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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF ORANGE, CIVIL COMPLEX CENTER**
11

12 MOJAVE PISTACHIOS, LLC; et al.,
13 Plaintiff,
14 v.
15 INDIAN WELLS VALLEY WATER
DISTRICT; et al.,
16 Defendants.
17

Case No. 30-2021-01187275-CU-OR-CJC
Assigned for All Purposes To:
The Hon. William D. Claster, Dept. CX101

(Related to Case Nos.:
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18 AND CROSS-COMPLAINTS AND
19 RELATED ACTIONS
20
21
22

**PHASE 1 CLOSING TRIAL BRIEF OF
CROSS-DEFENDANTS CITY OF
RIDGECREST, COUNTY OF KERN,
AND THE INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY**

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1 **I. INTRODUCTION**

2 The City of Ridgecrest (“Ridgecrest”), the County of Kern (“Kern”), and the Indian
3 Wells Valley Groundwater Authority (“Authority”) jointly submit this closing brief for the
4 Phase 1 trial to determine the United States’ federal reserved right in the Indian Wells Valley
5 Groundwater Basin (“Basin”).

6 The testimony and evidence presented at the Phase 1 trial establishes that the United
7 States’ federal reserved right for the Naval Air Weapons Station China Lake (“China Lake”)
8 is **7,988 acre-feet per year** (“afy”). The two principle issues in determining the United
9 States’ federal reserved right are first, what were the primary purposes of China Lake when
10 it was created, and second, what amount of water was needed and reserved to accomplish
11 those purposes. The first issue is not disputed. The parties acknowledge that China Lake was
12 established with the primary purposes of creating an isolated company town to support a
13 military installation tasked with top secret weapons research, development, testing and
14 training. (1 R.T. 174:1-18 [COURT: “[I]t’s a Naval Weapons Testing Facility The
15 Question is: How many folks are needed to support it? And how much water is needed for
16 industrial and housing uses? ... Do any of the responding parties to the United States think
17 there’s a dispute over the purposes of China Lake? DUNN: No. HOOD: I don’t think so.”];
18 2 R.T. 295:19-296:2 [Dr. Miltenberger testifying that Navy intended to create company town
19 at China Lake]; 2 R.T. 373:10-14 [Q. “[w]ould you agree with Dr. Miltenberger that
20 N.O.T.S. was intended to be a Company Town when it was Established? A. [Dr. Littlefield]
21 In broad strokes, yes. I think that’s an accurate description].)

22 As to the second issue, the appropriate measure to quantify the United States’ federal
23 reserved right are the historical records of groundwater production at China Lake, which
24 show that China Lake used 7,988 afy in 1970, and regularly exceeded 6,783 afy throughout
25 the 1960s and 1970s. Because 7,988 afy was the actual amount necessary to maintain the
26 military installation and company town, it is an accurate quantification of the right.

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1 Searles Valley Minerals, Inc. (“Searles”) and Meadowbrook¹ ignored China Lake’s
2 historical groundwater usage; failed to develop any evidentiary record of primary-secondary
3 distinctions; and instead focused largely on China Lake’s recent and future water production
4 to support their baseless assertion that the United States’ federal reserved right should be
5 limited to 2,000 afy or less. Federal reserved rights are not measured by present or future
6 use because the right vests on the date the reservation is created, and is not lost by non-use.
7 (*Cappaert v. U. S.* (1976) 426 U.S. 128, 138-139 (“*Cappaert*”); *Navajo Nation v.*
8 *Department of the Interior* (9th Cir. 2017) 876 F.3d 1144, 1155.) Regardless, the
9 groundwater needed to maintain the mission at China Lake has not changed. The amount of
10 water needed and consumed to meet the purposes of the reservation have not declined.
11 Delivery of water to meet those needs has, however, shifted over the years from on-base
12 systems to off-base providers. But, the United States does not forfeit or limit its federal
13 reserved right to groundwater merely because the delivery of the water needed to fulfill its
14 mission has shifted from on-base systems to off-base providers. The evidence presented
15 demonstrates the amount of water needed to fulfill the primary purpose of the United States
16 Navy’s (“Navy”) mission continues to include that which is necessary for the Navy and
17 civilian personnel working at the base, along with their dependents, including water needed
18 for moral, welfare, and recreational uses, as well as and the needs of the weapons research,
19 development, testing, and training facilities on the base.

20 At bottom, Searles and Meadowbrook distort the water requirements necessary to
21 support the mission at China Lake by focusing solely on the amount of water used on-base,
22 as if the population of engineers and scientists have no human needs for water at their off-
23 base residences. When the Navy established the reservation at China Lake it intended to
24 support a city of scientists and engineers to develop and test the next generation of top secret
25 weapons, and they intended to reserve an amount of groundwater sufficient to sustain that

26
27 ¹ Defendants and Cross-Defendants Meadowbrook Dairy Real Estate, LLC, Big Horn
28 Fields, LLC, Brown Road Fields, LLC, Highway 395 Fields, LLC, and the Meadowbrook
Mutual Water Company are collectively referred to as “Meadowbrook.”

