

1 CHRISTINE J. HAMMOND (SBN 206768)
AARON H. BLOOM (SBN 281079)
2 CANDACE J. MOREY (SBN 233081)
KIMIKO I. ELGUEA (SBN 327519)
3 CALIFORNIA PUBLIC UTILITIES COMMISSION
320 West 4th Street, Suite 500
4 Los Angeles, CA 90013
Tel: (213) 620-2818
5 E-mail: Kimiko.Elguea@cpuc.ca.gov

6 Attorneys for CALIFORNIA PUBLIC UTILITIES COMMISSION
[Exempt from filing fees per Gov. Code § 6103]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

11 CALIFORNIA PUBLIC UTILITIES
COMMISSION,

12
13 Petitioner,

14 v.

15 HAVASU WATER COMPANY, also known
as Havasu Water Company, Inc., a California
corporation (U-352-W); JENNIFER L.
16 HODGES, an individual; and JH FAMILY
LIMITED PARTNERSHIP, a California
17 limited partnership.

18 Respondents.

Case No. CIVSB2625211

**CPUC'S REPLY IN SUPPORT OF
CONFIRMATION OF RECEIVER AND
ISSUANCE OF PRELIMINARY
INJUNCTION; RESPONSE TO SPECIALLY-
APPEARING DEFENDANTS'
JURISDICTIONAL CHALLENGE**

Hearing Date: September 21, 2026

Time: 8:30 a.m.

Dept.: S25

Judge: Hon. Khymberli S. Apaloo

Action filed: August 27, 2026

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1 **I. INTRODUCTION**

2 The captive customers of Havasu Water Company (Havasu) need this Court to confirm the
3 September 4, 2026 appointment of Scott Sackett as receiver. Respondents, through counsel’s emails to
4 Mr. Sackett, have declared the Court’s order “void as a matter of law,” announced that they “cannot
5 and will not recognize it,” and warned that any attempt to take control of the utility “will have to [be]
6 by force, because they are not going to hand anything over.” (Sackett Decl., ¶¶ 4-5, Ex. A.) Their sole
7 basis for defying the Court’s order is the same defense they raised in an opposition filed against the
8 CPUC’s (CPUC or Commission) *ex parte* application: the incorrect claim that the CPUC lacks
9 jurisdiction over Havasu.

10 Havasu never appealed the Commission decision (D.26-06-010) that squarely rejected
11 Havasu’s anti-jurisdiction arguments. It has not sought a stay or appeal of the Court’s September 4
12 Order or a federal court order to enjoin the state from enforcing the Order against the utility. It simply
13 sends emails to Mr. Sackett and customers denying the truth of its situation. (Sackett Decl., ¶¶ 4-5, 8,
14 Exs. A-B.) But as Theodore Roosevelt famously said: “No man is above the law and no man is below
15 it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is
16 demanded as a right; not asked as a favor.” (Roosevelt, Third Annual Message to Congress (Dec. 7,
17 1903).) Havasu cannot evade the Court’s Order via email declarations of counsel while failing to
18 pursue any proper legal process to obtain judicial relief.

19 To be clear, the fact that Havasu’s service territory lies within the boundaries of the
20 Chemehuevi Indian Tribe’s Reservation does not preempt state jurisdiction in this case. Havasu is a
21 non-tribal company, serving non-tribal customers. The Tribe does not purport to regulate Havasu, it
22 will not contract or conduct business with Havasu, and it does not support Havasu’s disclaimer of
23 state regulatory authority. The Tribe supports confirmation of the receiver, as stated in the
24 Declaration of Daniel Leivas, the Tribal Chairman, filed concurrently with this Reply. Nor does the
25 primary exercise of jurisdiction over water quality by the Environmental Protection Agency (EPA)
26 affect the CPUC’s independent constitutional and statutory authority to ensure healthy, reliable, and
27 affordable water is provided to Havasu’s customers. Under these circumstances, there is no tenable
28 legal argument the state lacks jurisdiction to regulate or appoint a receiver.

1 Havasu's customers have waited long enough for help. The Court should confirm the
2 appointment of Mr. Sackett as the receiver. Because Havasu has raised the prospect of violently
3 resisting Mr. Sackett's entry into the utility's property, the Commission also seeks the Court's
4 assistance in compelling Havasu to comply with the Court's order to relinquish operational control
5 of the utility system, without violent resistance.

