



1 **MUSICK, PEELER & GARRETT LLP**

2 2801 Townsgate Road, Suite 200  
3 Westlake Village, California 91361  
4 Telephone (805) 418-3100  
5 Facsimile (805) 418-3101

6 Gregory J. Patterson (State Bar No. 136665)  
7 *g.patterson@musickpeeler.com*

8 Attorneys for The Thacher School; Friend's Ranches, Inc.; Topa Ranch & Nursery, LLC;  
9 Finch Farms, LLC; Red Mountain Land & Farming, LLC; Thacher Creek Citrus, LLC; The Finch  
10 Family Trust; James P. Finch; Robert Calder Davis, Jr.; Robert Calder Davis, Jr., TTEE of Trust  
11 Owned Properties; Sharon H. Booth, Trustee of The Survivor's Trust Created Under Declaration  
12 of Trust of Richard G. Booth and Sharon H. Booth Dated July 10, 1980; David Robert Hamm; Ojai  
13 Oil Company; Ojai Valley School; Reeves Orchard, LLC and Ojai Valley Inn (Collectively, the  
14 East Ojai Group.)

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **COUNTY OF LOS ANGELES**

17 **SANTA BARBARA CHANNELKEEPER, a**  
18 **California non-profit organization**

19 **Petitioner,**

20 **vs.**

21 **STATE WATER RESOURCES CONTROL**  
22 **BOARD, a California State Agency; CITY OF**  
23 **SAN BUENAVENTURA, a California**  
24 **municipal corporation,**

25 **Respondents.**

26 **CITY OF SAN BUENAVENTURA, etc.,**

27 **Cross-Complainant,**

28 **DUNCAN ABBOTT, an individual, et al.,**

**Cross-Defendants.**

**CASE No. 19STCP01176**

**Judge: Hon. William F. Highberger**

**EAST OJAI GROUP'S BRIEF; PROPOSED  
PHASE ONE TRIAL ISSUES**

**Action Filed: September 19, 2014**  
**Trial Date (Phase One): February 14, 2022**

1 The East Ojai Group submits their Brief regarding the Proposed Phase One Trial Issues as  
2 presented in the Notice of Phase I Trial Issues dated November 1, 2021. Counsel for the East Ojai  
3 Group was not able to participate in discussions regarding these issues, but offers the following for  
4 the Court's consideration.

5 The Notice presented 5 issues. The East Ojai Group is in agreement with the Issues 1-3: 1)  
6 A determination of the Ventura River Watershed boundaries; 2) A determination of the boundaries  
7 of the four groundwater basins in the Ventura River Watershed; and 3) a determination of the  
8 interconnection between the surface water and groundwater in the Ventura River Watershed,  
9 including the interconnection between surface water and the four groundwater basins, and the  
10 interconnection between those groundwater basins and the Ventura River and its tributaries.<sup>1</sup>

11 The East Ojai Group thinks the City of Ojai's proposed Issues 4-5 are the appropriate  
12 phrasing of the issues presented based on the City's Complaint and the relief it seeks, the City's  
13 proposed Physical Solution and the burden of proof placed on the City under its causes of action  
14 based on unreasonable use of water, the Public Trust Doctrine and the Sustainable Groundwater  
15 Management Act (SGMA).

16 The City's Complaint and Proposed Physical Solution

17 The City asserts nine causes of action in its Third Amended Complaint. Causes of Action  
18 3-8 relate to the City's alleged water rights not specifically relevant to the Phase One Trial. The  
19 remaining causes of action: 1) Violation of Reasonable Use; 2) Violation of Public Trust; 6)  
20 Comprehensive Adjudication (under SGMA) and 9) Declaratory Relief are relevant. Causes of  
21 Action 1, 2 and 9 essentially seek a permanent injunction reducing the Cross-Defendants use  
22 surface and/or subsurface and groundwater "affecting the surface and/or subsurface flow of the  
23 Ventura River..." (See Third Amended Complaint at Page 67, lines 1-7).

24 The City's goal in these cases is to require all Cross-Defendants in the entire watershed  
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26 <sup>1</sup> As stated in the Notice, the term "interconnection," and how it should be defined and applied in  
27 this case is disputed. The City has indicated it intends to brief the court on its concept of  
28 interconnection in its November 8, 2021 filing. The East Ojai Group reserves the right to respond  
to that briefing.

1 involving four separate basins to equally participate in the restoration of the steelhead habitat and  
2 fishery in the Ventura River and its tributaries. (See for example the City's Proposed Physical  
3 Solution And Judgment at Page 3, Lines 17-28; Page 10, lines 18-28; Section 7.3.3 starting at page  
4 46.)

5 Based on these causes of action and the proposed Physical Solution, each of these causes  
6 of action will require the City to prove that the groundwater pumping and water use by the East  
7 Ojai Group is somehow affecting surface water flow and that effect, if any, is harming the fishery.

8 With respect to groundwater pumping, it is the East Ojai's position that the City must  
9 show, with reasonable particularity, that the pumping by the East Ojai Group from the Ojai Valley  
10 Basin, a confined aquifer, is a waste of water that is harming the fishery and, further, under  
11 SGMA, that the Court must make a finding that it must include an "interconnected" surface water  
12 (*i.e.*, the Ventura River and its tributaries) to determine groundwater rights (California Code of  
13 Civil Procedure section 833(c).)

14 The East Ojai Group agrees with the City of Ojai that before the Court can begin to  
15 adjudicate water use and water rights through a Physical Solution of four basins and a surface  
16 watershed, the Court must first determine whether it has the authority to comprehensively  
17 determine rights to extract groundwater among all rights holders in the four basins and Ventura  
18 River and its tributaries in one legal proceeding; and whether the evidence shows that it can  
19 include the four groundwater basins in a proceeding that, based on the Proposed Physical Solution  
20 is solely intended to address surface water flows and the environment along the Ventura River to  
21 improve the fishery and provide the City with a mechanism to control water use within the Ojai  
22 basins.

23 The East Ojai Group suggests that the legal authority under the City of Ojai's Issue 4 can  
24 be briefed and argued prior to the February 14, 2021 trial date. The East Ojai Group also suggests  
25 that the definition and scope of "interconnection" between surface water and groundwater and how  
26 that applies to the legal issues framed by the City's complaint can also be briefed and argued prior

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1 to a trial date. The trial can then focus on the evidence put forward on the issue on interconnection  
2 as framed by these pre-trial decisions.