1 population, regardless of whether some of that personnel would eventually move a few miles
2 down the road decades later. Accordingly, the Court should recognize the United States’
3 federal right in full as 7,988 afy.

4 **II. ARGUMENT**

5 **A. The Four Principles for Quantifying the Federal Reserved Right**

6 A federal reserved groundwater right can be established either expressly (by the
7 statute, order, treaty, etc. establishing the reservation) or impliedly. (*U.S. v. New Mexico*
8 (1978) 438 U.S. 696, 699 (“*New Mexico*”); *Agua Caliente Band of Cahuilla Indians v.*
9 *Coachella Valley Water District* (9th Cir. 2017) 849 F.3d 1262, 1270 (“*Agua Caliente*”)
10 [federal reserved rights applies to groundwater].) Under the implied-reservation-of-water-
11 rights doctrine, a water right is created by implication of the reservation if “without [the
12 water]...the purposes of the reservation would be entirely defeated.” (*New Mexico, supra,*
13 438 U.S. at 700; *Cappaert, supra,* 426 U.S. 128, 141.) Here, no party disputes the
14 existence of the United States’ federal reserved groundwater right, which is implied by its
15 reservation of land at China Lake for the purposes of creating a military installation and
16 company town. (Trial Ex. 207; 1 R.T. 174:1-18; 2 R.T. 373:10-14.)

17 The sole issue before the Court is the quantification of the United States’ federal
18 reserved right. There are four principles that define the contours of the right. First, the right
19 is created at the time the reservation is created, not at the time of actual use. (*Cappaert,*
20 *supra,* 426 U.S. at 138.) And, importantly, it is not lost through non-use. (*Navajo Nation v.*
21 *Department of the Interior* (9th Cir. 2017) 876 F.3d 1144, 1155 (“*Navajo Nation*”).)
22 Second, the amount of water that is reserved under the right is that which is reasonably
23 necessary “to fulfill the very purposes for which a federal reservation was created,” but it
24 does not include secondary uses that were not originally contemplated. (*Agua Caliente,*
25 *supra,* 849 F.3d at 1270, citing *New Mexico, supra,* 438 U.S. at 702.) Third, the right
26 applies to water both produced and used on and off of the reservation. (*Cappaert, supra,*
27 426 U.S. at 147; *John v. U.S.* (9th Cir. 2013) 720 F.3d 1214, 1230 (“*Katie John III*”).)
28 Finally, the right is quantified by applying federal law only; it is not dependent upon state

1 law or state water right schemes. (*Winters v. U. S.* (1908) 207 U.S. 564, 576–577
2 (“*Winters*”); *Cappaert, supra*, 426 U.S. at 145.)

3 **B. The Priority Date of the Reservation Is November 8, 1943**

4 On November 8, 1943, the Navy ordered the creation of China Lake to establish a
5 permanent military installation for “research, development, and testing of weapons, and
6 having additional function furnishing primary training in the use of such weapons.” (Trial
7 Ex. 207; 1 R.T. 46:6–11 (testimony of Capt. Van Allen).) In February 1944, the United
8 States initiated condemnation actions to acquire the land that would become China Lake’s
9 main site. Shortly thereafter, the initial installation was formed, and from there Navy and
10 Caltech scientists contributed to the war efforts of World War II. (Trial Ex. 208; 1 R.T.
11 207:8-19 (testimony of Dr. Miltenberger).) By October 1944, the population at the new
12 installation was already approximately 8,000. (Trial Ex. 424, p. 52.²) On December 19,
13 1947, Public Land Order 431 was issued, formally withdrawing nearly 650,000 acres of
14 public land in Kern, Inyo, and San Bernardino counties for China Lake. (Trial Ex. 211.)

15 The Navy’s federal reserved right vested on November 8, 1943. It was at that point
16 the United States established China Lake, and identified the federal lands on which it
17 would be located. (*Colville Confederated Tribes v. Walton* (9th Cir. 1981) 647 F.2d 42, 47
18 [“water was reserved when the...[r]eservation was created”]; *Cappaert, supra*, 426 U.S. at
19 138 [the federal right “vests on the date of the reservation”].) It is the creation of the
20 reservation that is controlling of the priority date. (*Navajo Nation, supra*, 876 F.3d at 1155
21 [to determine the priority date, courts may look to various documents to determine the
22 reservation’s creation including “treaties, executive orders, and statutes”].) Searles devotes
23 much of its opening brief to arguing the reservation occurred in 1947 with the Secretary of
24 the Interior’s formal issuance of Public Land Order 431, presumably because it seeks to
25 argue that it appropriated water before 1947 that supersedes the reservation. (Searles’
26 Brief, pp. 10-19). But even if the formal withdrawal of federal lands from the public

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² Citations to the Trial Exhibits are to the pages of the pdf file.

1 domain is determinative of the priority date, the United States initiated condemnation
2 actions on February 23, 1944. Moreover, the United States’ had already physically
3 established a reservation by constructing a military installation at China Lake years before
4 1947, thereby exercising its power over the public domain. Thus, the priority date for the
5 reservation is November 8, 1943—the date the China Lake reservation was created—and it
6 is that date which should be used to determine the primary purposes of China Lake, which
7 have remained “the same all along.” (2 R.T. 336:12-20; see also 1 R.T. 16:22-24 [Q. Does
8 the date change the primary purpose of the base? DUNN: No, it does not.])