6 **II. HAVASU'S DEFIANCE OF TRIBUNAL ORDERS SHOWS WHY THE**
7 **COURT SHOULD CONFIRM MR. SACKETT AS RECEIVER AND**
8 **COMPEL A TRANSFER OF CONTROL**

9 Havasu unsuccessfully contested the Commission's jurisdiction in I.25-08-007, arguing the
10 Commission "has no jurisdiction to regulate HWC nor does it have jurisdiction to move for the
11 appointment of a receiver."¹ The Commission considered and rejected Havasu's argument as
12 "without merit and unsupported by law." (D.26-06-010, pp. 70–72.) Havasu did not seek rehearing
13 or a writ of review pursuant to Public Utilities Code sections 1731 and 1756. The Commission's
14 order is final and unreviewable, including its findings that the Commission has jurisdiction over
15 Havasu and should petition the Court for appointment of a receiver.

16 Nevertheless, on September 3 Respondents filed their opposition, claiming once again that
17 only "an Act of Congress" could give the State authority over Havasu. (Opp., pp. 2, 4; Order, pp. 1,
18 8.) On September 4, the Court heard Havasu's objections, but Judge Alvarez found good cause to
19 appoint Mr. Sackett as receiver for Havasu anyway. The Order was specific and told Respondents
20 what to do: "immediately relinquish operational control" of the system, "turn over all Receivership
21 Property," and "reasonably cooperate" with Mr. Sackett in keeping the water on. (Order, ¶¶ 32, 34.)

22 Respondents have affirmatively and deliberately disobeyed the Court's order. On September
23 7, Respondents' counsel told Mr. Sackett the Order was "void as a matter of law," and that his
24 clients "will not recognize it." The next day he warned that any attempt to take control of Havasu's
25 system "will have to [be] by force, because they are not going to hand anything over to you," and
26 that if the Receiver arrived "with armed men," his clients "will not hesitate to exercise their

27 ¹ Havasu's Notice of Appeal & Appeal of February 13, 2026 Presiding Officer's Decision is available at
28 <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M602/K998/602998761.PDF>.

1 constitutional right to self-defense.” (Sackett Decl., ¶¶ 4-5, Ex. A.)

2 Respondents did not file a motion to stay the September 4 Order or seek appellate relief.
3 They have not filed a federal complaint seeking a declaratory judgment or injunctive relief against
4 the state’s authority to appoint a receiver. Respondents simply declare the Order void of their own
5 accord, saying “HWC will not waste its time or money going to federal court to get separate order
6 just to prove to you that the CPUC is out of line and doesn’t know what it’s doing.” (Sackett Decl.,
7 ¶ 4, Ex. A.) Further, while Judge Alvarez entertained lengthy oral argument at the *ex parte* hearing,
8 Havasu disparaged the Court’s ruling, saying the Court “rubber-stamped the CPUC’s request, but
9 that does not mean that it is valid or enforceable.” (*Id.*) Then, when the County posted notice of the
10 receivership, Havasu emailed its customers saying the ruling is “void” and promising to keep
11 pumping water through its trespassing water intake and pipeline infrastructure “so long as the power
12 is not shut off to our pumps.” (Sackett Decl., ¶ 8, Ex. B.)

13 Twice a tribunal has ruled against Havasu on jurisdiction. Twice Havasu has responded not
14 by seeking judicial review or relief from the orders in an appropriate state or federal court, but by
15 deciding its own opinions override the force of law. A party does not get to choose which orders
16 bind it. That is not legal process; it is contempt.² The Court should confirm Mr. Sackett as receiver
17 immediately. The Commission further requests the Court’s assistance in ensuring that Havasu
18 either obeys further orders from the Court, or faces consequences if Havasu continues to disobey.

19 **III. HAVASU’S LOCATION WITHIN A RESERVATION BOUNDARY DOES**
20 **NOT PREEMPT THE STATE’S CIVIL REGULATORY JURISDICTION**
21 **HERE**

22 The Commission does not dispute that Havasu’s service area falls within the reservation
23 boundaries. But that fact does not determine jurisdiction. What decides this case is everything else
24 that Respondents leave out: the indisputable facts that Havasu is a non-tribal business, serving non-
25 tribal customers; the fact that the Tribe does not oppose the state’s jurisdiction here, does not assert

26 ² This is not the first time Havasu has refused to follow a court order. On September 2, 2026, the Federal
27 Court for the Central District of California entered a final order holding Havasu in civil contempt, imposing
28 sanctions, and setting compliance proceedings. (*Chemehuevi Indian Tribe v. Haasu Water Co.*, No. 5:20-cv-
00471-GW-SP, ECF No. 346 (C.D. Cal. Sept. 2, 2026).

