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INDIAN WELLS VALLEY WATER DISTRICT

Exempt From Fees Per Govt. Code § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

MOJAVE PISTACHIOS, LLC; et al.,

Plaintiffs,

v.

INDIAN WELLS VALLEY WATER DISTRICT; et al.,

Defendants.

INDIAN WELLS VALLEY WATER DISTRICT,

Case No. 30-2021-01187275-CU-OR-CJC
[*Indian Wells Valley Groundwater Adjudication*]

Assigned For All Purposes To:
The Honorable William Claster, Dept. CX101

TECHNICAL WORKING GROUP PARTIES' OBJECTION TO STATE WATER RESOURCES CONTROL BOARD'S SPECIAL MASTER CANDIDATE FOR PHASE 2 TRIAL RECOMMENDATION ON SAFE YIELD

RELATED TO ROA 1959, 2122

Complaint Filed: November 19, 2019
Phase 1 Trial Date: April 28, 2025
Phase 2 Trial Date: June 8, 2026

Cross-Complainant,

v.

ALL PERSONS WHO CLAIM A RIGHT TO EXTRACT GROUNDWATER IN THE INDIAN WELLS VALLEY GROUNDWATER BASIN NO. 6-54 WHETHER BASED ON APPROPRIATION, OVERLYING RIGHT, OR OTHER BASIS OF RIGHT, AND/OR WHO CLAIM A RIGHT TO USE OF STORAGE SPACE IN THE BASIN; et al.,

Cross-Defendants.

SEARLES VALLEY MINERALS INC.,

Cross-Complainant,

v.

ALL PERSONS WHO CLAIM A RIGHT TO EXTRACT GROUNDWATER IN THE INDIAN WELLS VALLEY GROUNDWATER BASIN NO. 6-54 WHETHER BASED ON APPROPRIATION, OVERLYING RIGHT, OR OTHER BASIS OF RIGHT, AND/OR WHO CLAIM A RIGHT TO USE OF STORAGE SPACE IN THE BASIN; et al.,

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The Indian Wells Valley Water District ("District"), Searles Valley Minerals Inc.[1] ("Searles"), and the Meadowbrook Dairy entities[2] (collectively, "TWG Parties") respectfully object to Samuel Boland-Brien—the candidate recommended by the State Water Resources Control Board ("State Board")—serving as the special master for the phase 2 trial.

The TWG Parties have proposed three qualified candidates, while the Indian Wells Valley Groundwater Authority ("IWVGA"), the City of Ridgecrest ("City"), and the United States have proposed none. Given the absence of agreement among the parties and the TWG Parties' objection to Mr. Boland-Brien, the TWG Parties respectfully request the Court appoint one of the three candidates proposed by the TWG Parties.

I. INTRODUCTION

The Court has determined it will appoint a special master to review the Phase 2 Trial record and recommend his or her best estimate of the safe yield for the Indian Wells Valley Groundwater Basin ("Basin"). The recommendation will include "identifying the evidentiary basis" and "citing to principal testimony, evidence, assumptions, methodologies, and factual findings relied upon." Although the Court will retain "exclusive authority to determine all factual and legal issues," the neutrality of the special master is vital. (Order Requesting the State Water Resources Control Board to Recommend Special Master Candidates (C.C.P. § 845(c)) (ROA 2109), PDF p. 6.)

The TWG Parties' objections are deliberately focused. They do not rest solely on Mr. Boland-Brien's employment by the State Board, his general experience implementing SGMA, or

[1] On October 21, 2026, Searles moved this Court to substitute 5E SVM Operations Company, LLC ("5E") for Searles for all purposes in this action and related cases. On October 1, 2026, Searles and 5E entered into a Water Assets Assignment Agreement whereby Searles assigned and transferred all of its water rights, including those water rights in the Indian Wells Valley Groundwater Basin, to 5E. The United States Bankruptcy Court for the District of Delaware approved the sale by order entered September 21, 2026, in Case No. 26-10966-BLS. Searles' undersigned legal counsel will continue to represent 5E in this action. A hearing is set on Searles' motion for substitution on November 20, 2026. Until that motion is resolved, Searles remains the named party in all filings in this action.