3  
4 DATED: November 8, 2021

MUSICK, PEELER & GARRETT LLP

5  
6 By: 

7 Gregory J. Patterson  
8 Attorneys for The Thacher School; Friend's  
9 Ranches, Inc.; Topa Ranch & Nursery, LLC;  
10 Finch Farms, LLC; Red Mountain Land &  
11 Farming, LLC; Thacher Creek Citrus, LLC; The  
12 Finch Family Trust; James P. Finch; Robert Calder  
13 Davis, Jr.; Robert Calder Davis, Jr., TTEE of Trust  
14 Owned Properties; Sharon H. Booth, Trustee of  
15 The Survivor's Trust Created Under Declaration  
16 of Trust of Richard G. Booth and Sharon H. Booth  
17 Dated July 10, 1980; David Robert Hamm; Ojai  
18 Oil Company; Ojai Valley School; Reeves  
19 Orchard, LLC and Ojai Valley Inn (Collectively,  
20 the East Ojai Group.)  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF VENTURA**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Ventura, State of California. My business address is 2801 Townsgate Road, Suite 200, Westlake Village, California 91361.

On November 8, 2021, I served true copies of the following document(s) described as **EAST OJAI GROUP'S BRIEF; PROPOSED PHASE ONE TRIAL ISSUES** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**By transmission via E-Service to File & ServExpress:** to the person(s) set forth below. Local Rules of Court 2.10(P)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 8, 2021, at Westlake Village, California.

  
\_\_\_\_\_  
Stacey Hanjin

**SERVICE LIST**

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28

Daniel Cooper, Esq.  
Sycamore Law, Inc.  
1004B O'Reilly Avenue  
San Francisco, CA 94129  
Tel: (415) 360-2962  
Email: [daniel@sycamore.law](mailto:daniel@sycamore.law)

Attorneys for Petitioner and Plaintiff Santa  
Barbara Channelkeeper

Matthew Bullock, Esq.  
Deputy Attorney General  
California Department of Justice  
Natural Resources Law Section  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Tel: (415) 510-3376  
Email: [matthew.bullock@doj.ca.gov](mailto:matthew.bullock@doj.ca.gov)

Attorneys for Respondent and Defendant State  
Water Resources Control Board

Marc N. Melnick, Esq.  
Deputy Attorney General  
Attorney General's Office  
1515 Clay Street, 20th Floor  
Post Office Box 70550  
Oakland, CA 94612-0550  
Tel: (510) 879-0750  
Email: [Marc.melnick@doj.ca.gov](mailto:Marc.melnick@doj.ca.gov)

Attorneys for Respondent and Defendant State  
Water Resources Control Board

Gene Tanaka, Esq.  
Sarah Foley, Esq.  
Patrick Skahan, Esq.  
Best, Best & Krieger LLP  
2001 North Main Street, Suite 390  
Walnut Creek, CA 94596  
Phone: (925) 977-3300  
Email: [gene.tanaka@bbklaw.com](mailto:gene.tanaka@bbklaw.com)  
[sarah.foley@bbklaw.com](mailto:sarah.foley@bbklaw.com)  
[Patrick.Skahan@bbklaw.com](mailto:Patrick.Skahan@bbklaw.com)

Attorneys for Respondent and Cross-  
Complainant City of San Buenaventura

Shawn Hagerty, Esq.  
Best, Best & Krieger LLP  
655 West Broadway, 15th Floor  
San Diego, CA 92101  
Tel: (619) 525-1300  
Email: [shawn.hagerty@bbklaw.com](mailto:shawn.hagerty@bbklaw.com)

Attorneys for Respondent and Cross-  
Complainant City of San Buenaventura

Edward J. Casey, Esq.  
Gina Angiolillo, Esq.  
Alston & Bird LLP  
333 South Hope Street, 16th Floor  
Los Angeles, CA 90071  
Tel: (213) 576-1000  
Email: [ed.casey@alston.com](mailto:ed.casey@alston.com)  
[gina.angiolillo@alston.com](mailto:gina.angiolillo@alston.com)

Attorneys for Cross-Defendants AGR Breeding,  
Inc.; Bentley Family Limited Partnership and  
Southern California Edison Company

1 Ryan Blatz, Esq.  
2 Blatz Law Firm  
3 206 North Signal Street, Suite G  
4 Ojai, CA 93023  
5 Tel: (805) 646-3110  
6 Email: [ryan@ryanblatzlaw.com](mailto:ryan@ryanblatzlaw.com)

Attorneys for Cross-Defendants Troy Becker and Jeri Becker; Janet Boulten; Michael Boulten; Michael Caldwell; Joseph Peter Clark, successor in interest to The Joseph Clark and Linda Epstein Family Trust; Linda Louise Epstein, successor in interest to The Joseph Clark and Linda Epstein Family Trust; Michael I. Cromer and Jody D. Cromer; Michael A. Etchart, Trustee of The Michael A. Etchart Separate Property Trust; Mark W. Etchart, Trustee of The Mark W. Etchart Separate Property Trust; Lawrence Hartmann; Ole Konig; Krotona Institute of Theosophy; Stephen Mitchell and Kathleen Reid Mitchell, Trustees of The Stephen Mitchell and Byron Katie Trust; North Fork Springs Mutual Water Company; Stephen Robert Smith, Trustee of The Charles R. Rudd and Lola L. Rudd Trust, Dated May 20, 1976; Shlomo Raz; Sylvia Raz; Senior Canyon Mutual Water Company, Siete Robles Mutual Water Company; Soule Park Golf Course, Ltd.; Telos, LLC; Victor C. Timar, Jr., Trustee of The Timar Family Trust; John Town; Trudie Town; Asquith Family Limited Partnership; Burgess Ranch; Cary Cheldin; Cynthia Daniels; Wayne Francis; David Friend; The Larry & Pat Hartmann Family Trust; The John N. Hartmann Trust; Gary Hirschkron; Cheryl Jensen; Lutheran Church of the Holy Cross of Ojai, California; Janice Sattler (Mineo); Eitan Sloustcher; Rogers-Cooper Memorial Foundation; Robert Norris; Patricia Norris; Old Creek Road Mutual Water Company; Margaret Vanderfm; Telos Ojai, LLC; Jennifer Ware; The Walker Jr. Living Trust; David Altman, Trustee of The 1190 El Toro Trust; Babtiste Foundation; Sean A. Bennett and Leslie Bennett, Trustees of The Bennett Family Trust; Dwayne A. Bower and Marilyn E. Bower, Trustees of The Bower Family Trust; Mark Terry Cline and Bonnie Burreson Cline, Trustees of The Mark Terry Cline and Connie Burreson Cline Revocable Trust; Robert R. Daddi and Darlene J. Daddi; Lucille A. Elrod, Trustee of The John and Lucille Elrod Family Trust; Friend's Stable & Orchard, Inc.; Daniel Hultgen, Trustee of The Hultgen Living Trust; Ojai Golf, LLC; Three Oaks, LLC; Erica J. Abrams, Trustee of The Erica J. Abrams Trust; Raul E. Alvarado and Hildegard M. Alvarado, Trustees of The Alvarado Family Trust; William Armstrong and April Nardini; Joseph Lynn Barthelemy and Elvira Lilly Barthelemy, Trustees of The Joseph Lynn Barthelemy and Elvira Lilly Barthelemy 2002 Family Trust; James S. Bennett and