1 jurisdiction over Havasu, and will not even conduct business with Havasu (Leivas Decl., ¶¶ 7, 8, 14);
2 the fact that Havasu’s Opposition failed to identify any tribal authority or interests that preempt the
3 state’s regulation.

4 Instead, Havasu makes two arguments against state jurisdiction. One miscasts the law
5 governing state jurisdiction on tribal lands; the other misrepresents the Commission’s Order
6 Instituting Investigation. At bottom, Havasu confuses questions of State-Tribal preemption with its
7 incorrect conclusion that the Safe Drinking Water Act preempts the concurrent exercise of state
8 jurisdiction over federally regulated water utilities. The utility’s location within the reservation does
9 not preempt state regulation under the circumstances presented in this case.

10 **A. Havasu’s claim that an Act of Congress is required to regulate in**
11 **Indian Country is unsupportable and gets the preemption analysis**
12 **backwards.**

13 Primarily, Havasu opposes state jurisdiction based on its assertion that “state governments
14 have no civil regulatory authority within Indian Country, unless Congress expressly authorizes it.”
15 (Opp., p. 4.) While that was the Supreme Court’s jurisprudence in 1832, that case law has given
16 way to long-standing United States Supreme Court precedent recognizing that States can regulate
17 within reservations.

18 The Supreme Court’s *earliest cases* addressing State jurisdiction over Indian Lands
19 concluded that state jurisdiction would generally not lie within reservations. (*County of Yakima v.*
20 *Confederated Tribes & Bands of Yakima Indian Nation* (1992) 502 U.S. 251, 257-258 (discussing
21 *Worcester v. Georgia* (1832) 31 U.S. (6 Pet.) 515, 561) But, as a plethora of cases have since
22 observed, “that general notion... has yielded to closer analysis.” (*Oklahoma v. Castro-Huerta*, 597
23 U.S. at 652.) And over the past decades, the Supreme Court has instead “repeatedly ruled that
24 Indian country is part of a State, not separate from a State.” (*Castro-Huerta, supra*, 597 U.S. at p.
25 652; see *New Mexico v. Mescalero Apache Tribe* (1983) 462 U.S. 324, 331-332.) “The Court’s more
26 recent cases have *recognized the rights of States, absent a congressional prohibition*, to exercise
27 criminal (and, implicitly, civil) jurisdiction over non-Indians located on reservation lands.” (*County*
28 *of Yakima, supra*, 502 U.S. at pp. 257-258 (emphasis added) (citing *New York ex rel. Ray v. Martin*
(1946) 326 U.S. 496; Cohen, Handbook of Federal Indian Law, at 352, and n. 39).)

1 Not even the sole case Havasu cited supports its legal conclusion that the CPUC requires an
2 act of Congress to regulate this utility. *California v. Cabazon Band of Mission Indians* (1987) 480
3 U.S. 202, 214-215 says just the opposite: “Our cases have *not* established an inflexible *per se* rule
4 precluding state jurisdiction over tribes and tribal members in the absence of express congressional
5 consent.” (emphasis added) (holding that the State’s regulation of tribal bingo games on reservation
6 land would impermissibly infringe on tribal government). Contrary to Havasu’s claim, “States do
7 not need a permission slip from Congress to exercise their sovereign authority.” (*Castro-Huerta*,
8 *supra*, 597 U.S. at p. 653.)

9 **B. Havasu falsely claims the Commission admitted that it relinquished**
10 **jurisdiction over Havasu as-of January 1, 2024.**

11 Havasu’s other argument opposing jurisdiction rests on a misrepresentation that the
12 Commission “voluntarily relinquished all regulatory jurisdiction over HWC as of January 1, 2024,”
13 “on the grounds that the State of California does not have civil regulatory jurisdiction over public
14 utility companies that are located within the boundaries of an Indian Reservation.” (Opp., p. 2.)
15 Respondents support this assertion by pointing to a footnote from the Commission's Order
16 Instituting Investigation, pasted into the brief as a screenshot. (*Ibid.*) It reads:

17 *Prior to January 1, 2024, SWRCB had jurisdiction and*
18 *oversight of Havasu's public water system to ensure*
19 *compliance with the state SDWA. The transfer of oversight*
20 *occurred because a court determined that Havasu's water*
21 *system is located within the boundaries of the Chemehuevi*
22 *Indian Tribe and the US EPA regulates public water systems*
23 *within the boundaries of Tribal Reservations in California.*

24 (OII, p. 5, fn. 17.) The footnote merely describes a handoff of regulatory oversight under the Safe
25 Drinking Water Act from the State Water Resources Control Board (SWRCB) to the EPA. It does
26 not speak or purport to speak to any broader jurisdictional handoff or any handoff involving the
27 Commission.