[2] Meadowbrook Dairy Real Estate, LLC, a California Limited Liability Company; Big Horn Fields, LLC, a California Limited Liability Company; Brown Road Fields LLC, a California Limited Liability Company; Highway 395 Fields, LLC, a California Limited Liability Company; and The Meadowbrook Mutual Water Company, a California corporation (collectively, "Meadowbrook").

policy views held by State Board personnel. Nor do the objections rely solely on technical disagreement, standing alone, as bias. The objections are based on concrete, candidate-specific contact with the Basin, and on material unanswered questions concerning the process that resulted in Mr. Boland-Brien as the State Board's only recommended candidate.

The State Board's recommendation identifies no candidate pool, candidate screeners, comparative selections criteria, a protocol that was used to identify and evaluate possible conflicts of interest, or any process that was used to determine whether candidates had conducted prior work in connection with the Basin, including whether the candidate had communicated with any of the parties. (See Request for Judicial Notice ("RJN"), Exh. A.) These omissions matter because California law disqualifies any person with a nexus to the matter being decided. A neutral decisionmaker must be free from any interest in the case, prior opinions about any disputed matter in the case, personal knowledge of disputed facts, and any circumstances that may shed reasonable doubt as to the decisionmaker's impartiality. (See Code Civ. Proc., §§ 641, subds. (e)–(g), 170.1, subds. (a)(1)(A), (a)(2)(C), (a)(6)(A)(iii); Cal. Rules of Court, rule 3.924; Code Jud. Ethics, canon 6D(3), 6D(5).)

Substantial evidence disqualifies Mr. Boland-Brien from serving as the special master.

First, in March 2017, while Mr. Boland-Brien managed the State Board's Groundwater Management Program, Meadowbrook sent him a detailed request for assistance concerning the SGMA process for the Basin, exclusion of private pumpers from that process, and disputed technical claims that the Basin was being pumped three to four times its safe yield. Mr. Boland-Brien never responded to Meadowbrook. (Declaration of Anita Imsand ("Imsand Decl."), ¶¶ 2–3, Exh. C.)

Second, in December 2020, the State Board submitted a technical comment letter concerning the Indian Wells Valley Groundwater Sustainability Plan. The letter was not written by or directed to Mr. Boland-Brien; however, the letter itself confirms that the State Board personnel who authored the letter consulted with the Division of Water Rights in preparing those comments. (RJN, Exh. D, p. 1.) At that time, Mr. Boland-Brien supervised technical staff in the Division of Water Rights as its Supervising Water Resources Control Engineer. (RJN, Exh. A, p. 2.)

Third, in January 2025, a lobbyist for the Indian Wells Valley Groundwater Authority ("IWVGA") sent an email to California legislative staff seeking an author for proposed legislation that would later become Assembly Bill 1413. AB 1413 would have prohibited courts from establishing a basin's safe yield that exceeds the sustainable yield determined in that basin's GSP. (Assem. Bill No. 1413 (2025–2026 Reg. Sess.) as amended Jun. 30, 2025, §§ 1(d), 9.) The lobbyist's letter represented that the State Board, among others, had "worked with IWVGA on language" for the "IWVGA-sponsored proposal" and saw it "as a solution to the problem" of adjudications interfering with SGMA. (Declaration of James A. Worth ("Worth Decl."), ¶¶ 2–5, Exh. B.)

