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25 UNITED STATES DISTRICT COURT

26 CENTRAL DISTRICT OF CALIFORNIA - EASTERN DIVISION

27 AGUA CALIENTE BAND OF  
28 CAHUILLA INDIANS,

Plaintiff,

v.

COACHELLA VALLEY WATER  
DISTRICT, FRANZ DE KLOTZ, ED  
PACK, JOHN POWELL, JR., PETER  
NELSON, and DEBI LIVESAY, in their  
Official Capacities as Members of the  
Board of Directors of the COACHELLA

CASE NO.

13 - 00883 JGBSPX

COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

US2008 4583469 1

1 VALLEY WATER DISTRICT; DESERT  
2 WATER AGENCY; PATRICIA G.  
3 OYGAR, THOMAS KIELEY, III,  
4 JAMES CIOFFI, CRAIG A. EWING, and  
5 JOSEPH K STUART, in their Official  
Capacities as Members of the Board of  
Directors of the DESERT WATER  
AGENCY,

6 Defendants.

7  
8 Comes now the Agua Caliente Band of Cahuilla Indians ("Tribe") and shows as  
9 follows:

10 **JURISDICTION AND VENUE**

11 1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and  
12 1362 because the Tribe is a federally recognized Indian tribe and its claims arise under  
13 the Constitution, laws, and treaties of the United States.

14 2. Venue in this Court is appropriate under 28 U.S.C. § 1391(b) because the  
15 land and underlying water at issue, as well as the Defendants, are located within the  
16 Central District of California.

17 **NATURE OF THE ACTION**

18 3. This is an action to have this Court judicially recognize, declare, quantify  
19 and decree to the Tribe its prior and paramount reserved right to sufficient water  
20 underlying the Coachella Valley as is necessary to fulfill the aboriginal rights of the  
21 Tribe and its members, as well as the present and future homeland purposes of the  
22 Tribe's Reservation and to enjoin Defendants from injuring the Tribe and its members  
23 by overdrafting the Upper Whitewater and Garnet Hill sub-basins of the Coachella  
24 Valley Groundwater Basin aquifer and degrading the groundwater quality or  
25 otherwise infringing upon the Tribe's paramount reserved water rights.

**DESCRIPTION OF THE ISSUE**

4. The Cahuilla Indians, ancestors of the present day Tribe and its members, have lived in the Coachella Valley since time immemorial, and have aboriginal rights to the surface water and groundwater resources of the Valley, which they have developed and relied on for millennia for traditional cultural, domestic and agricultural subsistence purposes.

5. The Tribe's Reservation ("Reservation" or "Agua Caliente Reservation") was established on May 15, 1876 by the Executive Order of President Ulysses S. Grant from lands in the Coachella Valley which the Cahuilla Indians used and occupied since time immemorial. The Reservation was subsequently expanded through the Executive Order of President Rutherford B. Hayes of September 29, 1877 and other administrative acts. In 1896, the Secretary of the Interior started issuing patents to the Tribe declaring that the United States would hold the lands of the Reservation in trust for the Tribe as authorized by the Mission Indian Relief Act of January 12, 1891 (26 Stat. 712). Today, the Reservation exceeds 31,396 acres of land, all located within the aboriginal territory of the Tribe.

6. The establishment of the Reservation pursuant to federal law impliedly reserved to the Tribe and its members the right to surface water and groundwater sufficient to accomplish the purposes of the Reservation, including establishing a homeland for the Tribe and its members. These orders and acts acknowledged and confirmed the Tribe's preexisting rights to surface water and groundwater.

7. Under established principles of federal law, the surface and groundwater rights of the Tribe are the most senior in the Coachella Valley, predating all water rights decreed, or otherwise claimed under state law.

8. Defendants' development of the groundwater resources of the Coachella Valley has adversely affected the quantity and quality of the groundwater underlying the Coachella Valley and in particular the Agua Caliente Reservation, and thus has

1 injured and infringes upon the senior reserved rights of the Tribe, and the use and  
2 enjoyment of said rights by the Tribe and its members. This suit seeks to declare the  
3 existence of the Tribe's rights as the senior reserved rights in the Valley under federal  
4 law, to quantify said rights and to enjoin Defendants from injuring the Tribe and its  
5 members, or otherwise infringing upon their senior water rights. The suit also seeks a  
6 declaration of the Tribe's right to use pore space in the aquifer underlying the  
7 Coachella Valley to store the Tribe's federally reserved water in an amount sufficient  
8 to meet all of the Tribe's present and future reasonable needs.

### 9 PARTIES

10 9. Plaintiff Agua Caliente Band of Cahuilla Indians is a federally  
11 recognized Indian Tribe, which presently operates under a Constitution and by-laws  
12 approved by the Commissioner of Indian Affairs on April 18, 1957, as amended.

13 10. Defendant, the Coachella Valley Water District ("CVWD"), is a county  
14 water district formed in 1918 and organized pursuant to the California Water Code.  
15 CVWD's purported service area covers approximately 1,000 square miles from the  
16 San Geronio Pass to the Salton Sea, mostly within the Coachella Valley in Riverside  
17 County, California. CVWD has developed more than 100 groundwater wells in its  
18 service area, and extracts in excess of 100,000 acre feet of groundwater annually, a  
19 substantial part of which is pumped from the Upper Whitewater sub-basin of the  
20 Coachella Valley Groundwater Basin. CVWD utilizes pore space under the Agua  
21 Caliente Reservation to store imported Colorado River water, without any  
22 compensation to the Tribe. CVWD is not an arm of the State of California.