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Carolyn D. Bennett, Trustees of The Bennett Family Trust; Sumeet Bhatia and Michael McDonald; John Joseph Broesamle and Katherine Sue Broesamle, Trustees of The Broesamle Family Trust; Richard Aaron Carlson, Trustee of The Richard Aaron Carlson Trust; Michelle Larson, Trustee of The Michelle Family Trust; Thomas D. Carver and Cynthia L. Carver; Dana Cenicerros, Trustee of The Dana and Dawn Cenicerros Revocable Living Trust; Deborah Lys Martin Crawford; Frank Clay Creasey, Jr.; Debra Joy Reed, Trustee of The Debra Joy Reed Revocable Trust Dated November 3, 1994; Frederic Devault; Diana Syvertson, Trustee of The Diana Syvertson Living Trust; Dive Deep, LLC; Douglas Roy Parent and Ann Marie Parent; William Erickson; Gelb Enterprises, L.P.; Jan Stephen Grande and Priscilla K. Grande, Trustees of The Grande Family Revocable Living Trust; Margaret J. Griswold; Brian C. Haase and Marie Haase, Trustees of The B&M Haase Trust Dated October 8, 2019; Thomas Lann Harper and Jadona Collier-Harper; Ojai-Jackman L.L.C.; Kevin Rainwater and Marianne Ratcliff; Keith M. Nightingale and Victoria V. Nightingale, Trustees of The Nightingale Family Trust; Heide C. Kurtz, Trustee of The Kurtz Family Trust Dated January 19, 2019; Randall Leavitt, Trustee of The Randall B. Leavitt 2010 Trust; Edward C. Leicht and Jacqueline M. Leicht, Trustees of The Leicht Family 2013 Revocable Trust Dated March 1, 2013; Paul Lepiane and Bengston Bo; Robert Levin and Lisa Solinas, Trustees of The Levin Family Living Trust; Francis Longstaff and Shauna Longstaff, Trustees of The Longstaff Trust Dated October 11, 2018; Mandy Macaluso, Trustee of The Living Trust of Mandy Macaluso; Marilyn Wallace, Trustee of The Marilyn Wallace Separate Property Trust; Daniel J. McSweeney and Yoko McSweeney; Wendell M. Mortensen and Laura L. Mortensen, Trustees of The Mortensen Family Revocable Trust; Timothy Jerome Murch and Jody Caren Murch, Trustees of The Jodim Family 2007 Trust Dated July 31, 2007; Chris E. Platt and Hanh H. Platt; Robert Erickson, Trustee and Ronald Wilson; Michael D. Robertson and Kimberly A. Robertson, Trustees of The Robertson Family Trust; James P. Robie, Trustee of The Robie Family Trust;



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Petter Romming and Kimi Romming, Trustees; Marc Saleh, Trustee of The Saleh Family Trust; Konrad Stefan Sonnenfeld, Trustee of The Konrad Stefan Sonnenfeld Living Trust; Mark Sutherland, Trustee of The Sutherland Marital Trust; John H. Thacher and Caroline H. Thacher, Trustees of The Thacher Family Trust Dated January 2004; Gilbert G. Vondriska and Carolyn J. Vondriska, Trustees of The Vondriska Living Trust; William D. Rusin, Sr., Trustee of The William D. Rusin, Sr. Revocable Trust; and Oscar D. Acosta, Trustee of The Acosta Trust

William G. Short, Esq.  
Law Offices of William G. Short  
Post Office Box 1313  
Ojai, CA 93024-1313  
Tel: (805) 490-6399  
Email: billshortesq@me.com

Attorney for Cross-Defendant Robin Bernhoft

Anthony Lee Francois, Esq.  
Briscoe Ivester & Bazel LLP  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104-3002  
Tel: (415) 402-2700  
Email: TFrancois@briscoelaw.net

Attorneys for Cross-Defendant Robin Bernhoft

Robert Kwong, Esq.  
Dennis O. La Rochelle, Esq.  
Arnold Larochele Mathews VanConas & Zirbel, LLP  
300 Esplanade Drive, Suite 2100  
Oxnard, CA 93036  
Tel: (805) 988-9886  
Email: rkwong@atozlaw.com

Attorneys for Cross-Defendant Casitas Municipal Water District

Patrick Loughman, Esq.  
Cristina Arrieta  
Lowthorp, Richards, McMillan, Miller & Templeman  
300 Esplanade Drive, Suite 850  
Oxnard, CA 93036  
Tel: (805) 804-3848  
Email: Ploughman@lrmmt.com  
Carrieta@lrmmt.com

Attorneys for Cross-Defendants Ernest Ford; Tico Mutual Water Company; Betty Withers and Betty Bow Withers Trust

Lindsay F. Nielson, Esq.  
Law Office of Lindsay F. Nielson  
845 East Santa Clara Street  
Ventura, CA 93001  
Tel: (805) 658-0977  
Email: nielsonlaw@aol.com

Attorneys for Cross-Defendants Meiners Oaks Water District and Ventura River Water District, and Jean Marie Webster, Trustee of the Roger E. and Jean Marie Webster Trust

1 Jeanne Zolezzi, Esq.  
Herum Crabtree Suntag  
2 5757 Pacific Avenue, Suite 222  
Stockton, CA 95207  
3 Tel: (209) 472-7700  
Email: [izolezzi@herumcrabtree.com](mailto:izolezzi@herumcrabtree.com)