Finally, the State Board attorney who signed and submitted Mr. Boland-Brien's recommendation previously testified publicly before the State Senate Committee on Natural Resources and Water, where she questioned the propriety of a court determining a basin's safe yield that differs from the sustainable yield determined in that basin's GSP. (Informational Hearing, Sen. Comm. on Natural Resources & Water, Mar. 11, 2025, 56:25–58:09, 59:19–1:00:20, available at https://www.senate.ca.gov/media-archive?page=7 (last visited Oct. 7, 2026).)

These combined circumstances disqualify Mr. Boland-Brien. They identify specific conflict issues involving prior Basin contact, possible same-matter technical participation, extra-record knowledge, a lack of independence in the selection process, and even raise the risk of whether the candidate could become a percipient witness in these or other proceedings concerning the Basin. Nothing requires the Court to accept Mr. Boland-Brien. The least disruptive course is to select a qualified person who has no prior Indian Wells Valley involvement. At a minimum, the Court should defer appointment and obtain recommendations from the parties.

II. RELEVANT BACKGROUND

A. The State Board Provided a "List" of One Candidate.

On July 31, 2026, the Court entered an order requesting the State Board to recommend special master candidates. The order indicated that the Court "will be appointing a special master who will be asked to recommend to the Court his or her best estimate of safe yield for the Basin, including identifying the evidentiary basis for his or her recommendation and citing to principal

testimony, evidence, assumptions, methodologies, and factual findings relied upon in making his or her recommendation." (7/31/26 Order, PDF p. 6.) Citing Code of Civil Procedure section 845(c), the order requested the State Board to submit "a list of candidates ('Candidates List') that the State Board recommends for appointment as a special master to assist the Court." (*Ibid.*)

In response to the Court's order, the State Board submitted a September 3, 2026 letter recommending one candidate, while acknowledging that the Court requested "a list of 'candidates' (plural)." (RJN, Exh. A, p. 1.) The State Board recommended Samual Boland-Brien "after careful consideration of expertise and objectivity, as well as [the author's] personal knowledge of the candidate's reputation, qualifications, and willingness to take on the task." (*Ibid.*) According to the State Board, Mr. Boland-Brien is "in the Administrative Hearings Office (AHO)," which is "an independent unit of the [State] Board created in 2019 to conduct neutral, fair and efficient hearings on water-right matters." (*Ibid.*)

Notably, the State Board's letter does not identify other candidates considered, the people who screened candidates, the selection criteria, a protocol that was used to identify and evaluate possible conflicts of interest, or any process that was used to determine whether candidates had conducted prior work in connection with the Basin, including prior communications with any of the parties. (See *ibid.*)

B. The Court Contemplated a Comparative, Referee-Style Candidate Process.

As the Court indicated at trial, "I think ultimately if you can't agree, I'll probably request three names from each of you, and we'll figure out as we would with a referee, maybe I'll have you rank them and we'll see where we go from there." (Declaration of Douglas J. Evertz ("Evertz Decl."), ¶ 4, Exh. I [10 Reporter's Transcript of Phase 2 Trial 2183:15–18].) That contemplated process is consistent with the Court's later request for a list of candidates and with the need to compare technical qualifications, judicial-process experience, conflicts, and prior Basin involvement.

III. GOVERNING LAW

A. Code of Civil Procedure Section 845 Preserves the Court's Exclusive Control Over Selection of a Special Master; the State Board's Recommendation is Advisory Only.

The Court "may appoint one or more special masters whose duties may include . . . [i]nvestigating technical and legal issues . . . , [c]onducting joint factfinding . . . , and [p]erforming other tasks the court deems appropriate." (Code Civ. Proc., § 845, subd. (a).) To assist the Court in identifying a special master, the Court "may request" the State Board or DWR "to recommend candidates for appointment as a special master or to review the qualifications of candidates." (Code Civ. Proc., § 845, subd. (c).)

The language in section 845 is discretionary. The Court "may" appoint a special master, and the Court "may" request a recommendation from the State Board or DWR. Regardless, section 845 preserves the Court's exclusive, independent control over the selection of a special master. Nothing in section 845 makes a recommendation from the State Board or DWR presumptively correct.