23 11. Defendants Franz De Klotz, Ed Pack, John Powell, Jr., Peter Nelson and  
24 Debi Livesay are members of the Board of Directors of Defendant CVWD and, as  
25 such, are charged with establishing CVWD policy and directing CVWD activities,  
26 including the pumping and extraction of groundwater underlying the Coachella Valley  
27 and the use of pore storage space in the aquifer underlying the Coachella Valley in a

1 manner that interferes with the Tribe's federally reserved rights. They are sued solely  
2 in their official capacities as directors of CVWD.

3 12. Defendant, the Desert Water Agency ("DWA") is an independent special  
4 district created by a special act of the California State Legislature in 1961. DWA  
5 provides water services to Palm Springs, outlying county areas, Desert Hot Springs  
6 and part of Cathedral City. DWA has developed approximately 29 wells and extracts  
7 approximately 43,000 acre feet of water annually from the Upper Whitewater and  
8 Garnet Hill sub-basins of the Coachella Valley. DWA utilizes pore space under the  
9 Agua Caliente Reservation to store imported Colorado River water, without any  
10 compensation to the Tribe. DWA is not an arm of the State of California.

11 13. Defendants Patricia G. Oygur, Thomas Kieley, III, James Cioffi, Craig A.  
12 Ewing, and Joseph K. Stuart are members of the Board of Directors of Defendant  
13 DWA and, as such, are charged with establishing DWA policy and directing DWA  
14 activities, including the pumping and extraction of groundwater underlying the  
15 Coachella Valley and the use of pore storage space in the aquifer underlying the  
16 Coachella Valley in a manner that interferes with the Tribe's federally reserved rights.  
17 They are sued solely in their official capacities as directors of DWA.

## 18 FACTS

### 19 **A. The History of the Cahuilla People and the Agua Caliente Band in the** 20 **Coachella Valley, and the Legacy of Incoming Settlers Squandering the** 21 **Land and Water Resources of the Valley**

22 14. The Cahuilla people, from whom the Agua Caliente Band members are  
23 descendant, have resided in the Coachella Valley for millennia. Prior to the arrival of  
24 non-Indians to the region and up until the Tribe's settlement on the Agua Caliente  
25 Reservation, the Tribe had an established civilization that had sustainably depended  
26 on water from the Valley's canyons, springs and aquifer for, among other things,  
27 domestic, stock watering and agricultural irrigation purposes.



1        15. The Cahuilla had good success with producing a range of grain,  
2 vegetable and fruit crops, irrigating with water drawn from the Whitewater River and  
3 its tributaries. Pacific Railroad employees investigating possible railroad routes in the  
4 early 1850s described the Cahuilla Indians in the northwestern part of the Valley  
5 raising abundant crops of corn, barley and vegetables in the vicinity of their villages.

6        16. Later reports by federal Indian agents in the Valley in the mid-1890s  
7 confirmed these substantial agricultural activities, as well as the presence of an  
8 elaborate system of irrigation ditches and dams developing the water from the Chino,  
9 Tahquitz and Andreas Canyons, three streams having their source on the eastern slope  
10 of the San Jacinto Mountains. According to a number of accounts, this included a  
11 more than one mile long irrigation conveyance ditch from Tahquitz Canyon  
12 constructed around 1830. There are undated, preserved rock-lined ditches, reservoirs,  
13 and dams in Andreas Canyon north of Andreas Creek. Hand-dug walk-in wells as  
14 deep as thirty feet were features of Cahuilla settlements in the northern half of the  
15 Valley.

16        17. In 1876, by Executive Order of President Grant, the Agua Caliente Band  
17 of Cahuilla Indians Reservation was established in the Valley on lands aboriginally  
18 occupied by the Tribe and its members. In 1877, President Hayes issued another  
19 Executive Order reserving significant additional lands for the Tribe. In 1896, the  
20 Secretary of the Interior started issuing patents to the Tribe declaring that the United  
21 States would hold the lands of the Reservation in trust for the Tribe as authorized by  
22 the Mission Indian Relief Act of January 12, 1891 (26 Stat. 712). Then in February  
23 1907, Departmental Orders added additional lands. As of today, the Reservation  
24 totals more than 31,396 acres of land.

25        18. The Reservation was established to, among other things, enable the Tribe  
26 and its members to continue to prosper and maintain a homeland. Agriculture was  
27 one of the primary purposes for which the Reservation was established. Because the  
28

1 Valley is situated in the southern California desert, sufficient water is essential to the  
2 life and prosperity of the Tribe and its members.

3 19. Non-Indian settlers moved into the Coachella Valley and began  
4 developing the water resources of the Valley. There is a history of settlers  
5 squandering land and water to the detriment of the Cahuilla people. The increase in  
6 non-Indian settlement of the region in the 1870s saw a correspondent problem with  
7 trespass and mis-appropriation of land and water from the Tribe and its members. By  
8 the 1870s, non-Indian settlers in the northern Coachella Valley, in particular, were  
9 claiming any plot of land that had a supply of water—the very lands that had been  
10 settled and occupied by Cahuilla people for centuries. Indian Special Agents at the  
11 time complained of the injustice, but little if anything was done to protect the Cahuilla  
12 people and their lands and resources.