28 Yet, on the next page, Respondents parlay the footnote into an admission that “the state of
California no longer has ‘jurisdiction [*or*] oversight’ over HWC.” (Opp., p. 3, emphasis added.)
Havasu makes two notable edits that mischaracterize the Commission’s position:

- “And” became “[or]”; and
- the phrase “to ensure compliance with the state SDWA” disappeared.

The footnote Havasu cites from the Commission’s Order Instituting Investigation says one thing: the *State Water Resources Control Board* transferred its jurisdiction and oversight of Havasu’s compliance with drinking water standards to the EPA. That is not an admission that the *Commission* relinquished all authority to regulate Havasu as a public utility.

C. State jurisdiction is not preempted here because no tribal authority or sovereign interest is affected by the state’s regulation.

Setting aside Havasu’s incorrect argument that an act of Congress is necessary for the Commission to regulate, the Court is left with the question of whether Havasu’s location within the reservation nevertheless exempts it from the state’s civil regulatory jurisdiction. It does not. The Supreme Court requires courts to determine whether federal law or tribal self-government has *displaced* the State’s *concurrent* exercise of jurisdiction. State law applies in Indian country “except when preempted . . . by federal law or by principles of tribal self-government.” (*Castro-Huerta, supra*, 597 U.S. at pp. 652-653.) Tellingly, Havasu has not identified sovereign tribal interests that weigh against state regulation here.

The Commission acknowledges that questions of concurrent state and tribal jurisdiction can be quite complex. But this case is not complex. It does not require a balancing of *concurrent* state and tribal jurisdiction – there is *only* the state’s jurisdiction over a non-tribal business – one the Tribe has no interest in dealing with at all, save its interest in compelling Havasu to obey the federal court’s ejectment order. If the state lacks authority to appoint the receiver, Havasu’s customers have no hope for improved service. They will indefinitely remain captive customers of a failing monopoly that will not provide them with safe, reliable drinking water.

This case is simple for at least three reasons:

First, the Commission’s regulation of Havasu does not extend to tribal members, tribal conduct, or tribal businesses. Havasu, which describes itself as “a California Corporation,” is a non-tribal business which the Commission has regulated for decades since issuing Havasu a Certificate of Public Convenience and Necessity in 1962. (D.26-06-010, p. 7, fn. 6 [certificated Jan. 9, 1962,

1 Decision 63015].) Havasu counts 361 customers in the Town of Havasu Lake. (Opp., p. 7, fn. 2.)
2 None are tribal members. The state is not regulating tribal business or conduct.

3 Second, this case does not involve tribal regulatory, commercial, or sovereign interests. The
4 Tribe runs its own water system that does not serve Section 36, the area that includes Havasu's
5 service territory. (Leivas Decl., ¶ 6.) The Tribe does not purport to assert any regulatory authority
6 over Havasu – it does not approve and has not approved Havasu's rates, tariffs, or terms of
7 Havasu's service. (Leivas Decl., ¶ 7.) The Tribe does not have contractual or other business
8 arrangements that could be affected by the state's regulation of Havasu. In fact, the Tribe *will not*
9 *conduct any business with Havasu whatsoever*. (Leivas Decl., ¶ 8.) The Tribe's only exercise of
10 authority touching Havasu has been to exclude Ms. Hodges from the Reservation for life under its
11 exclusion ordinance. (Leivas Decl., ¶¶ 9-10.) That is a Tribe keeping its distance, not one asserting
12 jurisdiction.

13 Third, Havasu has not identified any tribal interest for the Court to consider that purports to
14 weigh against the state's interest in regulating and rehabilitating this failing water utility. This
15 matters, because Respondents' entire jurisdictional argument assumes a tribal interest the State
16 would be intruding on. There is none. What is at stake in this case is the Chemehuevi Tribe's
17 litigation interest in getting Havasu to obey federal court orders, including by removing trespassing
18 water equipment and infrastructure located on other areas within the reservation. (Leivas Decl., ¶¶
19 11-12.) Those tribal interests *align* with the state's interest. They are *supported by* the state's
20 regulatory acts, such as appointing a receiver who can remediate this utility and approving rate
21 increases that may be needed to develop alternative water sources. That is why the Tribe supports
22 confirmation of the receiver. (Leivas Decl., ¶ 14.) The Tribe wants Havasu to comply with federal
23 court orders and stop trespassing on Tribal lands. Only a receiver can facilitate such an outcome
24 given the plain evidence that Havasu will not.