Here, section 845 recognizes the Court's discretion to request special master candidate recommendations from the State Board; it does not require acceptance of the only name provided. The Court has full discretion to decline the State Board's recommended candidate; nothing obligates the Court to appoint him as the special master.

B. California's Referee and Judicial-Disqualification Rules Supply Persuasive Neutrality Benchmarks.

Section 641 permits any party to object to a proposed referee who has an interest in the event or main question involved in the action, has formed or expressed an unqualified opinion as to the merits of the action, or has a state of mind evincing enmity against or bias toward a party. (Code Civ. Proc., § 641, subds. (e)–(g).) Likewise, section 170.1 disqualifies any judge where he or she has "personal knowledge of disputed evidentiary facts concerning the proceeding;" he or she served as an officer of a public agency that is a party to the proceeding and personally advised the public agency concerning the factual or legal issues in the proceeding; or a "person aware of the facts

might reasonably entertain a doubt that the judge would be able to be impartial." (Code Civ. Proc., § 170.1, subds. (a)(1)(A), (a)(2)(C), (a)(6)(A)(iii).)

Moreover, the rules governing court-ordered referees impose additional requirements to ensure a referee's neutrality. A "referee must certify in writing that he or she consents to serve as provided in the order of appointment and is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and with the California Rules of Court." (Cal. Rules of Court, rule 3.924(a)(1).) A referee must also make certain disclosures to the parties, including disclosures regarding any "significant personal or professional relationship the referee has or has had with a party, attorney, or law firm in the current case." (Cal. Rules of Court, rule 3.924(b); see Code Jud. Ethics, canon 6D(3), 6D(5).)

C. Due Process Requires a Reasonably Impartial, Noninvolved Reviewer.

Generally, administrative adjudicators are presumed impartial absent a financial or other personal interest. Violation of due process can be demonstrated not only by proof of actual bias, but also by showing a particular combination of circumstances creating an unacceptable risk of bias. (*Morongo Band of Mission Indians v. State Wat. Res. Control Bd.* (2009) 45 Cal.4th 731, 737, 741; e.g., *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 483–485 [unacceptable probability of bias when decisionmaker advocated against the very project later under consideration].) The combination of functions within a single agency is not, by itself, disqualifying, provided the agency maintains case-specific internal separation between advocates and decision makers. (*Morongo*, *supra*, at pp. 737–741.) However, when the same individual within an agency served as investigator in a matter, and is then assigned to decide it, disqualification of that individual is required. (See Gov. Code, §§ 11425.10, subds. (a)(4), (a)(5), 11425.30, subd. (a), 11425.40, subds. (a), (b), 11512, subd. (c).)

IV. ARGUMENT: GROUNDS FOR OBJECTION

A. The State Board Provided Very Limited Information about Mr. Boland-Brien and Nothing to Demonstrate his Neutrality.

Mr. Boland-Brien appears deeply rooted in the State Board's administration of SGMA. His résumé, included with the State Board's letter, identifies him as "a licensed civil engineer" with a

focus on "hydrology, groundwater management, and quasi-adjudicative proceedings." (RJN, Exh. A, p. 2.) He does not identify as a hydrologist, hydrogeologist, or groundwater modeler. Instead, he has "14 years of experience in water rights administration." (*Ibid.* [emphasis added].) He has spent his entire career at the State Board, including as "leader of the program responsible for implementing the State [] Board's role in SGMA." (*Ibid.*)

The State Board also offers no information supporting Mr. Boland-Brien's neutrality. Neither his résumé nor the State Board's letter discloses his contact with parties to this case; communications between the State Board and any party to this case regarding the Basin; Mr. Boland-Brien's work on the groundwater sustainability plan for the Basin or prior work in connection with the Basin; the State Board's efforts to support Assembly Bill 1413, including the State Board's communication with parties to this case; prior opinions concerning the Basin held by Mr. Boland-Brien or the State Board; or the State Board's selection process.