13 20. As a result, the Tribe was impoverished, its numbers declined, and its  
14 agricultural way of life was severely compromised. An Indian Agent in the Coachella  
15 Valley wrote in 1894 that most of the Cahuilla land and water had been confiscated by  
16 non-Indian “land grabbers,” forcing many of the Indian men of working age to move  
17 away to labor for ranchers 50 to 60 miles distant. The old men and women were  
18 described by the agent as remaining home “in a condition of wretchedness, by reason  
19 of destitution, as I had never seen....I found them lying on the ground in their huts,  
20 their shoulders and sides being callous from constant contact with the hard earth.  
21 They had nothing to eat but a sort of bean, which grows in the desert, and which is  
22 pulverized by a mortar and moisturized with water....The site was pitiful in the  
23 extreme.”

24 21. Circa 1910, the United States Indian Irrigation Service (“IIS”) initiated  
25 the semblance of a systematic effort to provide the Tribe with water resource  
26 development and management assistance in support of the Tribe’s irrigation as well as  
27 household and other water needs. The IIS did ultimately construct some very limited

1 new delivery facilities and rehabilitate existing facilities on behalf of the Tribe. The  
2 Tribe's allocated share of water was inadequate, however, and, even then, the Tribe  
3 frequently received less water than promised or the water it did receive was of  
4 extremely poor quality. In the end, what IIS-driven successes there were proved too  
5 little, too late.

6 22. By this time, over 40 years after the Reservation's establishment, the  
7 Tribe was so far forcibly and effectively displaced from engaging in its own irrigation  
8 activities, and non-Indian settlement and uses of water in the area were so significant,  
9 the IIS's efforts largely failed and were ultimately abandoned.

10 23. Non-Indian settlers dominated the agricultural economy of the Valley in  
11 the first decades of the 20th Century. This domination became even more pronounced  
12 in the mid-1930s with the additional development of the region's groundwater  
13 resources through the advent of efficient electric pumps. Significant levels of  
14 groundwater pumping in the Coachella Valley began in earnest during the 1940s just  
15 after World War II, concurrent with rapid regional population growth. Between 1940  
16 and 1950 the population of Riverside County grew by over 60 percent.

17 24. Once under irrigation, the Coachella Valley became far more productive.  
18 The advent of improved water resource impoundment and irrigation system  
19 technologies led to rapid increase in regional irrigation development. Irrigation of the  
20 region's desert soils allowed for increased grain yields and, most importantly, the  
21 production of superior quality feed crops such as alfalfa hay and higher valued  
22 permanent crops, particularly citrus that benefit greatly from irrigation in terms of  
23 yield and quality.

24 **B. The California State Court Adjudication of Surface Water Rights in the**  
25 **Whitewater River**

26 25. The Whitewater River and its tributaries rise on the south and east slopes  
27 of the San Gorgonio Mountains, in the southwestern part of San Bernardino County,  
28



1 at an altitude of about 11,000 feet, and in times of extreme flood flows in a general  
2 southeasterly direction for a distance of about sixty-five miles, traversing the central  
3 part of Riverside County, and emptying into the Salton Sea.

4 26. In 1922, the Division of Water of the California Department of Public  
5 Works commenced a general stream adjudication of surface flow the Whitewater  
6 River System to determine the quantity of water that appropriators would be allowed  
7 to use. The adjudication began by collecting hydrological data on the Whitewater  
8 River system including water usage data. Engineers from the Division of Water  
9 examined water flow levels, irrigable acres, appropriation amounts, and myriad other  
10 factors in the watershed. *Report on Water Supply and Use of Water from Whitewater*  
11 *River Stream System* (November 1923)(“Whitewater Report”).

12 27. The Whitewater Report listed the United States as an appropriator for the  
13 Agua Caliente Reservation from two Whitewater River tributaries—Andreas Creek  
14 and Tahquitz Creek.

15 28. In response to the Adjudication’s commencement on June 26, 1924, the  
16 United States filed a “Suggestion” on behalf of the Tribe contesting the state court’s  
17 jurisdiction to determine the reserved water rights of the Tribe under federal law.  
18 Notwithstanding the lack of jurisdiction, the United States in the Suggestion asserted  
19 the Tribe’s interests in the water resources of the Whitewater River System, in  
20 particular Andreas and Tahquitz Creeks. *Suggestion of the United States, In The*  
21 *Matter of the Determination of the Relative Rights, Based Upon Prior Appropriation,*  
22 *of the Various Claimants to the Water of White Water River and its Tributaries, in San*  
23 *Bernardino and Riverside Counties, California*, (June 26, 1924)(“Suggestion”).

24 29. A brief “Historical Uses” section was also included in the Suggestion.  
25 Therein, the United States noted that while no records were kept of very early use of  
26 the water from Tahquitz Creek by Indians, “it is known that these lands were irrigated  
27 by them as early as 1835 and practically continuously since that time to the year

1 1914.” *Id.* at 16. Regarding Andreas Creek, the United States in the Suggestion  
2 stated that while records of early use were not available, the “water of Andreas Creek  
3 was used upon these lands by the Indians in a very early day.” *Id.* at 14.