25 **D. The EPA's exercise of primary jurisdiction under the Safe Drinking**
26 **Water Act does not preempt the Commission's regulation of Havasu.**

27 The Commission's regulation of Havasu is far broader than the EPA's jurisdiction under the
28 Safe Drinking Water Act. And the EPA's regulation of Havasu's compliance with standards set by

1 the Safe Drinking Water Act does not affect the Commission’s broad constitutional and statutory
2 jurisdiction to regulate Havasu’s rates, oversee the reliability of its neglected distribution system, or
3 require maintenance of fire hydrants for public safety.

4 The EPA assumed oversight of Havasu’s compliance with federal drinking-water standards
5 from the State Water Resources Control Board in 2023. (OII, p. 5; D.26-06-010, p. 71.) The Act
6 preserves concurrent state authority: “Nothing in this subchapter shall diminish any authority of a
7 State or political subdivision to adopt or enforce any law or regulation respecting drinking water
8 regulations or public water systems.” (42 U.S.C. § 300g-3(e).) The Commission does not impose
9 water-quality standards separate from the EPA’s water-quality standards, and it does not enforce the
10 EPA’s violations. (D.26-06-010, p. 71.) But as the California Supreme Court has noted, “[d]rinking
11 water quality affects health and safety and is therefore within the [Commission’s] regulatory
12 jurisdiction over public utility water companies to ensure that public health and safety are
13 protected.” (*Hartwell Corp. v. Superior Court* (2002) 27 Cal.4th 256, 269-270.)

14 The Commission’s “most obvious regulatory authority includes the regulation of rates.” (*Id.*
15 at p. 270.) It holds the purse strings for remediation: “[m]ost often, authorization for corrective or
16 preventative water quality measures occurs in a rate case,” and the Commission’s ratesetting role “is
17 inextricably bound to the quality of water provided by the regulated utilities.” (*Id.* at p. 272.) It
18 regulates safety and service beyond water quality—fire hydrants and fire flow, pressure, meters, and
19 disconnections – under General Order 103-A. The Commission has already exercised that authority
20 against Havasu. It found that Havasu violated Public Utilities Code section 2713(a) and General
21 Order 103-A by failing to properly inspect, repair, and replace the roughly twenty fire hydrants
22 serving the community, and that Havasu violated Rule 1.1 of the Commission’s Rules of Practice
23 and Procedure by misleading the Commission about that work. (D.26-06-010, pp. 3-4, 50-58.) The
24 EPA has no role in any of it.

25 The Commission also has broader powers than the EPA to compel the utility’s conduct. It
26 can require corrective actions in rate and complaint cases and enforce its orders “by suit, by
27 mandamus, or by injunction; by actions to recover penalties, and by contempt proceedings.”
28

1 (*Hartwell, supra*, at p. 271.) The Commission already rejected Havasu’s contrary argument, finding
2 the EPA “did not and legally cannot assume regulatory oversight over Havasu outside the scope of
3 drinking water quality.” (D.26-06-010, p. 71.) Appointment of a receiver does not conflict with the
4 EPA’s role; it facilitates it, by installing an operator who can bring the system into compliance.

5 **IV. CONCLUSION**

6 The Commission respectfully requests that the Court reject Havasu’s arguments and confirm
7 Mr. Sackett as the Court-appointed receiver. Given Havasu’s stated intent to defy the Order, the
8 Commission also requests the Court’s assistance in ensuring Havasu complies with the Court’s Order.
9 Havasu’s customers have waited long enough for a reprieve.

10 September 16, 2026

Respectfully submitted,

11 CHRISTINE J. HAMMOND
12 AARON H. BLOOM
13 CANDACE J. MOREY
14 KIMIKO I. ELGUEA

15 By:



16 KIMIKO I. ELGUEA

17 320 West 4th Street
18 Los Angeles, CA 90013
19 Telephone: (213) 620-2818
20 E-mail: kimiko.elguea@cpuc.ca.gov

21 Attorneys for the California Public Utilities
22 Commission
23
24
25
26
27
28