9 **C. The Primary Purposes of China Lake Are Undisputed: Military**
10 **Installation and Company Town**

11 It is well-established that the primary purpose of the reservation is the sole measure
12 by which the federal reserved right is quantified. (*Agua Caliente, supra*, 849 F.3d at 1269
13 [“the purpose of the reservation is controlling”]; *U.S. v. Adair* (9th Cir. 1983) 723 F.2d
14 1394, 1419 [“[t]he purpose...defines the scope and nature of impliedly reserved water
15 rights”].) As the Supreme Court explained in *Cappaert*, “when the Federal
16 Government...reserves [land] for a federal purpose, the Government, by implication,
17 reserves appurtenant water then unappropriated to the extent needed to accomplish *the*
18 *purpose* of the reservation.” (*Cappaert, supra*, 426 U.S. at 138, emphasis added.) In *New*
19 *Mexico*, the Supreme Court clarified that the federal reserved right does not extend to
20 secondary purposes. (*New Mexico, supra*, 438 U.S. at 712-713 [rejecting a federal claim to
21 water rights for “aesthetic, environmental, recreational, or wildlife-preservation purposes”
22 because those were not the original, primary purposes which the national forest had
23 originally been reserved—primary purposes were timber and watershed management].)

24 At trial, no party disputed that China Lake’s primary purpose was both a military
25 installation *and* company town. (1 R.T. 178:13-22 [Q. What is the United States’ position
26 as to what the intent was of China Lake? COLEMAN: The intent was to have a premier
27 weapons research and development and testing facility that was premised on a core
28 population of civilians -- highly skilled civilians in a civilian/military partnership.]

1 COURT: Okay. I don't see the other side disputing that.]) Indeed, this Court directly
2 asked, “[d]o any of the responding parties to the United States think there’s a dispute over
3 the purposes of China Lake?” To which the parties responded: “No.” (1 R.T. 174:14-18;
4 174:12 [Court acknowledging “I don’t think there’s a dispute”]; 176:10-11 [everyone
5 “agrees what the base was for”]; 1 R.T. 173:28 -174:1-8 [Court stating that primary
6 purpose is not in dispute, “the question is: How many folks are needed to support it? And
7 how much water is needed for the industrial and the housing uses?”]; 2 R.T. 340:2-9
8 [admitting there is “no difference” of opinion between Searles and the United States on the
9 “primary purpose” of China Lake].)

10 Moreover, no party attempted to draw any primary-secondary use distinctions of
11 any of China Lake’s water production through direct testimony or cross-examination. Thus,
12 this Court need not engage in any further factual inquiry to determine the primary purposes
13 of China Lake. (Cf. *U.S. v. New Mexico* (1978) 438 U.S. 696, 715–716 [extensively
14 reviewing the legislative history and parsing the language of federal statutes from the late
15 1800s to determine the primary purposes of the reservation].) China Lake’s primary
16 purposes, and therefore the scope and nature of the United States’ right, are undisputed and
17 includes both the needs of the military installation to develop, test, and train personnel on
18 weapons of warfare, *and* a city of scientists, engineers, military personnel, and their
19 dependents.

20 From its inception, the purpose of China Lake was to create a military installation
21 for research, development, test, and evaluation (“RDT&E”) and a “complete modern
22 community,” according to a 1945 report from the Office of Scientific Research and
23 Development. (Trial Ex. 424, p. 46; 1 R.T. 225:14-28, 226:1-4.) The population of the
24 Indian Wells Valley was estimated at less than 200 people in 1943. (Trial Ex. 2, p. 9.) The
25 remote location was well suited for developing and testing weapons because of its ideal
26 testing conditions, including over 330 clear days per year, geographic isolation, diverse
27 topography, expansive airspace, and proximity to scientific institutions such as the
28 California Institute of Technology (1 R.T. 47:6–19; 47:25–28; 48:5–11; 48:14–20

1 (testimony of Van Allen.)

2 The RDT&E mission at China Lake was intended to be broad and “available for
3 work on weapons of any type which require the special conditions available at Inyokern or
4 for which facilities do not elsewhere exist.” (Trial Ex. 424, pp. 61-62.) Captain Van Allen
5 testified that “[e]very weapons system that [he] has either used or trained with in the
6 United States Navy...has gone through China Lake in some fashion.” (1 R.T. 40: 6–9.)
7 Currently, it is the Navy’s “largest consolidated facility for weapons and armament
8 research, development, test, and evaluation (RDT&E)” and continues to develop advanced
9 technologies critical to national defense. (Trial Ex. 2, p. 9.) China Lake represents 85
10 percent of the landholding where all weapons testing is done in the United States Navy. (4
11 R.T. 675:8–11 (testimony of Admiral Bradley Rosen).) The research conducted at China
12 Lake is innovative and evolves because of the changing character of war, and China
13 Lake’s future water requirement may increase based on future potential geopolitical
14 events. (4 R.T. 757:14-24; 783:24-28; 784:1-9.)