Attorneys for Cross-Defendants Meiners Oaks  
Water District and Ventura River Water District

4 Neal P. Maguire, Esq.  
5 Ferguson Case Orr Patterson LLP  
1050 South Kimball Road  
6 Ventura, CA 93004  
Tel: (805) 659-6800  
7 Email: [nmaguire@fcoplaw.com](mailto:nmaguire@fcoplaw.com)

Attorneys for Cross-Defendant Rancho Matilija  
Mutual Water Company; Bettina Chandler,  
Trustee of The Bettina Chandler Trust; Martin  
Gramckow, Trustee of The Monika G. Huss  
Irrevocable Trust, Trustee of The Karin W.  
Gramckow Irrevocable Trust and Trustee of  
The Kurt J. Gramckow Irrevocable Trust

8 Stephen C. Lewis, Esq.  
9 Barg Coffin Lewis & Trapp LLP  
600 Montgomery Street, Suite 525  
10 San Francisco, CA 94111  
Tel: (415) 228-5480  
11 Email: [slewis@bargcoffin.com](mailto:slewis@bargcoffin.com)

Attorney specially appearing for proposed  
Cross-Defendant Rudd Ranch, LLC

12 Thomas S. Bunn, III, Esq.  
Elsa Sham  
13 Lagerlof Senecal Gosney & Kruse LLP  
301 North Lake Avenue, 10th Floor  
14 Pasadena, CA 91101-5123  
Tel: (626) 793-9400  
15 Email: [tombunn@lagerlof.com](mailto:tombunn@lagerlof.com)  
[esham@lagerlof.com](mailto:esham@lagerlof.com)

Attorneys for Cross-Defendant St. Joseph's  
Associates of Ojai, California, Inc. and St.  
Joseph's Health and Retirement Center; Janis  
Long Nicholas; John Jay Nicholas; Jess Earl  
Long (aka Jess E. Long); Johana Rae Long and  
Mary Margaret Long; Janis Long Nicholas and  
Jess E. Long as Trustees of The Long Family  
Trust

16 Michael J. Van Zandt, Esq.  
17 Nathan A. Metcalf, Esq.  
Sean G. Herman, Esq.  
18 Hanson Bridgett LLP  
425 Market Street, 26th Floor  
19 San Francisco, CA 94105  
Tel: (415) 777-3200  
20 Email: [mvanzandt@hansonbridgett.com](mailto:mvanzandt@hansonbridgett.com)  
[nmetcalf@hansonbridgett.com](mailto:nmetcalf@hansonbridgett.com)  
21 [sherman@hansonbridgett.com](mailto:sherman@hansonbridgett.com)

Attorneys for Cross-Defendant Ventura County  
Watershed Protection District and County of  
Ventura

22 Scott Slater, Esq.  
Bradley Herrema, Esq.  
23 Christopher Guillen, Esq.  
Brownstein Hyatt Farber Schreck LLP  
24 1021 Anacapa Street, 2nd Floor  
Santa Barbara, CA 93101  
25 Tel: (805) 963-7000  
Email: [sslater@bhfs.com](mailto:sslater@bhfs.com)  
26 [bherrema@bhfs.com](mailto:bherrema@bhfs.com)  
[cguillen@bhfs.com](mailto:cguillen@bhfs.com)  
27  
28

Attorneys for Cross-Defendant Wood  
Claeyssens Foundation

1	Joseph C. Chrisman, Esq. Hathaway, Perrett, Webster, Powers, Chrisman & Gutierrez 5450 Telegraph Road Ventura, CA 93003 Tel: (805) 644-7111 Email: <a href="mailto:ichrisman@hathawaylawfirm.com">ichrisman@hathawaylawfirm.com</a>	Attorneys for Cross-Defendant Wood- Claeysens Foundation
5	Eric M. Katz, Supervising Deputy AG Noah Golden Krasner, Deputy AG Carol Boyd, Deputy AG ATTORNEY GENERAL'S OFFICE 300 S. Spring Street Los Angeles, CA 90023 Tel: (213) 269-6343 Fax: (213) 897-2802 Email: <a href="mailto:Eric.Katz@doj.ca.gov">Eric.Katz@doj.ca.gov</a> <a href="mailto:Noah.goldenkrasner@doj.ca.gov">Noah.goldenkrasner@doj.ca.gov</a> <a href="mailto:Carol.boyd@doj.ca.gov">Carol.boyd@doj.ca.gov</a>	Attorneys for Proposed Intervenor California Department of Fish & Wildlife
11	Jeffrey M. Oderman, Esq. Douglas J. Dennington, Esq. Jeremy N. Jungreis, Esq. RUTAN & TUCKER, LLP 611 Anton Blvd., Ste. 1400 Costa Mesa, CA 92626-1931 Tel: (714) 641-5100 Fax: (714) 546-9035 Email: <a href="mailto:joderman@rutan.com">joderman@rutan.com</a> <a href="mailto:ddennington@rutan.com">ddennington@rutan.com</a> <a href="mailto:jjungreis@rutan.com">jjungreis@rutan.com</a>	Attorneys for Cross-Defendant Casitas Municipal Water District
18	Thomas E. Jeffry, Esq. Debra J. Albin-Riley, Esq. ARENT FOX LLP 555 W. Fifth Ave., 48th Floor Los Angeles, CA 90013-1065 Tel: (213) 629-7400 Fax: (213) 629-7401 Email: <a href="mailto:Thomas.iejfrv@arentfox.com">Thomas.iejfrv@arentfox.com</a>	Attorneys for Cross-Defendant Community Memorial Health System
23	Andrew Brady, Esq. DLA Piper LLP (US) 550 S. Hope St., Ste. 2400 Los Angeles, CA 90071-2618 Tel: (213) 330-7700 Fax: (310) 330-7701 Email: <a href="mailto:andrew.brady@us.dlpiper.com">andrew.brady@us.dlpiper.com</a>	Attorneys for Integritas Ojai, LLC
28		

1  
2  
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25  
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28

Jennifer T. Buckman, Esq.  
Andrew J. Ramos, Esq.  
BARTKIEWICZ KRONICK & SHANAHAN,  
PC  
1011 Twenty-Second Street  
Sacramento, CA 95816-4907  
Tel: (916) 446-4254  
Fax: (916) 446-4018  
Email: [jtb@bkslawfirm.com](mailto:jtb@bkslawfirm.com)

