resulting in an average annual loss of 14,230 – 24,990 Acre-Feet. This data was codified in their GSP, which was adopted by the IWWWD GSA in early 2020 and approved by DWR in early 2022.

The GSP calculated the sustainable yield of IWWGB at 7,650 acre-feet/Year. It included several programs designed to provide water to groundwater users throughout the basin and to promote replenishment. These include incentivized land fallowing and water transfers, as well as

- An importation project, requiring the construction of a large pipeline to pump outside water into the basin. The GSA determined that only a large-scale importation project could ultimately meet the basin's needs.

- The pipeline is currently in the design phase and is estimated to cost in excess of \$200,000,000.
- The 'transient pool'—a 51,000-acre-foot independent water supply, individually portioned-out to each qualified agricultural user. Users could then sell unneeded parts of their allotment back to the IWVWD.
 - In order to qualify, agricultural users were required to fill out a questionnaire. Several failed to do so in time, and lost access to the pool.

To fund these programs the GSP adopted a replenishment fee of \$2,130 per acre-foot of groundwater: about \$0.0065 per gallon of groundwater. Water taken from the transient pool was subject to a drastically reduced fee of \$17.50 per acre-foot.

Adjudication Status

In 2021, the IWVWD brought this adjudication lawsuit named "All Persons Who Claim a Right to Extract Groundwater in the Indian Wells Valley Groundwater Basin" to formally determine water rights within the basin. Adjudications are typically slow processes with plenty of moving parts.

The adjudication, currently under review in Orange County Superior Court, involves many parties, including private property owners, agricultural businesses, municipal entities, and the federal government. Notably, the China Lake Naval Air Weapons Station, a significant groundwater user in the basin, holds federal reserved water rights that place it outside certain SGMA regulations. This exception adds complexity to the adjudication, as the court must balance federal and state water rights with both local groundwater needs and SGMA mandates.

Due to the complex nature of the issues that need to be addressed by the Court, the adjudication process was divided into three phases. Phase 1 of the trial, which began in 2023, centers on establishing whether the basin is indeed in a state of overdraft. This determination is important as it would validate the IWVGA's restrictions on water usage and support the legal basis for the fees.

Currently, the Phase 1 trial remains active, with a series of hearings addressing procedural and evidentiary matters. In March and June 2024, status conferences and motion hearings cleared up participation requirements and procedural rules for interested parties, including individuals with smaller, private wells who are encouraged to file responses to preserve their claims in the basin. A continuation of Phase 1 in August 2024 focused on finalizing details before moving into the more intensive allocation discussions anticipated in Phase 2.

If the court concludes that an overdraft exists, the findings will pave the way for the Phase 2 and 3 trials. In these phases, the focus will shift to determining the "safe yield," the amount of groundwater that can be sustainably extracted, and setting up a "physical solution" to allocate water rights proportionally among users. The adjudication process has had a lot of legal arguments and motions that require significant time and resources to resolve. Searles Valley

Minerals and others are pushing back against the authority's fees and restrictions, leading to a protracted legal battle that complicates the timelines and issues to be determined during Phases 2 and 3.

If Phase 1 ends with the Court's declaration of overdraft, the following steps will include a detailed assessment of groundwater use and an enforceable allocation structure that aligns with the basin's long-term sustainability goals. This process is expected to continue into 2025, with Phase 2 tentatively scheduled for 2026.