15 To carry out the RDT&E mission of China Lake, a highly skilled civilian workforce
16 consisting of scientists and engineers has always been recognized as essential. (1 R.T.
17 216:10-17; 2: R.T. 354:24-28; 355:1-2.) In an early 1944 memorandum, it was observed
18 that China Lake, because of its isolated location, would “require the construction of a
19 miniature city, complete in every detail” which included “housing, and recreational options
20 as among the essential elements for recruiting and retaining civilian personnel.” (Trial Ex.
21 424, p. 49.) This founding purpose is further confirmed by the report prepared by Matthew
22 L. Boggs, which states: “Due to [China Lake’s] remote location, the Navy was required to
23 develop facilities capable of attracting national-class scientists and engineers to fulfill its
24 mission, resulting effectively in a defense-oriented ‘company town’ similar to specialized,
25 peer facilities and communities such as Los Alamos, NM.” (Trial Ex. 2, p. 9.) Copies of
26 minutes of meetings held among the Caltech scientists at China Lake in 1944 also stressed
27 the need to “[a]ttract and hold first class scientists and engineers at the station as
28 permanent station employees” to realize China Lake’s mission “in peace as well as in

1 war.” (Trial Ex. 424, p. 49.) “This meant designing and constructing...residencies,
2 commercial facilities, and recreational amenities to support the lives of that personnel and
3 their families.” (*Id.*, p. 15.) Thus, from the beginning, the Navy intended to create a self-
4 contained community at China Lake to bring together the necessary workforce.

5 In its opening trial brief, Searles asserts that the primary purpose of China Lake is
6 limited only to the brief excerpt in Public Land Order 431, which states that China Lake is
7 “reserved for the use of the Navy Department as a Naval Ordnance Testing Center and
8 proving range.” (Searles’ Brief, p. 12.) But no Court has taken such a narrow approach. To
9 identify the primary purposes for which the reservation was created, the Court “consider[s]
10 the document *and circumstances surrounding its creation*, and the history...for whom it
11 was created.” (*Colville Confederated Tribes v. Walton* (9th Cir. 1981) 647 F.2d 42, 47,
12 emphasis.) The circumstance surrounding the creation of China Lake show that it began in
13 1943 and that the purpose of the reservation included land for a company town. (4 RT
14 689:25–690:1; 4 RT 690:12–15; 6 RT 1307:23–26.) Indeed, both the Navy’s expert
15 historian, Dr. Scott Miltenberger, and Searles’ expert historian, Dr. Douglas R. Littlefield,
16 testified that China Lake was established with the purpose of creating a “company town,”
17 with permanent housing, schools, and community services for scientists, engineers,
18 administrators, and their families. Specifically, Dr. Miltenberger testified that the Navy
19 “intend[ed] to create a company town at China Lake,” “engage[d] in planning to create a
20 company town at China Lake,” and ultimately did “construct a company town at China
21 Lake.” (2 RT 295:19–296:1-2.) Dr. Littlefield agreed that China Lake “intended to be a
22 company town when it was established.” (2 RT 373:2–14.) Thus, the civilian workforce is
23 not support staff in the ordinary sense; they are scientists, engineers, and other technical
24 professionals whose work is essential to the Navy’s testing and development of advanced
25 weapons systems. Their presence, as well as that of their dependents, was anticipated and
26 expected at the time China Lake was created.

27 **D. The Amount of Groundwater Necessary to Fulfill the Primary Purposes**
28 **of China Lake Is Quantifiable by Actual Historical Use: 7,988 Acre-Feet**

1 The United States’ federal right is quantified by determining the amount of water
2 necessary to fulfill China Lake’s original purpose as a military installation and company
3 town. (*Cappaert, supra*, 426 U.S. at 138-139; *Colville Confederated Tribes v. Walton* (9th
4 Cir. 1981) 647 F.2d 42, 48 [“the purposes for which the reservation was created govern[s]
5 the quantification of reserved water”]; *In re General Adjudication of All Rights to Use*
6 *Water in Gila River System and Source* (2001) 201 Ariz. 307, 312, citing *U.S. v. New*
7 *Mexico* (1978) 438 U.S. 696, 702[federal reserved rights are “quantified to meet the
8 original, primary purpose of the reservation”].) Here, there are two methods to quantify the
9 amount of water that is necessary to fulfill China Lake’s primary purposes: (1) accounting
10 for actual historical use or (2) determining and calculating the reasonable water needs for
11 each specific use inclusive within each primary purpose.

12 **1. Federal Reserved Right Calculated by Historical Use**

13 The most straightforward method for quantifying the water needs of China Lake is
14 to simply look at China Lake’s *actual* historical use. From 1943 until 1970, Navy
15 personnel and dependents lived on the base. Therefore the amount of water used during
16 that time is representative of the Navy’s needs for the weapons research, development,
17 testing, and training itself, as well as the community necessary to carry out the mission at
18 China Lake. Historical records indicate that China Lake’s water production steadily
19 increased during the first three decades following the establishment of China Lake,
20 peaking at 7,988 acre-feet in 1970. (Trial Ex. 283, p. 7; Trial Ex. 952.) Therefore, the
21 United States is entitled to a federal reserved right of at least 7,988. That is the best
22 evidence of the precise amount of groundwater that is “necessary to fulfill the purpose of
23 the reservation, no more.” (*New Mexico, supra*, 438 U.S. at 700.) Anything less would
24 have been insufficient for the Navy’s purposes in 1970.