4 30. In 1938, the Superior Court of the State of California, Riverside County,  
5 entered a Judgment in the Whitewater Adjudication. The 1938 Judgment listed the  
6 United States of America as the appropriator, on behalf of the Agua Caliente Indian  
7 Reservation, of surface water from both Andreas and Tahquitz Creeks. With respect to  
8 Andreas Creek, the U.S. was given a priority date for the appropriation of January 1,  
9 1893, and securing the use of 6.0 cfs of water throughout the entire year, as requested  
10 in the Suggestion. Regarding Tahquitz Creek, the U.S. was entitled to 4.8 cfs of water  
11 also available throughout the entire year, with a priority date of April 26, 1884. *In the*  
12 *Matter of The Determination of the Relative Rights, Based Upon Prior Appropriation,*  
13 *if the Various Claimants to the Waters of Whitewater River, its Tributaries, in San*  
14 *Bernardino & Riverside Counties, CA*, Civ. No. 18035 at 2-3 (California Superior  
15 Court, September 9, 1938) (“1938 Judgment”) at 65-66.

16 31. The United States’ Suggestion also made reference to the Tribe’s  
17 entitlement under federal law to a large additional quantity of groundwater for  
18 irrigation, domestic, and stock-watering purposes, also referencing that the United  
19 States had developed wells, pumps, canals and conduits for the purpose of delivering  
20 groundwater for those purposes. Suggestion at pp. 17-18, Paragraph X. The court did  
21 not act on these large groundwater claims, due to the Division of Water of the  
22 California Department of Public Works’ opinion that it lacked jurisdiction under the  
23 terms of applicable state law. Whitewater Report, at 3-4.

24 32. The surface rights decreed in the name of the United States in trust for  
25 the Tribe, from Andreas and Tahquitz Creeks amount to approximately 8,000 acre feet  
26 per year. The Tribe actively uses these surface water rights to replenish the  
27 groundwater underlying its Reservation lands. Defendants use this water and other

1 water in the aquifer owned by the Tribe under federal law without compensation to the  
2 Tribe.

3 **C. The Recent History and Present State of Groundwater Usage and Supply**

4 33. Outflows from the Coachella Valley Groundwater Basin aquifer have  
5 generally exceeded inflows for decades, a condition known as “overdraft.” As  
6 admitted by CVWD, the continued overdraft of the aquifer by Defendants has resulted  
7 in a substantial cumulative net loss the amount of groundwater stored in the aquifer,  
8 including the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
9 Groundwater Basin. *See, e.g.,* Coachella Valley Water Management Plan Update  
10 Draft Report (December 2010) (“2010 Draft Report”) at 4-7 – 4-8.

11 34. As admitted by CVWD, between the years of 2000 and 2009, natural  
12 recharge of the Coachella Valley Groundwater Basin aquifer by Defendants, including  
13 both natural inflows and returns from use, averaged approximately 280,000 acre feet  
14 per year according to estimates published by CVWD. *See* 2010 Draft Report at 4-11.

15 35. In addition to this natural recharge, imported water from the Colorado  
16 River has been used to artificially recharge the Coachella Valley Groundwater Basin  
17 aquifer. CVWD has indicated that during the years 2000-2009, artificial recharge via  
18 imported Colorado River water averaged an additional 51,000 acre feet per year. *See*  
19 *id.*

20 36. CVWD has stated that from 2000-2009, the average total inflows to the  
21 Coachella Valley Groundwater Basin aquifer were approximately 331,000 acre feet  
22 per year. *See id.*

23 37. Published CVWD figures indicate that groundwater pumping from the  
24 Coachella Valley Groundwater Basin aquifer averaged approximately 398,000 acre  
25 feet per year from 2000-2009. *See id.* An additional total of approximately 52,000  
26 acre feet per year were lost to evapotranspiration and subsurface outflow to the Salton  
27 Sea. *See id.*

1           38. CVWD statistics indicate that the total average annual outflows from the  
2 Coachella Valley Groundwater Basin aquifer from 2000-2009 were approximately  
3 441,000 acre feet per year. *Id.*

4           39. CVWD's published figures indicate that the average annual net loss of  
5 stored water, or overdraft, of the Coachella Valley Groundwater Basin aquifer from  
6 2000-2009 was approximately 110,000 acre feet per year. *See id.; id.* at 7-20.

7           40. Continued overdraft of the Coachella Valley Groundwater Basin aquifer,  
8 including the Upper Whitewater and Garnet Hill sub-basins, has led to and is likely to  
9 lead to a further decline in groundwater levels in parts of the Coachella Valley  
10 Groundwater Basin, subsidence, and adverse effects on groundwater quality and  
11 storage volume within the Coachella Groundwater Basin.

12           41. CVWD admits that it pumps in excess of 100,000 acre feet of water from  
13 the Coachella Valley Groundwater Basin each year, and it projects that its  
14 groundwater pumping will increase substantially in future years. *See, e.g., id.* at 4-8;  
15 Coachella Valley Water District 2009-10 Annual Review ("2010 Review") at 17;  
16 Coachella Valley Water District Urban Water Management Plan Final Report  
17 (December 2005) ("2005 Report") at 3-11.

18           42. CVWD's historical and ongoing extraction of groundwater from the  
19 Coachella Valley Groundwater Basin, including the Upper Whitewater and Garnet  
20 Hill sub-basins, has contributed to the Basin's overdraft condition.