Impacts on Small Farmers

The IWWWD adjudication affects small farmers mainly through new groundwater pumping restrictions and high replenishment fees. Here are some of the major impacts on small farmers:

1. **Increased Costs Due to Replenishment Fees:** The IWWWD has imposed a 'replenishment fee' for groundwater small farmers pump above their allocated amounts to fund imported water projects designed to alleviate the basin's overdraft. This fee can reach as high as \$2,130 per acre-foot for water pumped over allocation and can lead to financial concerns for small farmers who may not have the same level financial capabilities of large farm operations or federal users like the Navy in this case.
2. **Reduced Pumping Allocations:** In response to severe overdrafting, the IWVGA has sharply restricted groundwater pumping. While the Navy continues to receive the majority of the basin's pumping allocation, agricultural operations have seen their allocations slashed, with some, such as Mojave Pistachios, receiving zero allocation under the new management plan. Small farmers now face the challenge of either reducing production or finding costly alternative water sources to maintain their crops.
3. **Legal Uncertainty and the Risk of Losing Water Rights:** The adjudication process requires all parties with a stake in the basin's groundwaters, small farmers included—to join the lawsuit if they want to secure or assert their water rights. For small farmers, this adds legal fees and other administrative burdens. Those who do not participate risk losing the right to drill new wells or expand their operations, as the court will rule on water rights for all stakeholders, even non-participants.
4. **Dependence on Long-Term Imported Water Solutions:** Small farmers are also affected by the IWVGA's plan to import water to the valley, potentially from areas like Palmdale. While this could provide relief in the future, it requires significant infrastructure investment and may take years to implement. During this interim, small farmers remain vulnerable to continued restrictions and financial challenges in a depleted basin.

Overall, small farmers face a challenging mix of increased costs, water use restrictions, and legal uncertainties, making it harder to sustain their businesses in the long term.

Next Steps of the Adjudication

IWVGA are concerned that the court's safe yield determination would effectively replace its sustainable yield determination, thus undermining the role of GSAs statewide in making determinations about groundwater sustainability pursuant to DWR guidelines and SGMA.

In light of this, IWVGA filed a petition with a CA appellate court, urging them to determine whether the lower court should (1) accept the GSP's sustainable yield calculation for all purposes in the adjudication proceeding and (2) accept the GSP as the basis for the physical solution. DWR, the SWRCB, and the lower court supported the petition.

However, the appellate court declined the petition, leaving it to the trial court to resolve these issues. The adjudication will continue on to phase 2 as planned while IWVGA and their legal counsel consider next steps. They may have the option to appeal to the Supreme Court of CA, although it is unclear if they will explore it.

Recommendations for Small Farmers

Small farmers facing challenges from the Indian Wells Valley Water District adjudication can take several steps to protect their interests and manage the financial and operational impacts:

1. **Join the Adjudication Process:** It is essential for small farmers to participate in the adjudication to secure and defend their water rights. By formally joining, they can advocate for fair allocations and avoid losing the right to drill wells or access groundwater. Not participating can result in a default ruling that limits their future water usage options.
2. **Engage in Local Water Management Planning:** Small farmers should engage with the IWVGA and local advocacy groups to voice their concerns. Collaborating with the IWVGA allows them to advocate for more balanced groundwater pumping allocations, affordable replenishment fees, and policies that consider the needs of small-scale agriculture. Staying active in public meetings and decision-making processes can provide them with a platform to influence policies.
3. **Explore Funding Assistance and Grants:** Farmers should look into federal and state programs that offer financial assistance for water conservation practices, efficiency upgrades, or even legal support in adjudication cases. The USDA and California's Department of Water Resources offer grants and low-interest loans for sustainable water infrastructure and technology, which can help farmers reduce water usage and adapt to new restrictions.
4. **Adopt Water Conservation and Efficiency Practices:** Investing in efficient irrigation systems, drought-resistant crops, and soil moisture management can reduce dependence on groundwater. Although these methods require upfront investment, they may lead to long-term savings and sustainability. Drip irrigation, for example, has shown success in reducing water usage while maintaining crop yields.

5. **Join or Form Agricultural Coalitions:** Small farmers can benefit from forming or joining coalitions to pool resources, share legal representation, and amplify their collective voice. Through a coalition, they may be able to negotiate better terms with the IWVGA or influence court rulings.

By participating actively in the adjudication and pursuing water conservation strategies, small farmers can better navigate the regulatory landscape, manage costs, and work toward a more sustainable future in the Indian Wells Valley.