25 No party presented any testimony or evidence suggesting that any of the water
26 production in 1970 was used for secondary purposes. China Lake’s water production has
27 always been essential to sustaining both the weapons development, testing, and training,
28 and the community. Industrial uses include, among other things, weapons testing and

1 evaluation, aircraft maintenance energetics, cooling for rocket motor testing, aircraft
2 washdown, water brakes, and machining and chemical lab processes. (1 R.T. 76:9-16;
3 Trial Ex. 93, p. 6.) Domestic uses include potable water service to housing, schools,
4 offices, dining facilities, and other community infrastructure built specifically to support
5 the military-civilian research partnership and “moral, welfare, and recreation” activities.
6 (Trial Ex. 438, pp. 10-11, 28; Trial Ex. 93, p. 3-7; 1 R.T. 93:27-28; 94:1-17.). Further, the
7 water production in 1970 is not an outlier. Between 1960 and 1970, water production
8 averaged roughly 7,000 afy. (Trial Exs. 283, 952.) In fact, water production at China Lake
9 steadily increased as the military installation and company town came into being.

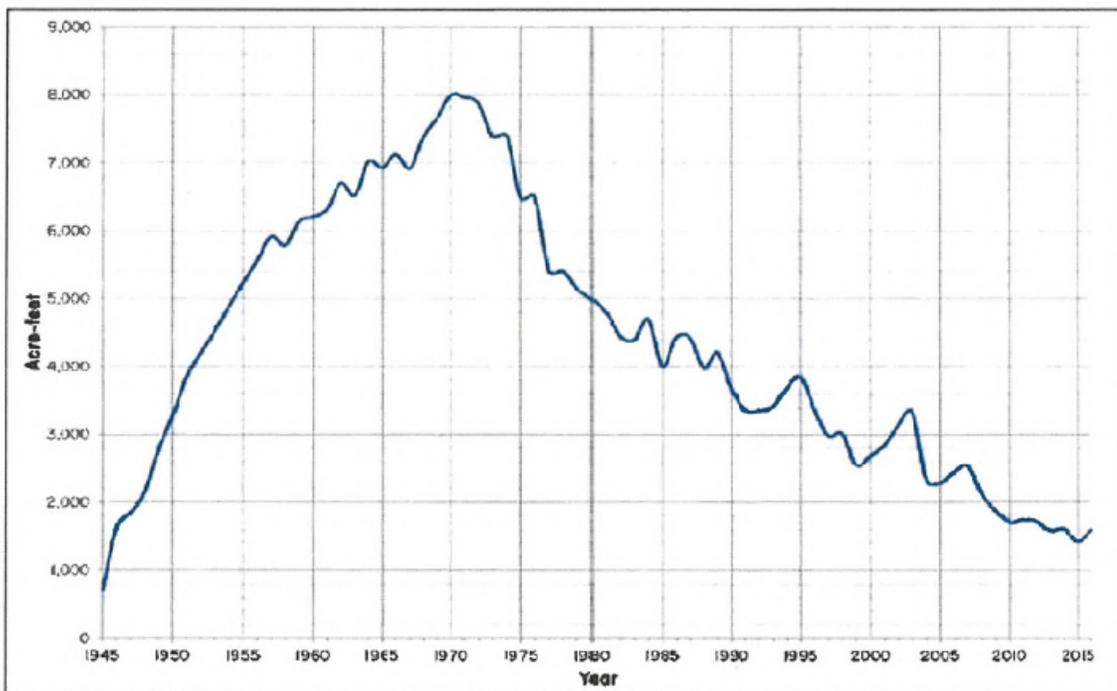


FIGURE 4. Navy Water Production: 1945 Through 2016.

23 As shown in Figure 4 of Trial Exhibit 2 above, between 1946 and 1950, water
24 production increased from 1,620 af to 3,265 af, with an average of 2,328 afy; between
25 1951 and 1960, it increased from 3,839 af to 6,211 af, with an average of 5,232 afy; and
26 between 1961 to 1970, it increased from 6,316 af to 7,988 af, with an average of 7,058 afy.
27 (Trial Ex. 2, p. 13; Trial Ex. 500, p. 115 (Appendix D-1). After 1970, water production at
28 China Lake began to decline because the Navy undertook a deliberate and gradual

1 transition of moving its residential population off-base to the surrounding community.
2 (Trial Ex. 2, pp. 11-12; Trial Ex. 424, p. 77-78; 4 RT 690:2–7.) This policy shift was
3 driven by a desire to promote development in Ridgecrest and to relieve the Navy of certain
4 municipal obligations, while still supporting its military mission (Trial Ex. 424, pp. 77-78;
5 Trial Ex. 220.). Between 1972 and 2019, the Navy reduced its on-base housing stock from
6 2,916 to 192 units. (Trial Ex. 2, p. 12.)