21           43. DWA pumps approximately 43,000 acre feet of water from the Coachella  
22 Valley Groundwater Basin each year. *See* DWA Website, available at  
23 [http://www.dwa.org/index.php?option=com\\_content&view=article&id=49Itemid=37](http://www.dwa.org/index.php?option=com_content&view=article&id=49Itemid=37),  
24 last accessed on May 7, 2013.

25           44. DWA's historical and ongoing extraction of groundwater from the  
26 Coachella Valley Groundwater Basin has contributed to the Basin's overdraft  
27 condition.



1           45. Since 1973, CVWD and DWA have been using imported water from the  
2 Colorado River to “recharge” the Coachella Valley Groundwater Basin aquifer in an  
3 attempt to partially offset the damaging effects of the aquifer’s overdraft condition.  
4 *See, e.g.*, 2005 Report at 1-8.

5           46. Despite these efforts, the net amount of water stored in the Coachella  
6 Valley Groundwater Basin aquifer, including the Upper Whitewater and Garnet Hill  
7 sub-basins, continues to decline, resulting in the continuation and worsening of the  
8 overdraft condition and associated ill effects, including irreversible subsidence,  
9 decreases in groundwater quality, declining groundwater levels and increased water  
10 extraction costs.

11           47. Furthermore, the quality of the imported Colorado River water used for  
12 groundwater recharge is inferior to that of the local groundwater. In particular, the  
13 Colorado River water has a higher level of total dissolved solids (TDS) than the local  
14 groundwater. This has resulted in further degradation of groundwater quality and  
15 increasing salinity levels within the Coachella Valley Groundwater Basin aquifer,  
16 including the Upper Whitewater and Garnet Hill sub-basins, particularly in the  
17 vicinity of the recharge facilities in the northern portion of the Coachella Valley which  
18 are in close proximity to land owned by the Tribe and its members.

19           48. Population and development in the Coachella Valley have increased in  
20 recent decades and are projected to continue increasing well into the future, resulting  
21 in a projected increase in water usage and demand.

22           49. Additionally, the potential effects of climate change are predicted to  
23 decrease naturally occurring inflows into the Coachella Valley Groundwater Basin,  
24 including the Upper White water and Garnet Hill sub-basins, aquifer and threaten the  
25 availability of imported water, resulting in increased extraction of groundwater within  
26 the Basin and a corresponding exacerbation of the existing overdraft condition.



1           50. Neither CVWD nor DWA have succeeded in devising a plan to reverse  
2 the aquifer's cumulative overdraft condition while meeting current or anticipated  
3 future demands for groundwater within the Coachella Valley. Known comprehensive  
4 water planning efforts, and proposed ranges of alternatives, do not adequately address  
5 the current and future groundwater quantity and quality problems besetting the  
6 Coachella Valley.

7           51. The Tribe and its members have established a homeland in the Coachella  
8 Valley, including housing, schools, government offices, and cultural and commercial  
9 enterprises. The Tribe and its members rely on the groundwater resource to satisfy  
10 domestic, cultural, commercial, and other homeland purposes.

11           52. The increasing groundwater TDS and salinity levels, subsidence, and  
12 decreasing groundwater storage capacity present an immediate and ongoing threat of  
13 serious and irreversible injuries to the Tribe and its members.

14           53. Groundwater underlying the Reservation is in limited supply and is  
15 needed to satisfy the present and future needs of the Tribe and its members. The  
16 Defendants' withdrawal and use of the groundwater in the Upper Whitewater and  
17 Garnet Hill sub-basins of the Coachella Valley Groundwater Basins adversely injures  
18 and affects the ability of the Tribe and its members to exercise its federal reserved  
19 right to the withdrawal, use and enjoyment of that groundwater.

20           54. The groundwater underlying the Valley in the Upper Whitewater and  
21 Garnet Hill sub-basins of the Coachella Valley Groundwater Basin is the primary  
22 source of fresh water within the Reservation, and it has experienced intrusion of salt  
23 and other pollutants as a direct result of excessive pumping and reinjection without  
24 sufficient treatment activities of the Defendants. Degradation of the Valley's  
25 groundwater quality adversely injures and affects the ability of the Tribe and its  
26 members to exercise its federal reserved right to the withdrawal, use and enjoyment of  
27 that groundwater.

1           55. The Tribe has a prior and paramount ownership interest in sufficient pore  
2 space in the aquifer underlying the Coachella Valley and the Tribe's Reservation to  
3 store its federally reserved right to groundwater for all present and future purposes.

4                           **FIRST CLAIM FOR RELIEF**

5                                   **(Declaratory Relief)**

6           56. The Tribe repeats, realleges and incorporates by reference herein the  
7 allegations in paragraphs 1 through 55.

8           57. The Tribe and its members have used the land and the natural resources  
9 of the Coachella Valley, including its surface water and groundwater resources, since  
10 time immemorial and possess aboriginal title to said land and resources that predates  
11 the formation of the United States.

12           58. By virtue of its aboriginal title to the lands and resources of the Coachella  
13 Valley, the Tribe is entitled to a declaration that its aboriginal rights to groundwater  
14 from the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
15 Groundwater Basin exist in an amount sufficient to meet the aboriginal uses of the  
16 Tribe and its members.

17           59. The Tribe is entitled to a declaration that its rights to groundwater have a  
18 priority date of time immemorial, and that its rights are the senior, prior and  
19 paramount water right to Defendants' state law based water rights.