Attorneys for City of Ojai

David R. Krause-Leemon, Esq.  
BEAUDOIN & KRAUSE-LEEMON LLP  
15165 Ventura Blvd., Ste. 400  
Sherman Oaks, CA 91403  
Tel: (818) 205-2809  
Fax: (818) 788-8104  
Email: [david@bk-llaw.com](mailto:david@bk-llaw.com)

Attorneys for RDK Land, LLC

Eric J. Schindler, Esq.  
Michelle J. Berner, Esq.  
KROESCHE SCHINDLER LLP  
2603 Main St., Ste. 200  
Irvine, CA 92614  
Tel: (949) 387-0495  
Fax: (888) 588-0034  
Email: [eschindler@kslaw.legal](mailto:eschindler@kslaw.legal)  
[mberner@kslaw.legal](mailto:mberner@kslaw.legal)

Attorneys for Oak Haven, LLC

Brian A. Osborn, Esq.  
OSBORNE LAW FIRM  
674 County Square Drive, Ste. 308  
Ventura, CA 93003  
Tel: (805) 642-9283  
Fax: (805) 642-7054  
Email: [osbornelawver@gmail.com](mailto:osbornelawver@gmail.com)

Attorneys for Cross-Defendants Brian A. Osborne; Ronald W. Rood and Susan B. Rood, Trustees of The Rood Family Trust

Adam D. Wieder, Esq.  
Barry C. Groveman, Esq.  
Ryan Hiete, Esq.  
GROVEMAN HIETE LLP  
35 East Union St., Ste. B  
Pasadena, CA 91103  
Tel: (626) 747-9383  
Fax: (626) 747-9370  
Email: [awieder@grovemanhiete.com](mailto:awieder@grovemanhiete.com)  
[bgroveman@grovemanhiete.com](mailto:bgroveman@grovemanhiete.com)  
[rhiete@grovemanhiete.com](mailto:rhiete@grovemanhiete.com)

Attorneys for Cross-Defendants Michael Bradbury; Heidi Bradbury; and The Heidi Gramckow Trust

1 Peter A. Goldenring  
Mark R. Pachowicz  
2 PACHOWICH GOLDENRING  
6050 Seahawk Street  
3 Ventura, CA 93003-6622  
Tel: (805) 642-6702  
4 Fax: (805) 642-3145  
Email: attorneys@gopro-law.com

Attorneys for Cross-Defendant The Manfred  
Krankl and Elaine V. Krankl Living Trust

5 Ernest J. Guadiana  
6 ELKINS KALT WEINTRAUB REUBEN  
GARTSIDE LLP  
7 10345 W. Olympic Boulevard  
Los Angeles, CA 90064  
8 Tel: (310) 746-4425  
Email: eguadiana@elkinskalt.com

Attorneys for Michael Lombardo and Charles  
L. Ward III, as Co-Trustees of the Ward-  
Lombardo Living Trust

9 Justin M. Alvarez  
10 Lamdien T. Le  
THE ALVAREZ FIRM  
11 24005 Ventura Boulevard  
Calabasas, CA 91302  
12 Tel: (818) 224-7077  
Fax: (818) 224-1380  
13 Email: jalvarez@alvarezfirm.com  
del@alvarezfirm.com

Attorneys for Cross-Defendant Rancho Sueno,  
LLC

14 Patrick L. Rendon  
15 LAMB AND KAWAKAMI LLP  
333 S. Grand Ave., Ste. 4200  
16 Los Angeles, CA 90071  
Tel: (213) 630-5500  
17 Fax: (213) 630-5555  
Email: prendon@lkfirm.com

Attorneys for Real Party in Interest Emily V.  
Brown

18 Karen A. Feld, Esq.  
19 Daniel S. Roberts, Esq.  
COLE HUBER LLP  
20 3401 Centerlake Dr., Ste. 670  
Ontario, CA 91761  
21 T: (909) 230-4209  
F: (909) 937-2034  
22 Email: kfeld@colehuber.com  
droberts@colehuber.com

Attorneys for Cross-Defendant VENTURA  
UNIFIED SCHOOL DISTRICT

23  
24 David A. Ossentjuk, Esq.  
OSSENTJUK & BOTTI  
25 2815 Townsgate Rd., Ste. 320  
Westlake Village, CA 91361  
26 T: (805) 557-8081  
F: (805) 456-7884  
27 Email: dossentjuk@oandblawyers.com

Attorneys for Cross-Defendant ROBERT  
MARTIN

1 Attn: Tim Carey, Managing Member  
Del Cielo LLC  
2 22410 Hawthorne, #5  
Torrance, CA 90505  
3 Tel: (310) 787-6569  
Email: [tim@calvoterguide.com](mailto:tim@calvoterguide.com)

Attn: Roger J. Essick  
Hermitage Mutual Water Company  
2955 Hermitage Road  
Ojai, CA 93023  
Tel: (805) 320-1406  
Email: [rogeressick@gmail.com](mailto:rogeressick@gmail.com)

5 Julia A. Baker  
6 2193 Maricopa Hwy.  
Ojai, CA 93023  
7 Tel: (805) 646-8700  
Email: [Janjbaker2@gmail.com](mailto:Janjbaker2@gmail.com)

Attn: Oriana Fedele  
The Joseph Fedele 1995 Living Trust  
Oriana Marie Fedele, Trustee  
P.O. Box 298  
Lahaina, HI 96767  
Tel: (818) 601-3161  
Email: [orianafedele@gmail.com](mailto:orianafedele@gmail.com)

11 T&D Nevada Trust  
Dennis and Antoinette Mitchell  
12 Mitchell Homes, Inc.  
P.O. Box 360  
13 Ojai, CA 93024  
Tel: (805) 340-2890  
14 Email: [amitc74383@aol.com](mailto:amitc74383@aol.com)

Michaela Boehm  
12293 Topa Lane  
Santa Paula, CA 93060  
Tel: (323) 493-3737  
Email: [Micboehm@me.com](mailto:Micboehm@me.com)

16 Anthonie M. Voogd  
17 918 Palomar Road  
Ojai, CA 93023  
18 Tel: (805) 646-1512  
Email: [avoogd@stanfordalumni.org](mailto:avoogd@stanfordalumni.org)