7 Importantly, the water needs necessary to maintain the Navy’s mission did not
8 change. The delivery of that water simply shifted from on-base systems to off-base
9 municipal providers, the largest being the Indian Wells Valley Water District. (Trial Ex. 2,
10 pp. 12, 14.) China Lake’s overall workforce and their dependents has remained roughly the
11 same over the course of the transition from on-base to off-base housing. (*Id.*, pp. 19- 23
12 [Appendix A: China Lake Navy Staffing Data].) In fact, the workforce experienced growth
13 starting in the mid-1980s. (*Ibid.*) The records indicate that the base’s employment peaked
14 in 1991 at more than 9,000 personnel with an additional 14,000 dependents (Trial Ex. 93,
15 p. 12), which was approximately 5,000 people more in total than were needed for the
16 mission in 1970 (see Trial Ex. 2, p. 22 [estimating 8,750 personnel with an additional
17 9,000 dependents in 1970]). The Navy’s federal reserved right includes the water
18 necessary to support both its on-base operations and off-base civilian community, which
19 remain essential to fulfilling its mission (Trial Ex. 2, p. 9 [albeit “personnel and
20 dependents of the Navy mission no longer live on board the base...the tie between mission
21 and staff and community remains as tightly coupled as ever”]).

22 **2. Federal Reserved Right Calculated by Reasonable Water Needs** 23 **for Each Specific Use**

24 An alternative method for quantifying the United States’ federal reserved right is to
25 determine and calculate the reasonable water needs for each specific use necessary to fulfil
26 the primary purposes of China Lake. The United States took this approach and calculated
27 its federal reserved right to be 6,783 afy. (See Trial Ex. 93, pp. 5-7, 20-28.) This primarily
28 consists of 4,103 afy for personnel and dependents (based on maximum staffing in 1991

1 and potential increases), and 1,434 for industrial uses such as “weapons testing and
2 evaluation, aircraft maintenance, energetics (e.g., explosives and propellants)
3 manufacturing and testing, rocket sled (supersonic track) testing, survivability and lethality
4 testing, target construction, operating laboratories and cooling facilities.” (*Ibid.*) The
5 remaining 1,246 afy includes, among other things, construction uses, greenspaces, and
6 moral, welfare, and recreational uses. (*Ibid.*) The Navy’s quantification of 6,783 afy is
7 conservative because it is less than the amount regularly used in the 1960s and 1970s even
8 though personnel and dependents in 1991 were over 5,000 more than in 1970. (Trial Ex.
9 283 [water usage]; Ex. 952; Ex. 2.)

10 **E. The United States’ Federal Reserved Right Applies to All of the Basin’s**
11 **Groundwater Necessary to Fulfill China Lake’s Primary Purposes;**
12 **There Is No “Appurtenance Limitation”**

13 Meadowbrook contends “[a] federal reserved water right does not extend to land or
14 groundwater pumping outside the reservation.” (Meadowbrook Opening Brief, p. 20.) That
15 is a plain misstatement of the law. “No court has ever held that the waters on which the
16 United States may exercise its reserved water rights are limited to the water within the
17 borders of a given federal reservation.” (*Katie John III, supra*, 720 F.3d at 1230.)

18 In *Katie John III*, the Ninth Circuit concluded that the Secretary of the Interior and
19 the Secretary of Agriculture (“Secretaries”) properly interpreted and applied federal
20 reserved water rights in implementing the Alaska National Interest Lands Conservation
21 Act (“ANILCA”), which provides a priority to rural Alaska residents for subsistence
22 hunting and fishing on designated “public lands.” (*Katie John III, supra*, 720 F.3d at
23 1218,1245.) The Secretaries included within the definition of “public lands” waters
24 sources that were not physically on federally reserved lands. (*Id.*, at 1221-1224.) The Ninth
25 Circuit rejected the State of Alaska’s argument that federal reserved rights exist only
26 within the borders of the federal reservations, not beyond them. (*Id.*, at 1229.) The Ninth
27 Circuit noted that there is consensus in the case law that “appurtenancy” does not mean
28 physical attachment, rather it “has to do with the relationship between reserved federal

1 land and the use of the water.” (*Id.*, at 1229-1230.) The Ninth Circuit explained that “the
2 federal reserved water rights doctrine does not typically assign a geographic location to
3 implied federal water rights. The rights are created when the United States reserves land
4 from the public domain for a particular purpose, and they exist to the extent that the waters
5 are necessary to fulfill the primary purposes of the reservation.” (*Id.*, at 1231.)

6 In *Cappaert*, the Supreme Court similarly held that federal reserved rights are not
7 limited to water within the borders of the federal reservation, and allowed the United
8 States to enjoin the Cappaert’s groundwater pumping on their ranch, located approximately
9 2.5 miles from Devil’s Hole National Monument, because it caused a decline in the water
10 levels of the pool at the national monument, endangering the pupfish living there.
11 (*Cappaert, supra*, 426 U.S. at 133-138.) Although the groundwater pumping was outside
12 the United States’ reservation, the Supreme Court reasoned that the federal reserved water
13 rights doctrine is “based on the necessity of water for the purpose of federal reservation,”
14 rather than the location of the water. (*Id.*, at 143.)