20           60. The Tribe is entitled to a declaration that Defendants' past and continued  
21 overdraft of the Upper Whitewater and Garnet Hill Sub-basins of the Coachella Valley  
22 Groundwater Basin aquifer necessarily and impermissibly interferes with the Tribe's  
23 aboriginal groundwater rights and its ability to use and enjoy those rights.

24           61. The Tribe and its members have used the land and the natural resources  
25 of the Coachella Valley, including its surface water and groundwater resources, since  
26 time immemorial. The Executive Orders of 1876 and 1877, as well as other  
27 administrative actions, reserved for the Tribe the land comprising the current Agua

1 Caliente Reservation and its resources and impliedly reserved to the Tribe and its  
2 members the right to water sufficient to accomplish the homeland purposes of the  
3 Reservation. The implied reservation of the right to water applies to groundwater as  
4 well as surface water.

5 62. The Tribe is entitled to a declaration that it possesses groundwater rights  
6 from the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
7 Groundwater Basin aquifer in sufficient quantities to foster, promote, and fulfill the  
8 homeland purposes for which the lands of the Tribe's Reservation were set aside for  
9 the Tribe and its members, both for all present and future purposes.

10 63. The Tribe is entitled to a declaration that its rights to groundwater from  
11 the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
12 Groundwater Basin have a priority date of time immemorial and no later than the  
13 Executive Orders of 1876-1877, and that its rights are the senior, prior and paramount  
14 water right in the Coachella Valley to Defendants' state law based water rights.

15 64. The Tribe is entitled to a declaration that Defendants' continued overdraft  
16 of the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
17 Groundwater Basin aquifer necessarily and impermissibly interferes with the Tribe's  
18 reserved federal groundwater rights and its ability to use and enjoy those rights.

19 65. The Tribe is entitled to a declaration that recharge of the Upper  
20 Whitewater and Garnet Hill sub-basins of the Coachella Valley Groundwater Basin  
21 aquifer with imported water of a quality that is inferior to the pre-existing  
22 groundwater in the aquifer degrades groundwater quality within the Coachella Valley  
23 and that such degradation of groundwater quality necessarily and impermissibly  
24 interferes with the Tribe's federal reserved groundwater rights and its ability to use  
25 and enjoy those rights.

26 66. The Tribe is entitled to a declaration that it has a prior and paramount  
27 ownership interest in sufficient pore space in the Groundwater Basin aquifer

1 underlying the Coachella Valley and the Tribe's Reservation to store its Federally  
2 reserved right to groundwater for all present and future purposes.

### 3 **SECOND CLAIM FOR RELIEF**

#### 4 **(Injunctive Relief)**

5 67. The Tribe repeats and realleges and incorporates by reference herein the  
6 allegations in paragraphs 1 through 66.

7 68. In furtherance of the Tribe's request for Declaratory Relief, the Tribe also  
8 seeks permanent injunctive relief to protect its federal reserved groundwater rights.

9 69. CVWD and DWA pump water unrestrained from the groundwater Upper  
10 Whitewater and Garnet Hill sub-basins underlying the Coachella Valley and the  
11 Tribe's Reservation. Withdrawal of groundwater by the Defendants from the aquifer  
12 underlying the Coachella Valley, and the Tribe's Reservation, has harmed and  
13 continues to cause irreparable harm to the Tribe and its members, by infringing upon  
14 the ability of the Tribe and its members to effectively utilize their federally reserved  
15 and protected right to that groundwater.

16 70. The pollution of the groundwater in the aquifer due to the reinjection of  
17 low quality Colorado River water has infringed and continues to infringe upon the  
18 ability of Tribe and its members to exercise effectively their federally reserved and  
19 protected right to that groundwater thereby causing and continuing to cause  
20 irreparable harm to the Tribe and its members.

21 71. The increasing groundwater TDS and salinity levels, subsidence and  
22 decreasing groundwater storage capacity associated with the continuing overdraft of  
23 the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
24 Groundwater Basin aquifer and the injection of inferior quality imported water into  
25 the aquifer present an immediate and ongoing irreparable harm to the Tribe, its  
26 members and the public.

1           72. The Tribe seeks a permanent injunction enjoining the Defendants from  
2 withdrawing groundwater from the Upper Whitewater and Garnet Hill sub-basins of  
3 the Coachella Valley Groundwater Basin underlying the Coachella Valley and the  
4 Tribe's Reservation in conflict with the rights of the Tribe and its members as  
5 declared and decreed by this Court.

6           73. The Tribe seeks a permanent injunction enjoining the continuing  
7 overdraft of the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
8 Groundwater Basin aquifer by Defendants.

9           74. The Tribe seeks a permanent injunction enjoining the recharge of the  
10 Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley Groundwater  
11 Basin aquifer with imported water of a quality that is inferior to the pre-existing  
12 groundwater in the aquifer without first treating the water.

13           75. The Tribe seeks a permanent injunction enjoining Defendants from  
14 infringing upon the Tribe's superior, prior and paramount ownership interest in  
15 sufficient pore space in the Groundwater Basin aquifer underlying the Coachella  
16 Valley and the Tribe's Reservation to store its Federally reserved right to groundwater  
17 for all present and future purposes.

18           76. The equities and public interest weigh in favor of the Tribe's requests for  
19 injunctive relief.