Lawrence S. Mihalas  
Trustees of the Mihalas Family Trust  
419 21st Place  
Santa Monica, CA 90402  
Tel: (310) 739-0700  
Email: [lmihalas@gmail.com](mailto:lmihalas@gmail.com)

21 Heather Blair  
556 S. Fair Oaks Ave., Ste. 101  
22 P.O. Box 356  
Pasadena, CA 91105  
23 Tel: (626) 755-6566  
Email: [Hblair1946@gmail.com](mailto:Hblair1946@gmail.com)

Martin Hartmann  
Whitney Hartmann  
430 S. Carrillo Road  
Ojai, CA 93023  
Tel: (805) 798-2253  
Email: [earthbuilding@gmail.com](mailto:earthbuilding@gmail.com)

1 Robert K. Cartin  
2 Cartin Family LLC  
3 505 Estremoz Ct.  
4 Oceanside, CA 90257  
5 Tel: (760) 429-4738  
6 Email: bob.cartin@dvm.com

7 Joyce Syme, and  
8 The Joyce A. Syme Living Trust  
9 1760 Ocean Avenue  
10 Santa Monica, CA 90401  
11 Tel: (310) 403-1760  
12 Email: seaviewmotel@hotmail.com

13 Dale and Patricia Givner  
14 12617 Koenigstein Rd.  
15 Santa Paula, CA 93060  
16 Tel: (805) 525-9524  
17 Email: dalegivner@gmail.com

18 David R. Greifinger  
19 LAW OFFICE OF DAVID R. GREIFINGER  
20 15515 West Sunset Blvd., No. 214  
21 Pacific Palisades, CA 90272  
22 Tel: (424) 330-0193  
23 Email: tracklaw@me.com

24 Kelton Lee Gibson  
25 878 Oak Grove Court  
26 Ojai, CA 93023  
27 Tel: (805) 701-9318  
28 Email: [kgibson@mwgjlaw.com](mailto:kgibson@mwgjlaw.com)  
[kgibson878@gmail.com](mailto:kgibson878@gmail.com)

George and Sigrid Bressler  
340 Longhorn Lane  
Ojai, CA 93023  
Tel: (805) 646-1221  
Email: andybsail@gmail.com

Peter Duchesneau  
Sigrid R. Waggener  
MANNAT, PHELPS & PHILLIPS, LLP  
One Embarcadero Center, 30th Flr.  
San Francisco, CA 94111  
Tel: (415) 291-7400  
Fax: (415) 291-7474  
Email: [pduchesneau@manatt.com](mailto:pduchesneau@manatt.com)  
[swaggener@manatt.com](mailto:swaggener@manatt.com)

Loa E. Bliss  
Loa E. Bliss 2006 Revocable Trust  
9030 Ojai Santa Paula Road  
Ojai, CA 93023  
Tel: (617) 750-8500  
Email: loabliss@hotmail.com

Janice and Jesse Hillestad  
9611 N. Ventura Ave.  
Ventura, CA 93001  
Tel: (310) 614-8438  
Email: [janicehillestad@icloud.com](mailto:janicehillestad@icloud.com)  
[jessehillestad@icloud.com](mailto:jessehillestad@icloud.com)

Dennis and Nadine Corte  
12812 MacDonald Drive  
Ojai, CA 93023  
Tel: (805) 701-1950

Attorney for Cross-Defendants Danny Everett  
and Tiarzha Talyor

Kelton Lee Gibson, Trustee of  
The Gibson Family Trust Dated June 6, 2006

Rebecca C. Collins  
Thomas M. Collins, Jr.  
241 Longhorn Lane  
Ojai, CA 93023  
Tel: (805) 312-5894  
Email: [tominojai@gmail.com](mailto:tominojai@gmail.com)  
[collinst3@sbcglobal.net](mailto:collinst3@sbcglobal.net)

Attorneys for Cross-Defendant Aera Energy,  
LLC

1 Claude R. and Patrica E. Baggerly  
119 S. Poli Avenue  
2 Ojai, CA 93023-2144  
Tel: (805) 646-0767  
3 Tel: (805) 766-7317  
Email: russ.baggerly65@gmail.com  
4

Judith L. Mercer  
C/O Jason Goldman  
Mercer Family Trust Agreement of 1992  
1175 Grand Avenue  
Ojai, CA 93023  
Tel: (310) 625-7795  
Email: jgoldman@begroup.com

5 Matthew Haffner  
HAFFNEW LAW GROUP  
6 86 S. Laurel Street  
Ventura, CA 93001  
7 Tel: (805) 641-9334  
Fax: (805) 980-5014  
8 Email: mhaffner@haffnerlawgroup.com

Attorneys for Cross-Defendant Susan Moll

9 Henry D. Finkelstein  
Brian Moskal  
10 GREENBERG GLUSKER FIELDS  
CLAMAN & MACHTINGER LLP  
11 2049 Century Park East, Ste. 2600  
Los Angeles, CA 90067  
12 Tel: (310) 785-6833  
Fax: (310) 201-2368  
13 Email: hfinkelstein@ggfirm.com  
bmoskal@greenbergglusker.com  
14

Attorneys for Ginnetti Living Trust; and  
Baldwin Ranch, LLC

15 Harry D. Sims and Raymond P. Sims  
Post Office Box 1870  
Ojai, CA 93024  
16 Tel: (805) 646-0167  
Email: 1978simsfamilytrust@gmail.com  
17

18 Tristan F. Mackprang  
David J. Farkas  
COLEMAN FROST LLP  
19 201 Nevada St., Smokey Hollow  
El Segundo, CA 92045  
20 Tel: (424) 277-1650  
Email: tristan@colemanfrost.com  
21 david@colemanfrost.com

Attorneys for Cross-Defendants Housing  
Authority of the City of San Buenaventura;  
Triad Properties, Inc.; Encanto Del Mar  
Apartments, L.P.; Villages at Westview I L.P.;  
Vista Del Mar Commons, LP; and Soho  
Associates, L.P.