15 Meadowbrook cites to *Agua Caliente* to support its erroneous understanding of
16 “appurtenance,” but *Agua Caliente* was not an “appurtenance” case and did not hold that
17 federal reserved rights are limited to groundwater pumping within the reservation.
18 (Meadowbrook Opening Brief, p. 20.) In *Agua Caliente*, “[t]he parties d[id] not dispute
19 appurtenance, nor could they. The Coachella Valley Groundwater Basin clearly underlies
20 the Tribe’s reservation.” (*Agua Caliente, supra*, 849 F.3d at 1272, fn. 10.) The Ninth
21 Circuit correctly stated that “[a]ppurtenance...simply limits the reserved right to those
22 waters which are attached to the reservation” and therefore it necessarily follows “that the
23 government can protect the groundwater itself.” (*Agua Caliente, supra*, 849 F.3d 1262,
24 1271.) Here, the facts are similar. China Lake overlies the Basin, thus the United States’
25 federal right extends to groundwater extractions from the Basin, including those outside
26 the reservation.

27 Federal reserved rights are not confined to the footprint of the federal property.
28 Rather, it requires a functional analysis: whether the water is being used in furtherance of

1 the federal purpose for which the land was reserved. The Navy’s decision to shift that
2 population off base was not an abandonment of purpose but a mere administrative
3 evolution. In the late 1960s, the Navy determined it would be more efficient and effective
4 to support its civilian workforce by encouraging the development of surrounding
5 communities, rather than continuing to provide municipal services directly. (Trial Ex. 424,
6 pp. 77-78; Trial Ex. 220.) To now limit the Navy’s reserved right to water used strictly
7 within the base boundary would produce a perverse and unworkable result. It would mean
8 that water used for civilians living in Ridgecrest is no longer protected, not because it is
9 unnecessary, but because it is being delivered a few miles off site. If accepted, that
10 reasoning would effectively force the Navy to reverse decades of planning and policy. To
11 preserve its water right, the Navy would need to relocate thousands of civilians back onto
12 federal land, rebuild demolished housing, and re-establish full municipal services—despite
13 having already determined that such a move would be inefficient and costly. This is not
14 what the reserved rights doctrine demands.

15 The purpose of the federal reserved right is to support the reservation’s mission, not
16 to redefine or constrain that mission based on logistical choices the government has made
17 in good faith. The key question is not *where* water is used, but *whether* the use is necessary
18 to fulfill the purpose of the reservation. Here, the evidentiary record makes clear that water
19 delivered to off-base personnel, including their dependents, remains essential to the
20 purpose of China Lake. Denying that water as outside the scope of the reserved right
21 simply because decades after the reservation it is now pumped from or consumed on land
22 not titled to the United States, would elevate form over substance and frustrate the very
23 federal purpose the reserved rights doctrine is meant to protect.

24 **F. The United States’ Federal Reserved Right Is Not Limited by China**
25 **Lake’s Present and Future Uses of Groundwater**

26 Searles and Meadowbrook’s focus on China Lake’s present and future on-base
27 water needs demonstrates a fundamental misunderstanding of how federal reserved rights
28 are quantified. Searles contends that the United States’ right should be limited to 1,644 afy,

1 based on average of the water use over the past 10 years. (Searles Brief, pp. 7, 21.)
2 Meadowbrook, on the other hand, contends that “[i]t’s all about prognostications about the
3 future.” (1 R.T. 174:20-23.) Both contentions are misguided. (*See In re General*
4 *Adjudication of All Rights to Use Water In Gila River System and Source* (2012) 231 Ariz.
5 8, 13 [“the quantity of a federal reserved water right is not determined by the amount of
6 water put to beneficial use; rather, it is determined by the amount of water necessary to
7 carry out the primary purpose of the reservation”].)

8 Federal reserved rights “vest on the original date of withdrawal of the land
9 and...unlike water rights gained through prior appropriation, are not lost through non-use.”
10 (*Navajo Nation v. Department of the Interior* (9th Cir. 2017) 876 F.3d 1144, 1155.) Thus,
11 “the question is not whether water stemming from a federal right is necessary at some
12 selected point in time to maintain the reservation; the question is whether the purpose
13 underlying the reservation envisions water use.” (*Agua Caliente, supra*, 849 F.3d at 1269.)
14 Present and future water needs do not determine or inform the amount of water that was
15 envisioned by the original, primary purposes of the reservation. Quantifying the United
16 States’ federal reserved rights involves a historical, not forward-looking, analysis that
17 looks only to the purpose of preserving the needed amount of water contemplated to fulfill
18 the mission.

19 Moreover, even if this Court were to exclude from its analysis current water
20 delivered to civilians residing off base, the legal result would remain the same. The Navy’s
21 historical need for water at full mission capacity defines the scope of its federal reserved
22 right. Because that need was clearly established and because the law protects such rights
23 from erosion through non-use, the United States retains its entitlement to the full volume
24 historically required to carry out the mission at China Lake. The Court need not venture
25 into complex hypotheticals or policy speculation—the facts and the law point in only one
26 direction. The reserved right endures in its full measure.