20           **WHEREFORE**, the Tribe prays and demands an order from this Court that:

21           1. Declares that the Executive Orders of 1876 and 1877 and other federal  
22 actions impliedly reserved the right to the groundwater underlying the Reservation in  
23 an amount sufficient to foster, promote, and fulfill the purposes for which the lands of  
24 the Reservation are set aside for the Tribe and its members;

25           2. Further declares that the Tribe has aboriginal rights to groundwater from  
26 the Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
27



1 Groundwater Basin in the Coachella Valley in an amount sufficient to meet and  
2 provide for the aboriginal uses of the Tribe and its members;

3 3. Further declares that the priority date of the Tribe's groundwater rights  
4 from Upper Whitewater and Garnet Hill sub-basins of the Coachella Valley  
5 Groundwater Basin is time immemorial, or at the very latest that the priority date of  
6 the Tribe's rights is no later than the Executive Orders of 1876, and 1877;

7 4. Further declares that Defendants' overdraft of the Upper Whitewater and  
8 Garnet Hill sub-basins of the Coachella Valley Groundwater Basin aquifer necessarily  
9 and impermissibly interferes with the Tribe's groundwater rights and its ability to use  
10 and enjoy those rights;

11 5. Further declares that the intentional introduction into the Upper  
12 Whitewater and Garnet Hill sub-basins of the Coachella Valley Groundwater Basin  
13 aquifer of imported water that is untreated and of lower quality than the pre-existing  
14 groundwater, and the resultant degradation of groundwater quality in and underneath  
15 the Coachella Valley, constitutes an impermissible interference with the Tribe's  
16 groundwater rights and its ability to use and enjoy those rights;

17 6. Quantifies the Tribe's rights to groundwater from the Upper Whitewater  
18 and Garnet Hill sub-basins of the Coachella Valley Groundwater Basin underlying the  
19 Coachella Valley in an amount necessary and sufficient to satisfy, foster, and promote  
20 the homeland purposes of the Tribe's Reservation;

21 7. Enjoins Defendants from withdrawing groundwater from the Upper  
22 Whitewater and Garnet Hill sub-basins of the Coachella Valley Groundwater Basin  
23 underlying the Coachella Valley and the Tribe's Reservation in conflict with the rights  
24 of the Tribe and its members as declared and decreed by this Court;

25 8. Enjoins the Defendants from overdrafting the Upper Whitewater and  
26 Garnet Hill sub-basins of the Coachella Valley Groundwater Basin aquifer;

1           9.     Enjoins the Defendants from injecting into the Upper Whitewater and  
2 Garnet Hill sub-basins of the Coachella Valley Groundwater Basin water of a quality  
3 that is inferior to the pre-existing groundwater in the aquifer without first treating the  
4 water;

5           10.    Enjoins the Defendants from using pore space underlying the Coachella  
6 Valley and the Tribe's Reservation in conflict with the rights of the Tribe and its  
7 members as declared and decreed by this Court;

8           11.    Awards such other and further relief as may be deemed just and proper;

9           12.    Awards attorney's fees and costs; and

10          13.    Retains this Court's jurisdiction for purposes of enforcement of its decree.

11  
12 Dated: May 14, 2013

By



Emil W. Herich  
Keith M. Harper  
Catherine F. Munson  
Robert Harmala  
KILPATRICK TOWNSEND & STOCKTON LLP  
Steven C. Moore  
Heather Whiteman Runs Him  
NATIVE AMERICAN RIGHTS FUND  
Attorneys for *Plaintiff*  
Agua Caliente Band Of Cahuilla Indians

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

Agua Caliente Band of Cahuilla Indians

Plaintiff(s)

v.

Coachella Valley Water District,

Defendant(s)

(see attached)

ED CV 13 - 00883

JGB

SPx

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) F. Thomas Kielely III  
1200 Gene Autry Trail South  
Palm Springs, CA 92264

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Emil Herich  
Kilpatrick Townsend & Stockton, LLP  
9720 Wilshire Blvd PH  
Beverly Hills, CA 90212

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

TERRY NAFISI

CLERK OF COURT

L. MURRAY

Signature of Clerk or Deputy Clerk



(1134)

MAY 14 2013

Date: \_\_\_\_\_

1 EMIL W. HERICH (CA Bar No. 116783)  
 2 Kilpatrick Townsend & Stockton LLP  
 3 9720 Wilshire Boulevard, PH  
 4 Beverly Hills, CA 90212  
 Telephone: (310) 777-3730  
 Fax: (310) 860-0363

5 KEITH M. HARPER (D.C. Bar No. 451956) (*pro hac vice* application to be filed)  
 6 CATHERINE F. MUNSON (D.C. Bar No. 985717) (*pro hac vice* application to be  
 filed)  
 7 ROBERT HARMALA (CA Bar No. 176256)  
 Kilpatrick Townsend & Stockton LLP  
 8 607 14<sup>th</sup> Street, N.W.  
 Washington, D.C. 20005  
 9 Telephone: (202) 508-5800  
 10 Fax: (202) 505-5858

11 STEVEN C. MOORE (CO Bar No. 9863) (*pro hac vice* application to be filed)  
 12 HEATHER WHITEMAN RUNS HIM (NM Bar No. 15671) (*pro hac vice* application  
 to be filed)  
 13 Native American Rights Fund  
 14 1506 Broadway  
 Boulder, CO 80302  
 Telephone: (303) 447-8760  
 15 Fax: (303) 443-7776

16 Attorneys for Plaintiff

17  
 18 UNITED STATES DISTRICT COURT BY FAX  
 19 CENTRAL DISTRICT OF CALIFORNIA - EASTERN DIVISION

20 AGUA CALIENTE BAND OF  
 21 CAHUILLA INDIANS,

22 Plaintiff,

23 v.

