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12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

16 SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,

17 Petitioner,

18 v.

19 STATE WATER RESOURCES CONTROL
20 BOARD, etc., et al.,

21 Respondents.

22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant,

24 v.

25 DUNCAN ABBOTT, an individual, et al.

26 Cross-Defendants.
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Exempt From Filing Fees Pursuant to
Cal. Gov't Code § 6103

FILED
Superior Court of California
County of Los Angeles

JUN 18 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By C. Grijalva Deputy
Cristina Grijalva

Case No. 19STCP01176

Judge: Honorable William F. Highberger

APPLICATION BY CROSS-DEFENDANT
CITY OF SAN BUENAVENTURA FOR
ORDER DIRECTING SERVICE OF
SUMMONS BY DELIVERY TO THE
SECRETARY OF STATE

NO HEARING REQUESTED

[Filed concurrently with:

1. [Proposed] Order for Service of Summons on Secretary of State, and;
2. Declaration of Marnie Prock]

Action Filed: Sept. 19, 2014
Trial Date: Not Set



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APPLICATION

TO THE HONORABLE COURT AND TO ALL PARTIES AND TO THEIR COUNSEL
OF RECORD:

PLEASE TAKE NOTICE that Cross-Complainant, CITY OF BUENAVENTURA (“CITY”), herein applies for an Order allowing service of its Summons to the Third Amended Cross-Complaint and supporting documents on defendants Casitas Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217, by serving the California Secretary of State, and that such Order be allowed without hearing.

This Application is made on the grounds that, after extensive efforts, CITY has been unable to serve Casitas Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217, and pursuant to California Corporations Code sections 1702(a) and 17701.16(c)(1), service may be made upon the Secretary of State after proof of due diligence that service cannot be effected on said company.

This Application is based upon this Application, the attached Memorandum of Points and Authorities, the Declaration of Marnie Prock and on any other matters properly before the court.

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Dated: June 18, 2021

BEST BEST & KRIEGER LLP



By:

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CITY OF SAN BUENAVENTURA

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Respondent and Cross-Complainant, City of San Buenaventura (“CITY”) hereby applies for an Order directing that the Summons of the Third Amended Cross-Complaint for Violation of Reasonable Use; Violation of Public Trust; Declaratory Relief – Pueblo and/or Treaty Water Rights; Declaratory Relieve – Prescriptive Water Rights; Declaratory Relief – Appropriative Water Rights; Comprehensive Adjudication; Declaratory Relief – Municipal Priority; Declaratory Relief – Human Right to Water and Declaratory Relief filed in this action on January 2, 2020 (hereinafter “Third Amended Cross Complaint”) be served upon the Secretary of State on behalf of Casitas Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217.

CITY has been unable to effectuate service of process on these Cross-Defendants in the manner provided in Code of Civil Procedure Sections 415.10, 415.20, 415.30, 416.10(a)-(c) and 416.40, although CITY has made diligent efforts to do so. Having exhausted all reasonable efforts to serve Casitas Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217, CITY respectfully requests that this Court order service of the Summons, Third Amended Cross Complaint and related pleadings on Casitas Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217, by delivery to the California Secretary of State, together with a copy of the order authorizing such service.

1 **II. SERVICE OF PROCESS ON THE SECRETARY OF STATE IS PROPER**
2 **BECAUSE SERVICE ON THESE CERTAIN CORPORATE ENTITY CROSS-**
3 **DEFENDANTS CANNOT BE EFFECTED BY ANY OTHER METHOD**

4 Service on a limited liability company is effectuated by serving the person designated as its
5 agent for service of process. (Corp. Code § 17701.16(b).) The designated agent may be served
6 either by personal service (Code Civ. Proc. § 415.10), or service by mail with acknowledgment of
7 receipt. (Code Civ. Proc. § 415.30(a).) Similarly, service on a California corporation or limited
8 liability company is effectuated by service of its registered agent for service of process. (Corp.
9 Code § 15901.16.)

10 However, if the plaintiff is unable to serve a defendant by these methods, the plaintiff may
11 file an affidavit showing that the designated agent has resigned or cannot be located, or that service
12 cannot be effectuated by the above-mentioned methods. Upon receipt of plaintiff's affidavit, the
13 court may order service of process as to the non-served defendant business entity by delivery to the
14 Secretary of State, together with a copy of the order authorizing such service. (Corp. Code §§ 1702,
15 17701.16(c)(1)).

16 Here, this court should order service on Casitas Mutual Water Company; Flying H Ranch,
17 Inc.; Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited
18 liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company,
19 Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens
20 Limited, a California limited partnership, Roe 217 by delivery to the Secretary of State. Casitas
21 Mutual Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big
22 Bagga Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments,
23 LLC, a California limited liability company, Roe 26; Matilija Center, LLC, a California limited
24 liability company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217
25 are either active California corporations or limited liability companies in which the Agent for
26 Service of Process cannot be located or is deceased, or is a defunct California corporation or limited
27 liability company and the Agent for Service of Process either cannot be located or is deceased.
28 (Prock Decl. ¶ 12, 13 and Ex. B.) In all cases, the Secretary of State information has not been

1 properly updated with current information. However, CITY has attempted numerous times to serve
2 the current identified Agent for Service of Process or the entity address at the addresses indicated
3 on the Secretary of State website. (Prock Decl. ¶ 12-14.) As part of its efforts to effectuate service,
4 CITY retained Process Server One (“PSO”) and First Legal (“First Legal”) to serve Casitas Mutual
5 Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga
6 Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a
7 California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability
8 company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217. (Prock
9 Decl. ¶ 6, 13.) Neither PSO nor First Legal were able to effectuate service of process. (Prock Decl.
10 ¶ 13.) Thus, based on a thorough and systematic investigation in good faith, CITY cannot with
11 reasonable diligence locate or serve Casitas Mutual Water Company; Flying H Ranch, Inc.;
12 Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited
13 liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company,
14 Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens
15 Limited, a California limited partnership, Roe 217.

16 Thus, CITY respectfully requests that the Court grant an Order allowing it to serve a copy
17 of the Summons, Third Amended Cross Complaint, and supporting pleadings on Casitas Mutual
18 Water Company; Flying H Ranch, Inc.; Southern California Associated Investors, Ltd.; Big Bagga
19 Acorns LLC, a California limited liability company, Roe 25; Black Equine Investments, LLC, a
20 California limited liability company, Roe 26; Matilija Center, LLC, a California limited liability
21 company, Roe 152 and Seneca Gardens Limited, a California limited partnership, Roe 217, by
22 delivery to the California Secretary of State, in order that CITY be able complete its more than
23 eighteenth month service of process of this case.

24 **III. CONCLUSION**

25 Based on a thorough and systematic investigation in good faith, CITY cannot with
26 reasonable diligence effectuate service of Casitas Mutual Water Company; Flying H Ranch, Inc.;
27 Southern California Associated Investors, Ltd.; Big Bagga Acorns LLC, a California limited
28 liability company, Roe 25; Black Equine Investments, LLC, a California limited liability company,

1 Roe 26; Matilija Center, LLC, a California limited liability company, Roe 152 and Seneca Gardens
2 Limited, a California limited partnership, Roe 217. As a result, CITY respectfully requests that the
3 Court order service on these cross-defendants by delivery to the Secretary of State.

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7 Dated: June 18, 2021

BEST BEST & KRIEGER LLP

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9 By: 

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16 CITY OF SAN BUENAVENTURA
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