27 **III. CONCLUSION**

28 The United States’ federal reserved right is 7,988 afy, the amount of water that has

1 been shown to be necessary to fulfill China Lake's primary purposes as a military
2 installation and company town.

3 DATED: June 30, 2025

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Mojave Pistachios, LLC; et al. v. Indian Wells Valley Groundwater Authority; et al.
Orange County Superior Court - Civil Complex Center
Case No.: 30-2021-01187275-CU-OR-CJC
Related to Case No.: 30-2021-01187589-CU-WM-CXC;
Related to Case No.: 30-2021-01188089-CU-WM-CXC;
Related to Case No.: 30-2022-01239479-CU-MC-CJC;
Related to Case No.: 30-2022-01249146-CU-MC-CJC
The Honorable William Claster, Dept. CX101

I, Marcella Correa declare:

I am a resident of the State of California and over the age of eighteen years and not a party to the within action. My business address is 1 Civic Center Circle P.O. Box 1059, Brea, California 92822. My email address is: mcorrea@rwglaw.com. On June 30, 2025, I served the within document(s) described as:

PHASE 1 CLOSING TRIAL BRIEF OF CROSS-DEFENDANTS CITY OF RIDGECREST, COUNTY OF KERN, AND THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

on the interested parties in this action as stated on the attached mailing list.

BY ELECTRONIC TRANSMISSION VIA CASE ANYWHERE.COM) Pursuant to Court’s Order authorizing Electronic Service entered on December 2, 2022. I caused a true and correct copy of the above-entitled document(s) to be electronically served through Case Anywhere at www.caseanywhere.com addressed to all parties appearing on the electronic service list for the above-entitled case. The case Anywhere electronic service transmission confirmation will be maintained with a copy of the document(s) in our office.

(BY E-MAIL) By transmitting a true copy of the foregoing document(s) to the e-mail addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 30, 2025, at San Dimas, California.



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Sepi Richardson Revocable Trust; A. Sepi
Richardson Revocable Trust

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Cross-Defendant
Owens Peak South Water Company

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Cross-Defendant
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Cross-Defendants
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Beata Dupre

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Katzenstein Family Trust

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1 Anita Fichera, Trustee
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Jack Kopol Trust

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Cross-Defendant
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Cross-Defendants
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Hansing

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Cross-Defendant
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Cross-Defendant
Arnold Lutz

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Cross-Defendant
Arnold N. Applebaum

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Cross-Defendant
Fahim Living Trust

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Cross-Defendant
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Cross-defendant
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Cross-Defendant
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Catherine H. Foster Declaration of Trust dated
May 15, 2006

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Universal Faithist of Kosmon

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Cross-Defendant
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Wendeline Panten

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Cross-Defendants
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Cross-Defendants
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Charles R. Woolery;
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Cross-defendants
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Karen Lloyd, Trustee of the Lloyd Trust

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Ann M. Long, Trustee of the Long Family
Trust;
Long Family Trust

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Cross-Defendant
Hogs Haven Water Co-Op

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Cross-defendant
Frank J. Bellino

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Terry L. Bellino

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Frank Moreno

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Gabriel Bork

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Cross-Defendants
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Cyndy Noel

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Gary D. Charlon

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Cross-Defendants
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Cross-defendants
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Revocable Living Trust dated September 28,
1990;
Carol L. Bertrand, Trustee of the George A.
Bertrand, Jr., and Carol L. Bertrand Revocable
Living Trust dated September 28, 1990

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Gerald Travers

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Cross-Defendant
Gregory L. Fearn

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Cross-Defendant
George Guy

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Cross-Defendant
Gerald Warwick, Jr.
Monica De La C

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Cross-Defendant
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Tripe J Capital

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Jeffrey M. Conaway

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Cross-Defendants
Jeffrey Hosto;
Christine Hosto

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Monache Water Co-Operative;
John O'Gara

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Cross-Defendants
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Cross-Defendant
John S. Baker

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Cross-defendant
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Cross-Defendant
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Cross-Defendant
Jonathan Phillips

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Cross-Defendants
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Kristin Bowlin

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Cross-Defendants
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Bork Family Trust

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Trust

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Cross-defendant
Hughes Michael and Mary Trust

Cross-defendant
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Cross-defendant
McDowell Family Trust

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Suzanne Ihlenfeld

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Jeter

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Cross-defendant
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October 9, 2008

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Cross-defendant
Thomas A. Ganner

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26	Ridgecrest, CA 93555	Rizzardini and Vicki Rizzardini Joint Living
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and Irene Katzenstein 2007 Trust, dated
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Trustee of the West and Irene Katzenstein 2007
Trust, Dated September 7, 2007

Cross-defendant
Bonnie Bar Water Company

Cross-defendant
William A. and Judy A. Burns Revocable
Living Trust

Cross-defendant
Lunning Associates, L.P.

Cross-defendant
Jones Mortgage Profit Sharing Plan, fbo
William L. O'Neill, Trustee

Cross-defendant
Raffaella Guastamacchio

Cross-defendant
Ronald Green, aka Green Trust dated 6/26/1989

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