CASE NO.

COMPLAINT FOR  
 DECLARATORY AND  
 INJUNCTIVE RELIEF

24 COACHELLA VALLEY WATER  
 25 DISTRICT, FRANZ DE KLOTZ, ED  
 26 PACK, JOHN POWELL, JR., PETER  
 27 NELSON, and DEBI LIVESAY, in their  
 Official Capacities as Members of the  
 Board of Directors of the COACHELLA

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

US2008 4583469 1

FREE PAID

5/21  
 L#

1 VALLEY WATER DISTRICT; DESERT  
2 WATER AGENCY; PATRICIA G.  
3 OYGAR, THOMAS KIELEY, III,  
4 JAMES CIOFFI, CRAIG A. EWING, and  
5 JOSEPH K. STUART, in their Official  
Capacities as Members of the Board of  
Directors of the DESERT WATER  
AGENCY,

6 Defendants.

7  
8 Comes now the Agua Caliente Band of Cahuilla Indians ("Tribe") and shows as  
9 follows:

10 **JURISDICTION AND VENUE**

11 1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and  
12 1362 because the Tribe is a federally recognized Indian tribe and its claims arise under  
13 the Constitution, laws, and treaties of the United States.

14 2. Venue in this Court is appropriate under 28 U.S.C. § 1391(b) because the  
15 land and underlying water at issue, as well as the Defendants, are located within the  
16 Central District of California.

17 **NATURE OF THE ACTION**

18 3. This is an action to have this Court judicially recognize, declare, quantify  
19 and decree to the Tribe its prior and paramount reserved right to sufficient water  
20 underlying the Coachella Valley as is necessary to fulfill the aboriginal rights of the  
21 Tribe and its members, as well as the present and future homeland purposes of the  
22 Tribe's Reservation and to enjoin Defendants from injuring the Tribe and its members  
23 by overdrafting the Upper Whitewater and Garnet Hill sub-basins of the Coachella  
24 Valley Groundwater Basin aquifer and degrading the groundwater quality or  
25 otherwise infringing upon the Tribe's paramount reserved water rights.



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**I. (a) PLAINTIFFS** ( Check box if you are representing yourself ☐ )

Agua Caliente Band of Cahuilla Indians

**DEFENDANTS** ( Check box if you are representing yourself ☐ )

Coachella Valley Water District (CVWD), Franz De Klotz, Ed Pack, John Powell, Jr., Peter Nelson, and Debi Livesay, in their official capacities as directors of CVWD, Desert Water Agency (DWA), Patricia G. Oygar, Thomas Kieley, III, James Cioffi, Craig A. Ewing, and Joseph K. Stuart, in their official capacities as directors of DWA.

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Emil W. Herich, Kilpatrick Townsend & Stockton LLP, 9720 Wilshire Blvd., Penthouse Suite, Beverly Hills, CA 90212 (310) 777-3730 (CSB 116783)  
 Keith M. Harper & Catherine F. Munson, Kilpatrick Townsend & Stockton LLP, 607 14th St. NW, Washington, D.C. 20005, (202) 508-5800 (pending pro hac vice)

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Unknown.

**II. BASIS OF JURISDICTION** (Place an X in one box only.)☐ 1. U.S. Government Plaintiff☒ 3. Federal Question (U.S. Government Not a Party)☐ 2. U.S. Government Defendant☐ 4. Diversity (Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES**-For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant)

Citizen of This State

PTF

DEF

Incorporated or Principal Place of Business in this State

PTF

DEF

Citizen of Another State

1

2

Incorporated and Principal Place of Business in Another State

4

5

Citizen or Subject of a Foreign Country

2

3

Foreign Nation

5

6

**IV. ORIGIN** (Place an X in one box only.)☒ 1. Original Proceeding☐ 2. Removed from State Court☐ 3. Remanded from Appellate Court☐ 4. Reinstated or Reopened☐ 5. Transferred from Another District (Specify)☐ 6. Multi-District Litigation**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION** under F.R.Cv.P. 23: ☐ Yes ☒ No☐ **MONEY DEMANDED IN COMPLAINT:** \$**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
The Plaintiff seeks a declaration of its senior water rights and pore space storage rights, a declaration that the Defendants have unlawfully interfered with those rights, and a permanent injunction of Defendants' interference with Plaintiff's rights.**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> Habeas Corpus: 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b>	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 535 Death Penalty	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> Other: 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 690 Other	<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<b>FORFEITURE/PENALTY</b>	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	
			<input type="checkbox"/> 448 Education		

FOR OFFICE USE ONLY: Case Number:

**ED CV 13****- 00883****JGB****SPX**

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

**MAY 14 2013**

## UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

## CIVIL COVER SHEET

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☐ NO ☒ YES

If yes, list case number(s): EDCV05-626-VAP (SGLx)

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**NOTE: In land condemnation cases, use the location of the tract of land involved.**

<b>County in this District:*</b>	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	

\*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

**X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):** End W. Idem DATE: 5/14/2013

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Jesus Bernal and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

**EDCV13- 883 JGB (SPx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☒ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.