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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER,
 a California non-profit corporation,

Petitioner,

v.

STATE WATER RESOURCES CONTROL
 BOARD, a California State Agency;
 CITY OF SAN BUENA VENTURA, a
 California municipal corporation, incorrectly
 named as CITY OF BUENA VENTURA,

Respondents.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

**CITY OF OJAI'S RESPONSE TO
 VENTURA'S "SUPPLEMENTAL"
 LEGAL BRIEF REGARDING SCOPE OF
 ISSUES FOR RESOLUTION IN PHASE 1**

Date: December 9, 2021

Time:

Dept: 10

**310 North Spring Street
 Los Angeles, CA 90012**

Action Filed: September 19, 2014

First Amended Complaint Filed:
 September 7, 2018

CITY OF SAN BUENA VENTURA, a
 California municipal corporation,

Cross-Complainant,

v.

DUNCAN ABBOTT;
 AGR BREEDING, INC; et al.

{00260517.3}

CITY OF OJAI'S RESPONSE TO VENTURA'S "SUPPLEMENTAL" LEGAL BRIEF REGARDING SCOPE OF ISSUES FOR RESOLUTION IN PHASE 1

1 **I. INTRODUCTION**

2 At the October 18, 2021 Status Conference, this Court asked the parties to submit a legal
3 brief summarizing: (1) what issues of fact and law should be a part of the Phase one trial, (2) the
4 significance of the interconnectivity of surface water sources and the groundwater basins, and
5 (3) the proposed sequence of trial of the issues. On November 23, 2021 the City of Ventura
6 (“Ventura”) asked this Court to file a one-page citation in a supplemental brief in response to
7 issues raised by the City of Ojai’s brief. Ventura filed and served a five page “supplemental”
8 brief on November 30, 2021.

9 The initial legal briefing was done in response to the Court’s request for information to
10 assist it in getting up to speed on, and to help determine the scope of, the legal issues the parties
11 believed to be relevant to Phase 1. The purpose of this “response” is thus limited to the issues
12 raised in Ventura’s “supplemental” brief. It is not intended to operate as a response, rebuttal or
13 reply to the substance of Ventura’s initial brief and the City does not waive any objection or
14 defense to any of the issues raised in Ventura’s initial brief.

15 As briefly explained below, Ventura’s supplemental brief is irrelevant and
16 mischaracterizes the facts and cases that it cites.

17 **II. HISTORICAL COMMONLAW ADJUDICATIONS THAT OCCURRED**
18 **BEFORE PASSAGE OF THE COMPREHENSIVE GROUNDWATER**
19 **ADJUDICATION STATUTE ARE IRRELEVANT TO THE QUESTION OF**
20 **WHETHER THE STATUTE PERMITS COMBINING MULTIPLE**
21 **GROUNDWATER BASINS INTO ONE ADJUDICATION.**

22 Ventura’s representations about *City of Barstow v. Mojave Water Agency* (2000) 23
23 Cal.4th 1224 ("*Mojave*") ignore the relevant facts and the legal arguments put forth by Ojai. The
24 *Mojave* case was initially filed in 1990, more than two decades before the Comprehensive
25 Groundwater Adjudication Statute (CGAS) was enacted. In addition to the Supreme Court’s
26 opinion, publicly available information, such as the Mojave Water Agency’s website, provides
27
28

1 helpful summaries of the history¹ of the litigation as well as the underlying judgment.² This
2 information is relevant to demonstrate that the litigation and underlying judgment not only
3 occurred decades before enactment of the CGAS, the procedural statute at issue in this case, but
4 also decades before the 2003 update to Bulletin 118 first defined the boundaries of all of
5 California's groundwater basins.

6 As Ventura's supplemental brief acknowledges, the relevant update to Bulletin 118 was
7 published in **2003** -- three years *after* the Supreme Court's decision in *Mojave*. Therefore, when
8 Ojai posed and answered the following question: "Has Any Case Authorized Combining
9 Multiple **Bulletin 118-Defined Groundwater Basins** into One Statutory Adjudication? No."
10 (See Ojai Brief at 5:9-11 [emphasis added].) Ojai was also correct when it added the following
11 statement:

12 none of these cases [were] brought under the comprehensive groundwater
13 adjudication statutes that Ventura has invoked in this case. Thus, none of these
14 cases interpreted or applied Code of Civil Procedure sections 830, et seq. --- the
15 statutes that establish the framework for, and control, this action. *Mojave*, *Santa*
Maria, and *Antelope Valley* were not constrained by Code of Civil Procedure
16 sections 830 and 832, which limit an adjudication brought under that statute to the
17 boundaries of a single Bulletin 118 basin.

18 (See Ojai Brief at 5:14-19)

19 Ventura cannot expect this Court to ignore the relevant timeline demonstrated by these
20 indisputable facts. That timeline demonstrates that the *Mojave* case was filed in 1991, the
21 underlying judgment was entered in 1996, and the California Supreme Court rendered its decision
22 in 2000 -- three years *before* the Bulletin 118 update that established the groundwater basin
23 boundaries, and 15 years before the enactment of the controlling statute in this case, the CGAS.