B. Mr. Boland-Brien Was a Direct Addressee of a 2017 Basin-Specific Request from Meadowbrook for Assistance on the Issues Now to be Reviewed by the Special Master.

In February 2017, David Ceppos of the Center for Collaborative Policy specifically identified Mr. Boland-Brien as one of the State Board's "key SGMA leaders" and provided his contact information to Meadowbrook. (Imsand Decl., ¶ 2, Exh. C, pp. 11–12.) At that time, Mr. Boland-Brien was serving as the Program Manager for the State Board's Groundwater Management Program. (RJN, Exh. A, p. 2.)

On March 31, 2017, Meadowbrook sent Mr. Boland-Brien a detailed email describing concerns with the early phases of SGMA implementation in the Indian Wells Valley. (Imsand Decl., ¶ 2, Exh. C, pp. 1–11.) Meadowbrook's email described how private pumpers were being excluded from the development of the GSA and GSP, despite their repeated requests for meaningful participation. It also raised concerns about Kern County relying on studies that targeted agriculture and incorrectly claimed the Basin was being pumped three to four times the safe yield.[3]

[3] One of those reports was the 2014 Todd Report, which was admitted at the Phase 2 Trial as Exhibit 614.

Meadowbrook specifically asked Mr. Boland-Brien and other State Board and DWR representatives for assistance and guidance concerning the Indian Wells Valley's SGMA process. (*Ibid.*)

Meadowbrook's email placed Mr. Boland-Brien on notice of Meadowbrook's concerns regarding the GSP process, the exclusion of agricultural pumpers, and the technical assumptions that would later, in fact, be used by the IWVGA in developing its GSP and its sustainable yield. Yet, in recommending Mr. Boland-Brien, the State Board did not disclose whether he received or reviewed the email; whether he responded, forwarded it, discussed it, or opened any attachments; whether he formed or expressed any views; or whether he later participated in State Board or interagency work concerning the same or similar subjects.

Mr. Boland-Brien's failure to respond does not necessarily prove bias, but, in light of other circumstances, it does call into question his ability to be impartial. He is now being proposed by the State Board to evaluate the safe yield evidence presented by Meadowbrook's designated expert, Eddy Teasdale, and evidence of the other TWG Parties' experts on safe-yield issues brought directly to his attention years ago.

C. A 2020 State Board Comment Letter on the Basin's GSP Raises Questions About Mr. Boland-Brien's Participation.

On December 8, 2020, the Chief of the State Board's Groundwater Management Program—the same Program previously led by Mr. Boland-Brien through 2019—submitted a detailed letter to DWR providing technical comments on the Basin's GSP. (RJN, Exh. D.) Many of those comments addressed technical issues that were the subject of testimony and evidence at the Phase 2 Trial, including, but not limited to, groundwater storage, evapotranspiration, mountain-front recharge, projected pumping, and the GSP's water budget. (*Id.* at pp. 1–4.) Although the comments identified uncertainties and requested additional explanation, the State Board evaluated those issues within the SGMA framework and accepted the GSP's basic premise that continued pumping reductions and management actions were necessary to bring the basin into balance. (See *ibid.*)

The State Board's comment letter was not written by or directed to Mr. Boland-Brien. However, it states that the State Board personnel who authored the letter consulted with the State Board's Division of Water Rights in preparing those comments. (*Id.* at p. 1.) At that time, in

December 2020, Mr. Boland-Brien supervised technical staff in the Division of Water Rights as its Supervising Water Resources Control Engineer. (RJN, Exh. A, p. 2.)

