

PRESS RELEASE: Mojave Pistachios Fights for Survival, Seeks to Prevent Groundwater Pumping Shutdown by IWVGA

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Jun 12, 2024, 4:35 PM
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Date: June 12, 2024

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Mojave Pistachios Fights for Survival, Seeks to Prevent Groundwater Pumping Shutdown by IWVGA



(Ridgecrest, CA) - In a high-stakes battle for its very existence, Mojave Pistachios, a 1,600 acre privately owned pistachio farming operation in eastern Kern County, is asking a California judge to prevent the Indian Wells Valley Groundwater Authority (IWVGA) from shutting off the pumps that bring groundwater to its 215,000 pistachio trees. Without this water the trees will die.

On Friday, June 14, the Superior Court of Orange County is expected to rule on whether to grant the IWVGA's motion for a preliminary injunction that, if granted, will directly cause the death of 1,600 acres of trees and shutter a locally owned, private farming operation.

Mojave Pistachios purchased and planted its land in the Indian Wells Valley (I WV) starting in 2011 and 2012, respectively, prior to implementation of the Sustainable Groundwater Management Act (SGMA) and in accordance with applicable laws and local zoning ordinances. The first commercial harvest was completed in 2020, according to a declaration by farmer Rod

Stiefvater in opposition to the injunction, and the orchards are expected to produce over 3,000,000 pounds of pistachios this year, with peak production reached in 2030.

In a series of ongoing legal battles, agriculture and business groups have argued that the IWVGA's allocation of zero native groundwater to Mojave Pistachios and the imposition of an exorbitant replenishment fee of \$2,130 per acre-foot of water is an intentional move to kill agricultural development in the valley.

Mojave Pistachios and other water users in the valley have argued the IWVGA's unprecedented replenishment fee is unjust because it will only fund the *possible* purchase of a water right entitlement, not the water importation pipeline project which is required to convey imported water into the Basin. The pipeline cannot credibly be expected to ever be financed or built considering the quarter billion-dollar price tag and the terrain and environmentally sensitive habitats it would traverse.

In spite of the question of whether the IWVGA is depriving Mojave Pistachios of its water rights, a California Court of Appeal in Orange County found that this landowner cannot challenge the (lack of) water allocation set by the IWVGA without first paying the pumping fees, which today amount to over \$30 million for just three years of irrigating the trees.

No farmer, including Mojave Pistachios, could ever pay this irrigation fee. Now, the court will decide whether to turn off the water. Turning off the pumps will mean the loss of decades of productive life of tens of thousands of trees. There will be no way to undo this decision; no remedy available to the farmer who owns dead trees.

As the court readies itself to decide the fate of Mojave Pistachios and its trees, the court must take into consideration several key facts about groundwater in the Indian Wells Valley basin taken from a series of expert legal declarations:

Representing Mojave Pistachios, Scott Slater, with Brownstein Hyatt Farber Schreck, LLP argues that it is unnecessary for the court to decide whether to stop Mojave Pistachios from maintaining its orchards because no one is being harmed by their current water use, with negligible changes in water levels at their ranch. Further, Mojave Pistachios is making great efforts to satisfy its debt to IWVGA and to propose alternative management solutions.

According to Anthony Brown of Aquilogic, the "Indian Wells Valley Groundwater Basin would not be materially harmed by the continued production of groundwater by [Mojave Pistachios] for at least the next 16 years, whereas a cessation of pumping or payment of exorbitant pumping fees would irreparably and catastrophically harm [Mojave Pistachios]."

As the IWVGA argues their views on the limit on available water, it has become evident that the modeling used for their Groundwater Sustainability Plan (GSP) is not an accurate assessment of the basin's sustainability. A new analysis by a technical working group of experienced hydrologists demonstrates there is more fresh groundwater in storage than Lake Mead and the

sustainable annual recharge is conservatively 56% higher than what IWVGA estimated and based its Replenishment Fee upon. With millions of acre-feet of freshwater available for recovery, the plan to spend hundreds of millions of dollars to build a pipeline through sensitive desert habitat is unnecessary.

In fact, if a water importation system is the goal, the IWVGA has no concrete plan. Rodney Smith, President of Stratecon Inc, says “It is completely implausible to imagine the IWVGA will be able to finance its proposed water project.” Moreover, “The IWVGA has no assured source of financing...Securing \$30 million from Mojave does nothing to solve for the more than \$150 million in additional project costs.”

“As we have offered, the bottom line is that the Court can save 1,600 acres of pistachio trees, while it continues to oversee a solution for the entire basin. For unknown reasons, the IWVGA insists on relying upon its private groundwater model to support the harshest outcomes, rather than submit to a transparent and court evaluation, using best practices. Actual data, including measured water levels tell us there is exponentially more fresh water in the basin than the IWVGA wants to admit, and no risk of harm to the basin. It is no secret the IWVGA wants to end agriculture in the valley; the retribution against farmers by the IWVGA must be stopped,” added Slater.

The plight of agriculture in IWV should serve as a warning to agricultural interests across the state. SGMA’s intent was to provide a reasonable, democratic process to address the real need to protect groundwater supplies in balance with the economic realities of farmers and other water users-over the next two decades. In the IWV, where science tells us groundwater supplies abound, agriculture is being killed on a schedule that far outpaces anything contemplated under SGMA. Experts agree there is a better way to manage groundwater in IWV that brings all interests together in a fair process that has positive outcomes for all parties- hopefully the court will grant Mojave Pistachios the right to keep their trees alive long enough to see such an outcome.

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