

**BEFORE THE BOARD OF DIRECTORS OF THE
INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**

In the matter of

Resolution No. 04-21

A RESOLUTION OF THE INDIAN WELLS VALLEY GROUNDWATER SUSTAINABILITY AUTHORITY APPROVING AND ADOPTING AN ORDER DIRECTING MOJAVE PISTACHIOS LLC AND NUGENT FAMILY TRUST TO PAY ALL OUTSTANDING REPLENISHMENT FEES ALONG WITH INTEREST AND APPLICABLE PENALTIES OR CEASE PUMPING WATER FROM THE INDIAN WELLS VALLEY GROUNDWATER

I, April Keigwin , Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following resolution, on motion of Director Peters , seconded by Chairman Hayman , was duly passed and adopted by the Board of Directors at an official meeting this 9th day of June 2021, by the following vote:

AYES: Hayman, Peters, Vallejo

NOES:

ABSENT: Rajtora

ABSTAIN: Itnyre


Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority

RESOLUTION

**THE BOARD OF DIRECTORS OF INDIAN WELLS VALLEY GROUNDWATER AUTHORITY
RESOLVES AS FOLLOWS:**

Section 1. WHEREAS the Indian Wells Valley Groundwater Authority conducted a hearing on June 9th, 2021 at the Ridgecrest City Hall located at 100 W California Ave Ridgecrest CA 93555 and reviewed all evidence presented by all interested parties.

Following this hearing the Authority finds that Mojave Pistachios LLC and Nugent Family Trust have not paid the replenishment fee as required by Ordinance Number 03-20. On that basis, the Authority finds that Mojave Pistachios LLC and Nugent Family Trust are in violation of Ordinance Number 03-20.

Section 2. THEREFORE, IT IS RESOLVED, the Indian Wells Valley Groundwater Authority approves and adopts the order attached hereto as Exhibit 1.

PASSED, APPROVED, AND ADOPTED, by the Indian Wells Valley Groundwater Authority this 9th day of June, 2021.

SIGNED:



President of the Board of Directors

ATTEST:

Resolution 04-21

EXHIBIT 1

**ORDER OF THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY DIRECTING
MOJAVE PISTACHIOS LLC AND NUGENT FAMILY TRUST TO PAY ALL
OUTSTANDING REPLENISHMENT FEES ALONG WITH INTEREST AND APPLICABLE
PENALTIES OR CEASE PUMPING WATER FROM THE INDIAN WELLS VALLEY
GROUNDWATER BASIN**

Having conducted a hearing on May 6th, 2021, continued to and concluded on June 9th, 2021, at the Ridgecrest City Hall located at 100 W California Ave Ridgecrest CA 93555 and after reviewing all evidence presented by all interested parties, the Indian Wells Valley Groundwater Authority (Authority) finds as follows:

The Authority is the groundwater sustainability agency (GSA) under the Sustainable Groundwater Management Act (SGMA), Water Code section 10720 et seq., charged with managing the Indian Wells Valley Groundwater Basin (Basin). The Basin's sustainable yield of 7,650 acre feet per year (AFY) is insufficient to meet the Basin's most minimal needs and current pumping is estimated to be roughly four times the sustainable yield. "Undesirable results" have already been observed such as infrastructure damage to high value sensitive facilities at the Naval Air Weapons Station (NAWS) China Lake, impact to groundwater dependent ecosystems, increased desertification caused by declining water tables, and jeopardy to domestic, industrial, and agricultural supplies. The State of California has determined that the Basin is currently experiencing critical overdraft and Basin modeling has shown that if the overdraft is left unchecked the Basin's infrastructure will not be able to meet the required water demands in roughly 45 years.

On August 21, 2020, the Authority adopted a Basin Replenishment Fee that provides the funding for two projects: (1) the augmentation/importation of water supplies and (2) the mitigation of damages to shallow wells which will continue to occur until augmented supplies are delivered to the basin. Augmentation projects are required as the Basin's most basic water supply needs alone exceed the Basin's safe yield. This project must be immediately funded because the Authority anticipates that demand for imported water will increase throughout the State due to drought conditions and the requirements of SGMA and so too will the price of importing water increase. If the Authority does not promptly raise revenue to secure the rights to such imported water, that cost could quickly become prohibitive.

Likewise, a shallow well mitigation program is needed immediately because it will take some time to build the required infrastructure to augment the Basin's supplies and during that time it would be impossible to reduce water supply demands to a level that does not cause impacts to shallow wells. The estimated damages that will occur without the implementation and funding of the Shallow Well Mitigation program are set forth in GSP's Shallow Well Impact Analysis. In sum, that analysis provides that without pumping changes 81 shallow wells, roughly 1 in 10, will be substantially impacted by 2030. By 2040, those impacts will increase and 31 wells, or

roughly 1 in 4 will be impacted. These shallow wells provide domestic service to an estimated total of 1,588 homes and the well repair damages alone are estimated at roughly 17.3 million dollars. Additionally, as the Basin's water levels decline even further, its anticipated that water costs would be increased substantially and permanently because of the need for additional water treatment facilities and technologies to combat worsening water quality.

Based on the foregoing the Authority finds that it is necessary to strictly enforce the Replenishment Fee to collect the money needed to promptly address these exigent water supply conditions and avoid further irreparable damage to the Basin. Notably, when compared to the long-term solution costs of imported water supplies, the alternative of continuing to overdraft the Basin without working to the solution is no longer a rational choice given the anticipated damages costs caused by the overdraft.

Based solely on the record for this hearing, the Authority finds that Mojave Pistachios LLC and Nugent Family Trust have not paid the Replenishment Fee as required by Ordinance Number 03-20. Mojave Pistachios LLC and Nugent Family Trust have self-reported to the Authority that they have pumped water without paying the required Replenishment Fee. On that basis, the Authority finds that Mojave Pistachios LLC and Nugent Family Trust are in violation of Ordinance Number 03-20.

Now therefore, based on the findings set forth above it is ordered as follows:

1. Pursuant to applicable law, Water Code section 10730.6 and Section 6 of the Indian Wells Valley Groundwater Authority Ordinance Number 03-20, Mojave Pistachios LLC and Nugent Family Trust shall cease production of all groundwater from the Indian Wells Valley Groundwater Basin until all fee payments are made current along with interest at a rate of 1% per month on the delinquent amount as well as a 10% penalty on the delinquent amount.
2. If Mojave Pistachios LLC and Nugent Family Trust continue to engage in the water production prohibited by this Order without paying replenishment fees following the effective date of this Order, legal counsel for the Authority shall initiate court proceedings to enforce this order. In addition, staff may send notice of a further hearing for the Board to consider the imposition of additional penalties pursuant to its legal authority.