The Court has made clear that the Special Master will consider only the testimony and evidence admitted at the Phase 2 Trial. Given Mr. Boland-Brien's roles for the State Board in 2019 and 2020, the State Board's technical comment letter strongly suggests that Mr. Boland-Brien's prior experience includes work specifically involving the Indian Wells Valley. It also creates a specific issue of bias that the State Board failed to address, including disclosure of his conclusions reached, prior communications concerning the Basin, and a relationship between that work and the evidence he would now be asked to evaluate.

D. An Email from an IWVGA Lobbyist Raises Questions about State Board Support for Legislation that would have Prevented the Phase 2 Trial.

A January 22, 2025 email from Michael McKinney of Capitol Core, "a lobbyist for [IWVGA]," to California legislative staff sought an author for an "IWVGA-sponsored proposal"—proposed legislation that would a month later become Assembly Bill 1413. (Worth Decl., ¶¶ 2–5, Exh. B, p. 1.) The email explained that the proposal would amend the Water Code to make a validation action the sole judicial proceeding for reviewing a GSP. (*Ibid.*) In this way, the IWVGA's proposal would close a "loophole" that "allows for a de novo review by the courts in an adjudication without deference to the technical findings of the [GSA] and the review/approval by [DWR]." (*Ibid.*)

Notably, the email expressly represented:

> DWR, the State Water Resources Control Board, and the Department of Justice recognize the issue, have worked with IWVGA on language, and recognize the proposal as a solution to the problem (everything short of endorsement).

(*Ibid.* [emphasis added].)

The State Board was not merely observing a general legislative debate or offering neutral technical assistance. According to IWVGA's own lobbyist, the State Board worked directly with the IWVGA and the United States on the language of AB 1413. The proposal described

independent judicial review as a "loophole" and sought to make the administrative SGMA process controlling over the judicial process.

The significance of the email cannot be overstated. The State Board worked closely with a party to this case on legislation intended to prevent the very Phase 2 Trial itself.

E. The Signatory on the State Board's Letter Publicly Testified in Favor of Deferring to a GSP on Sustainable Yield.

Tina Cannon Leahy, who is an Attorney Supervisor in the Office of Chief Counsel for the State Board, signed and submitted the State Board's September 3rd letter recommending Mr. Boland-Brien. (RJN, Exh. A, p. 1.) Indeed, the State Board's recommendation rests, in part, on Ms. Leahy's "personal knowledge" of Mr. Boland-Brien. (*Ibid.*)

At a March 11, 2025 informational hearing before the State Senate Committee on Natural Resources and Water, Ms. Leahy testified as the State Board's "Supervising Attorney." (RJN, Exh. G [3/11/25 Committee Agenda].) Discussing the relationship between a GSP's sustainable yield and a different safe yield ruling in an adjudication, Ms. Leahy testified:

> So, an adjudication is a determination of all of the rights. So that's a determination and a quantification of the rights. . . . And then the Groundwater Sustainability Plan is a management plan for the basin. So those things are not inherently in conflict. I think what we're seeing and that is concerning is that if there is a different safe yield is usually what's used in a groundwater adjudication. If there's a different safe yield number in the adjudication than the sustainable yield number in the Groundwater Sustainability Plan, then there's a potential conflict because the Groundwater Sustainability Agency is still required under the law to manage sustainably. And then you have a court process that ends up in a decree that could have a watermaster and there's no guarantee in the law that the watermaster would be the Groundwater Sustainability Agency.

(Informational Hearing, Sen. Comm. on Natural Resources & Water, *supra*, at 56:25–57:23, [emphasis added].)

Ms. Leahy went on to testify that adjudications are "not supposed to interfere with the ability of the Groundwater Sustainability Agency, the Department of Water Resources, or the State Water Resources Control Board to implement" SGMA, and suggested that when a court makes a safe yield determination that differs from a GSP's sustainable yield determination, the court's ruling interferes with SGMA implementation because the court has declined "to defer to the Groundwater Sustainability Plan." (*Id.* at 57:24–58:09.) She closed her remarks favoring the SGMA process for determining sustainable yield over the adjudication process for determining safe yield:

> [G]roundwater adjudications are a very closed process. So that's a pay to play process. And only the people that can be involved in that process are the people who can afford to actually be in an adjudication. . . . So, an adjudication is a very closed process. SGMA, on the other hand, includes all users. It's an open process and people can be involved. In fact, groundwater sustainability agencies, they're required to have an interested persons list and to provide that information to those people. So, when they're determining a sustainable yield number, they're actually including the community in that. That is very different than an adjudication.