24 Because Ventura pled its Third Amended Cross-Complaint under the CGAS, Code of
25 Civil Procedure sections 830, et seq. (Adjudication Statute), it cannot combine four separate
26 Bulletin 118-defined groundwater basins into one consolidated adjudication. For example, if the
27 Court combined four separate basins and issued one judgment defining each water users' water

28 ¹ <https://www.mojavewater.org/history.html>

² https://www.mojavewater.org/judgment_summary.html

1 rights, how could it possibly determine the priority of a water rights holder in one basin relative
2 to a water rights holder in another basin? The *Mojave* case directs courts to apply the fundamental
3 "first-in-time, first-in-right" principle in their judgments adjudicating the rights to extract
4 groundwater. How can this Court do so, and ensure that water users are cut off, in times of
5 shortage, in order of their priority, when the Court has *combined four separate sets* of
6 groundwater rights to *four separate water sources*, and another set of surface water rights to the
7 Ventura River? How can the Court determine which water users are senior to which others across
8 five different water sources? As this is impractical and would contravene all the well-established
9 "first-in-time, first-in-right" principles of California law, the CGAS does not permit such
10 combinations. Rather, the statute specifies that the adjudication can define all the rights to *one*
11 groundwater basin.

12 **III. THE COURT IN SEASIDE DID NOT REJECT OJAI'S LEGAL**
13 **ARGUMENT**

14 *California American Water v. City of Seaside* (2010) 183 Cal.App.4th 471,474 (*Seaside*)
15 has no bearing on whether the Legislature has granted OBGMA exclusive authority to regulate
16 the groundwater within the Ojai basin. *Seaside*, like *Mojave*, involved a suit (in 2003) seeking
17 an adjudication of groundwater rights *prior to the enactment of CGAS*. (*Seaside, supra*, 183
18 Cal.App.4th at p. 474.)

19 Moreover, *Seaside* involved a Water Management District, not a Groundwater
20 Management Agency like OBGMA. The *Seaside* Court found:

21 the District possesses certain authority, which it is free to exercise according to
22 the legislative mandate which created it. However, it is apparent [that] the
23 [L]egislature did not intend that all of the powers it granted to the District be held
24 exclusively by the District, [or] else it would not at a later time have created the
Monterey County Water Resources Agency and endowed it with many of the
powers granted to the MPWMD.

25 (*Id.* at 476). *Seaside* recognizes that the acts creating the water agencies are the key to
26 interpreting their powers. But *Seaside* did not interpret the OBGMA Act and cannot be cited as
27 an interpretation of OBGMA's exclusive power to regulate the groundwater of the Ojai Basin.
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1 As will be set forth in more detail in Ojai's motion for judgment on the pleadings, under
2 OBGMA's authorizing act, it has different purposes, function and authority than the Water
3 Management District considered in *Seaside*.

4 Additionally, *Seaside* determined that Water Code section 10753 "precluded any local
5 agency's adoption and implementation of groundwater management plans to the extent that its
6 service area is already managed by 'a court order, judgment, or decree.'" (*Id.* at 475-476.). In
7 contrast, through the OBGMA Act, and as Ojai will explain further in its motion for judgment
8 on the pleadings, the Legislature vested OBGMA the exclusive authority to adopt groundwater
9 management plans within the Ojai basin. The *Seaside* case has no bearing on how the Court will
10 interpret the terms of the OBGMA Act.


11
12 **IV. CONCLUSION**

13 The authorities cited in Ventura's supplemental brief are inapposite. As will be further
14 explained in subsequent filings, the Court cannot impose one judgment and one physical solution
15 across four separate Bulletin-118 defined groundwater basins, particularly when the Legislature
16 has vested OBGMA with exclusive authority to regulate the use of groundwater within the Ojai
17 basin.

18
19 Dated: December 8, 2021

Respectfully submitted,

Bartkiewicz, Kronick & Shanahan, PC

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22 By: 
23 JENNIFER T. BUCKMAN
24 HOLLY J. JACOBSON
25 Attorneys for CITY OF OJAI
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PROOF OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to the action herein; my business address is BARTKIEWICZ, KRONICK & SHANAHAN, 1011 22nd Street, Sacramento, California 95816-4907. On December 7, 2021, following ordinary business practices, I electronically served the document described below via File & Serve Xpress, on the recipients designated on the Transaction Receipt located on the File & Serve Xpress website.

**CITY OF OJAI’S RESPONSE TO VENTURA’S “SUPPLEMENTAL” LEGAL BRIEF
REGARDING SCOPE OF ISSUES FOR RESOLUTION IN PHASE 1**

I declare under penalty of perjury under the law of the State of California, that the above is true and correct.

Executed on December 7, 2021, at Sacramento, California.