22 Andrew K. Whitman  
821 N. Signal Street  
23 Ojai, CA 93023  
Tel: (805) 444-5671  
24 Email: sfreberg@scr-legal.com

In pro per and attorney for Cross-Defendants  
Andrew K. Whitman and Heidi A Whitman;  
Nancy L. Whitman; John R. Whitman and  
Nancy L. Whitman Family Trust

25 Christopher Danch  
16200 Maricopa Highway  
26 Ojai, CA 93023  
Tel: (805) 640-8534  
27 Email: chrisdanch@gmail.com  
28

Attorney for Cross-Defendants Angie Marie  
Genasci and Christopher Paul Danch, Trustees  
of The Genasci-Danch Family Trust; and  
Donald and Wendy Givens



1 Paul R. Huff, Esq.  
THE HUFF LAW FIRM  
2 21 S. California St., Ste. 205  
Ventura, CA 93001  
3 Tel: (805) 667-8940  
Fax: (805) 850-7399  
4 Email: [phuff@hufffirm.com](mailto:phuff@hufffirm.com)

Attorneys for Berbard Properties, Inc.

5 Alessandro (Alex) Loba  
Alessandro Lobba and Mary E. Jackson,  
6 individually and as Trustees of The Lobba-  
Jackson Family Trust  
7 947 Casitas Vista Rd.  
Ventura, CA 93001  
8 Tel: (805) 895-7056  
Email: [alobba@gmail.com](mailto:alobba@gmail.com)

Christine Steiner  
2560 Ladera Road  
Ojai, CA 93023  
Tel: (310) 600-3220  
Email: [csteiner@csteinerlaw.com](mailto:csteiner@csteinerlaw.com)

9 William Slaughter  
10 Slaughter, Reagan & Cole, LLP  
625 East Santa Clara St., Ste. 101  
11 Ventura, CA 93001  
Tel: (805) 658-7800  
12 Fax: (805) 644-2131  
Email: [slaughter@srllplaw.com](mailto:slaughter@srllplaw.com)

Attorneys for The Boyd S. Dron and Karin  
Dron Joint Living Trust; and Sisar Mutual  
Water Company

13 Julia Taft-Whitman, President CEO Taft  
14 Corporation?  
111 West Topa Topa Street  
15 Ojai, CA 93023  
Tel: (805) 794-2837  
16 Email: [juliawhitman@gmail.com](mailto:juliawhitman@gmail.com)

Jaide Whitman, President  
Julia Whitman, Director  
Conservation Endowment Fund  
P.O. Box 6  
Oak View, CA 93022  
Tel: (805) 649-2333  
Fax: (805) 804-7005  
Email: [jaide.whitman@gmail.com](mailto:jaide.whitman@gmail.com)  
[TaftGardensOffice@gmail.com](mailto:TaftGardensOffice@gmail.com)

17  
18 Kelley M. Rasmussen, Trustee  
19 2420 Park Road  
Lake Oswego, OR 97034  
20 Tel: (805) 798-7125  
Email: [kelleyras@gmail.com](mailto:kelleyras@gmail.com)

Angela Small Booth, Attorney  
2175 Valley Meadow Drive  
Oak View, CA 93022  
Tel: (805) 765-5413  
Email: [angie@angiesmall.org](mailto:angie@angiesmall.org)

22 William E. Colborn, Jr.  
13183 Ojai Road  
23 Santa Paula, CA 93060  
Tel: (805) 795-1909  
24 Email: [jake@colbornandassociates.com](mailto:jake@colbornandassociates.com)

Rebecca Tickell  
350 Verano Drive  
Ojai, CA 93023  
Tel: (323) 559-5700  
Email: [rebccca@bigpictureranch.com](mailto:rebccca@bigpictureranch.com)

25 Joshua Beckman  
913 Oso Road  
26 Ojai, CA 93023  
Tel: (323) 404-0465  
27 Email: [joshfbfp@gmail.com](mailto:joshfbfp@gmail.com)

Gregg S. Garrison and Rosanna Garrison  
Garrison Law Corporation  
12986 MacDonald Drive  
Ojai, CA 93023  
Tel: (650) 726-1111  
Fax: (805) 669-3168  
Email: [gsgarrison@garrisonlawcorp.com](mailto:gsgarrison@garrisonlawcorp.com)

28

1 Robert L. Smith  
12777 Tree Ranch Road  
2 Ojai, CA 93023  
Tel: (805) 558-6322  
3 Email: [treeranch@ymail.com](mailto:treeranch@ymail.com)

Susan M. Glennon  
292 Cruzero Street  
Ojai, CA 93023  
Tel: (805) 646-4816  
Email: [theglennonest@aol.com](mailto:theglennonest@aol.com)

4 Robin Schwartzburd  
411 Franklin Drive  
5 Ojai, CA 93023  
Tel: (805) 272-5877  
6 Email: [robin.schwartzburd@gmail.com](mailto:robin.schwartzburd@gmail.com)

Melinda Hass  
11947 Kocnigstein Road  
Santa Paula, CA 93060  
Tel: (213) 713-4360  
Email: [mlynnbooking@gmail.com](mailto:mlynnbooking@gmail.com)

7  
8 Malinda K. Vaughn  
Mitchell B. Vaughn  
12283 Ojai Santa Paula Road  
9 Ojai, CA 93023-9323  
Tel: (805) 890-6616  
10 Email: [vaughnmb@aol.com](mailto:vaughnmb@aol.com)

Rebecca D. Schwermer  
P. O. Box 174  
Santa Paula, CA 93061  
Tel: (805) 551-3494  
Email: [octoberbabies2@verizon.net](mailto:octoberbabies2@verizon.net)

11  
12 Jennifer Jordan Day and Joel Fox  
909 North Rice Road  
Ojai, CA 93023  
13 Tel: (213) 321-5253  
14 Email: [jenniferjordanday@gmail.com](mailto:jenniferjordanday@gmail.com)

Brigitte Lovell, Trustee of Lovell Living Trust  
295 Encino Drive  
Oak View, CA 93022  
Tel: (915) 227-9412  
Email: [loveb9@gmail.com](mailto:loveb9@gmail.com)

15 Catherine Ferro &  
Catherine Eileen Ferro Inter Vivos Trust  
16 312 Montana Road  
Ojai, CA 93023  
17 Tel: (805) 326-1686  
18 Email: [cepharoah@gmail.com](mailto:cepharoah@gmail.com)

Susan C. White  
Steven J. White  
2 Shorewood Drive  
Bellingham, WA 98225  
Tel: (425) 891-9249  
Email: [curranwhite1@hotmail.com](mailto:curranwhite1@hotmail.com)

19 Susan Capper  
12870 Tree Ranch Road  
20 Ojai, CA 93023  
Tel: (805) 794-6421  
21 Email: [chelsue@aol.com](mailto:chelsue@aol.com)