(*Id.* at 59:19–1:00:20.)

Ms. Leahy's remarks reveal resistance to the possibility of an adjudication determining the safe yield for a basin that differs from the sustainable yield determined through that basin's GSP. Here, the Court-appointed special master will be presented with that very possibility: to evaluate the Phase 2 Trial record and recommend his or her best estimate of safe yield, where the Basin's GSP determined 7,650 AFY while the TWG Parties' experts opine that the safe yield is at least 14,300 AFY. Mr. Boland-Brien's appointment would implicate substantial conflict concerns about the core issue of whether the safe yield of the Basin can differ from the sustainable yield set forth in the Basin's GSP.

F. The AHO's Own Screening Criteria Disqualify the State Board's Candidate.

The State Board neglected to follow its own AHO's screening criteria in recommending Mr. Boland-Brien. The AHO's May 31, 2024 Memorandum entitled, "Procedures to Maintain Separation of Functions and to Avoid Conflicts of Interest or the Appearance of Bias Arising from Prior Employment," "establishes screening procedures to prevent a conflict of interest or appearance of bias of AHO hearing officers and other employees of the AHO who participate in the decision-making process for any adjudicative proceeding conducted in whole or in part by the AHO." (RJN, Exh. H, p. 1.) The AHO recognizes that a person may not preside after serving as investigator, prosecutor, or advocate in the same proceeding or its pre-adjudicative stage; that staff in those roles must be screened; and that prior advocacy or consulting in the same proceeding can produce permanent exclusion. (*Id.* at pp. 1–3.)

The State Board invoked the AHO's independence in support of its recommendation of Mr. Boland-Brien, but he does not appear to satisfy the AHO's own same-matter screening principles.

V. THE TWG HAS PROPOSED THREE QUALIFIED CANDIDATES; THE IWVGA, THE CITY, AND THE UNITED STATES HAVE PROPOSED NONE.

On September 16, 2026, the TWG Parties provided the IWVGA and the United States with a list of three qualified candidates. (Evertz Decl., ¶ 2, Exh. F.) Before that, on July 9, 2026, the IWVGA had already represented that it "accepted" one of these three candidates but stated that it "would like to see the State Board's list" before committing. (Evertz Decl., ¶ 3, Exh. E, p. 1.)

On October 5, 2026, counsel for all active Phase 2 parties participated in "interviews" of the three candidates proposed by the TWG Parties. (Evertz Decl., ¶ 5.) Following the interviews, the candidates provided information on their backgrounds, colleagues who may assist the candidate and their backgrounds, rates, and contacts with any of the parties, counsel, or witnesses to Phase 2. (Evertz Decl., ¶ 5.) Concurrently submitted with these objections, the TWG Parties are providing to the Court this information on the candidates proposed by the TWG Parties.

Neither the IWVGA, the City, nor the United States have proposed any candidates. In fact, when asked whether they would propose any other candidates, counsel for the City, who also currently serves as acting counsel for the IWVGA, responded that they did not believe they needed

to propose any other candidates because the TWG Parties have proposed "reasonable" candidates. (Evertz Decl., ¶¶ 5, 7.)

VI. CONCLUSION

The TWG Parties respectfully object to the special master candidate recommended by the State Board, Samuel Boland-Brien, for the reasons set forth above and request that the Court appoint one of the three candidates proposed by the TWG Parties, who are neutral and non-biased.

Dated: October 23, 2026

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