Lindy & Karen C. Goetz  
12338 Linda Flora  
Ojai, CA 93023-9721  
Tel: (805) 649-2526; (805) 794-2312  
Email: [lindygoetz@roadrunner.com](mailto:lindygoetz@roadrunner.com)

22 Joyce L. Heath  
23 Joyce Heath, Trustee  
The Heath Family Living Trust,  
24 P.O. Box 1323  
Ojai, CA 93024  
25 Tel: (805) 290-6231  
26 Email: [mamaheath55@gmail.com](mailto:mamaheath55@gmail.com)

Thomas M. German  
301 N. Drown Avenue  
Ojai, CA 93023  
Tel: (805) 646-2130  
Email: [kittycatgirl214@gmail.com](mailto:kittycatgirl214@gmail.com)

1 Ronald W. Bowman, Trustee  
The Bowman Trust Dated April 8, 2011  
2 672 W. Villanova Road  
Ojai, CA 93023  
3 Tel: (805) 732-4014  
Email: [ron@l-binc.com](mailto:ron@l-binc.com)

Amy Hueppe  
1025 Moreno Drive  
Ojai, CA 93023  
Tel: (310)699-4619  
Email: [amyhueppe@gmail.com](mailto:amyhueppe@gmail.com)

4  
5 Andrew P. Byrne, Esq.  
1140 Highland Avenue, Ste. 250  
Manhattan Beach, CA 90266  
6 Tel: (310) 505.7170  
Email: [Andy@ByrneLaw-LA.com](mailto:Andy@ByrneLaw-LA.com)

Attorneys for Cross-Defendant Roman Catholic  
Archdiocese of Los Angeles

7  
8 Glenn Bator  
338 Montana Road  
9 Ojai, CA 93023  
Tel: (805) 798-1802  
10 Email: [dembator@aol.com](mailto:dembator@aol.com)

Harry Anthony Williams  
915 Daly Road  
Ojai, CA 93023  
Tel: (661) 609-1253  
Tel: (805) 794-6922  
Email: [awilliam@me.com](mailto:awilliam@me.com)

11  
12 Bryan M. Sullivan, Esq.  
EARLY SULLIVAN WRIGHT GIZER & McRAE LLP  
6420 Wilshire Boulevard, 17<sup>th</sup> Floor  
13 Los Angeles, CA 90048  
Tel: (323) 301-4660  
14 Email: [bsullivan@earlysullivan.com](mailto:bsullivan@earlysullivan.com)

Attorneys for Cross-Defendant  
Jeff Bacon as Trustee of the Villa Nero Trust  
Dated January 25, 2000

15 David L. Osias, Esq.  
ALLEN MATKINS LECK GAMBLE  
16 MALLORY & NATSIS LLP  
One America Plaza  
17 600 West Broadway, 27<sup>th</sup> Floor  
San Diego, CA 92101-0903  
18 Tel: (619) 233-1155  
Fax: (619) 233-1158  
19 Email: [dosias@allenmatkins.com](mailto:dosias@allenmatkins.com)

Attorneys for Cross-Defendant Jeff Bacon as Trustee of  
The Villa Nero Trust Dated January 25, 2000

20 Laura M. Peakes  
John E. Peakes, Jr.  
21 316 Verano Drive  
Ojai, CA 93023  
22 Tel: (805) 402-0249  
Email: [jpeakesjr@aol.com](mailto:jpeakesjr@aol.com)

Kelsey Klein  
Paula Kee  
1042 Fairview Road  
Ojai, CA 93023  
Tel: (805) 640-5154  
Email: [kelseyklein88@gmail.com](mailto:kelseyklein88@gmail.com)

23  
24 Laura R. Schreiner, aka Laura Rearwin  
418 Crestview Drive  
Ojai, CA 93023  
25 Tel: (805) 479-5400  
Email: [laura@rearwin.com](mailto:laura@rearwin.com)

Paul J. Deneen  
12170 Ojai Santa Paula Road  
Ojai, CA 93023-9358  
Tel: (805)218-0211  
Email: [paul@carbide.com](mailto:paul@carbide.com)

1 Jennifer Carafelli  
Robin Schwartzburd  
2 211 Village Commons Boulevard, No. 21 Camarillo, CA  
93012  
3 Tel: (805) 340-2540  
Email: [carafelli@gmail.com](mailto:carafelli@gmail.com)

Timothy Mahoney  
10244 Ojai Santa Paula Road  
Ojai, CA 93023  
Tel: (323) 252-3309  
Email: [honedog@mac.com](mailto:honedog@mac.com)

4  
5 Thomas Adams  
Adams & Associates  
6 21781 Ventura Boulevard, Suite 10005  
Woodland Hills, CA 93003  
7 Tel: (805) 229-1529  
Email: [tom@adamsassoc.com](mailto:tom@adamsassoc.com)

Attorneys for Cross-Defendant 235 La Luna Owners, an  
unincorporated association

8 Salvatore Scarpato  
106 Calhoun Lane  
9 Georgetown, TX 78633  
10 Tel: (805) 797-8767  
Email: [salscarpato@att.net](mailto:salscarpato@att.net)

Robert Kyle  
The Robert Kyle Living Trust  
715 Sunset Place  
Ojai, CA 93023  
Tel: (626) 260-5509  
Email: [robertkyle61@gmail.com](mailto:robertkyle61@gmail.com)

11 William R. Thatcher  
12 12195 Linda Flora Drive  
Ojai, CA 93023-9723  
13 Email: [thelostplanetairmen@yahoo.com](mailto:thelostplanetairmen@yahoo.com)

Via US Mail  
Warren W. Greene  
Bonnie M. Green  
958 E. Main Street  
Ventura, CA 93001  
Tel: (805) 652-1080  
Fax: (805) 652-0400

14  
15  
16  
17 Jeffrey E. Barnes  
Chief Assistant County Counsel  
18 Jason Canger  
Assistant County Counsel  
19 Office of Ventura County Counsel  
800 South Victoria Ave., L/C #1830  
20 Ventura, CA 93009  
Tel: (805) 654-2879  
21 Fax: (805) 654-2185  
Email: [jason.canger@ventura.org](mailto:jason.canger@ventura.org)

Attorneys for Cross-Defendants Ventura County Watershed  
Protection District and County of Ventura

22  
23  
24  
25  
26  
27  
28