

1 SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
2 BEST BEST & KRIEGER LLP
655 West Broadway, 15th Floor
3 San Diego, California 92101
Telephone: (619) 525-1300
4 Facsimile: (619) 233-6118

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5 CHRISTOPHER M. PISANO, Bar No. 192831
christopher.pisano@bbklaw.com
6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
sarah.foley@bbklaw.com
7 PATRICK D. SKAHAN, Bar No. 286140
patrick.skahan@bbklaw.com
8 BEST BEST & KRIEGER LLP
300 South Grand Avenue, 25th Floor
9 Los Angeles, California 90071
Telephone: (213) 617-8100
10 Facsimile: (619) 617-7480

11 Attorneys for Defendant and Cross-Complainant
12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

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

Case No. 19STCP01176

17 Petitioner,

Judge: Hon. William F. Highberger

18 v.

CITY OF SAN BUENAVENTURA'S
SUPPLEMENTAL BRIEF ON THE
ISSUES OF FACT AND LAW FOR THE
PHASE 1 TRIAL

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

Date: December 9, 2021

21 Respondents.

Time: 2:30 p.m.

Action Filed: Sept. 19, 2014

Trial Date: Feb. 14, 2022

22
23 CITY OF SAN BUENAVENTURA, etc.,

24 Cross-Complainant,

25 v.

26 DUNCAN ABBOTT, an individual, et al.,

27 Cross-Defendants.
28

BEST BEST & KRIEGER LLP
300 SOUTH GRAND AVENUE, 25TH FLOOR
LOS ANGELES, CA 90071

1 Defendant and Cross-Complainant the City of San Buenaventura (Ventura) submits this
2 Supplemental Brief on the Issues of Fact and Law for the Phase 1 Trial. At the November 23,
3 2021 further status conference, Ventura asked for and received leave to file this Supplemental
4 Brief to respond to two issues raised in Cross-Defendant the City of Ojai's (Ojai) November 8,
5 2021 Legal Brief Regarding Scope of Issues for Resolution in Phase 1.

6 1. MULTI-BASIN ADJUDICATIONS

7 In its original brief filed on November 8, 2021, Ventura provided the Court with several
8 examples of multi-basin adjudications. On pages 5-6 of its brief, however, Ojai asserts that there
9 have been *no* previous multi-basin adjudications. This assertion lacks factual support.

10 For example, Ventura's brief provided the Court with the example of the multi-basin
11 Mojave Adjudication, *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224. Contrary
12 to Ojai's assertion,¹ the Mojave Adjudication involved *nine separate* basins, wholly or partially,
13 as identified by the California Department of Water Resources (DWR) in California's
14 Groundwater Bulletin 118. (See DWR's Adjudicated Basins Annual Reporting System for the
15 Mojave Basin Area, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/197>, which
16 lists the nine basins involved in the adjudication.)

17 The nine separate Bulletin 118 basins adjudicated in *Mojave* are as follows:

- 18 1. 6-37 Coyote Lake Valley;²
- 19 2. 6-38 Caves Canyon Valley;³

20
21 _____
22 ¹ Ventura assumes that Ojai made this mistaken assertion based solely on the written opinion in
23 *Mojave*, which recognizes that the adjudication involved a large river system and five hydrologic
24 subareas, and that Ojai did not review the subsequently prepared 2003 and 2020 updates to the
25 Department of Water Resources' (DWR) Bulletin 118 or DWR's Adjudicated Basins Annual
26 Reporting System, available at <https://sgma.water.ca.gov/adjudbasins/report/publicview>. Upon
27 review of all of these relevant facts and reports, it is indisputable that the Mojave Adjudication
28 involved multiple DWR-defined basins. In fact, DWR expressly recognizes this and explains
how the separate basins it defines relate to the subareas described in the adjudication.

26 ² 6-37 Coyote Lake Valley 2020 Bulletin 118 Basin Description available [here](#).
27 6-37 Coyote Lake Valley 2003 Bulletin 118 Basin Report available [here](#).

28 ³ 6-38 Caves Canyon Valley 2020 Bulletin 118 Basin Description available [here](#).
6-38 Caves Canyon Valley 2003 Bulletin 118 Basin Report available [here](#).

- 1 3. 6-40 Lower Mojave River Valley;⁴
- 2 4. 6-41 Middle Mojave River Valley;⁵
- 3 5. 6-42 Upper Mojave River Valley;⁶
- 4 6. 6-43 El Mirage Valley;⁷
- 5 7. 6-47 Harper Valley;⁸
- 6 8. 6-89 Kane Wash Area;⁹ and
- 7 9. 7-19 Lucerne Valley.¹⁰

8 Similarly and again contrary to Ojai’s assertion, there are at least two other adjudications
9 that involved separate basins as defined by DWR in Bulletin 118. First, the Santa Margarita
10 River Watershed Adjudication involved the following four separately defined DWR basins as set
11 forth below. (See DWR’s Adjudicated Basins Annual Reporting System for the Santa Margarita
12 River Watershed, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/180>, which
13 lists the four basins in the adjudication.)

- 14 1. 8-05 San Jacinto;¹¹
- 15 2. 9-04 Santa Margarita Valley;¹²

16 ⁴ 6-40 Lower Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
17 6-40 Lower Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

18 ⁵ 6-41 Middle Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
19 6-41 Middle Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

20 ⁶ 6-42 Upper Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
21 6-42 Upper Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

22 ⁷ 6-43 El Mirage Valley 2020 Bulletin 118 Basin Description available [here](#).
23 6-43 El Mirage Valley 2003 Bulletin 118 Basin Report available [here](#).

24 ⁸ 6-47 Harper Valley 2020 Bulletin 118 Basin Description available [here](#).
25 6-47 Harper Valley 2003 Bulletin 118 Basin Report available [here](#).

26 ⁹ 6-89 Kane Wash Area 2020 Bulletin 118 Basin Description available [here](#).
27 6-89 Kane Wash Area 2003 Bulletin 118 Basin Report available [here](#).

28 ¹⁰ 7-19 Lucerne Valley 2020 Bulletin 118 Basin Description available [here](#).
7-19 Lucerne Valley 2003 Bulletin 118 Basin Report available [here](#).

¹¹ 8-05 San Jacinto 2020 Bulletin 118 Basin Description available [here](#).
8-05 San Jacinto 2003 Bulletin 118 Basin Report available [here](#).

¹² 9-04 Santa Margarita Valley 2020 Bulletin 118 Basin Description available [here](#).

1 3. 9-05 Temecula Valley;¹³

2 4. 9-06 Cahuilla Valley.¹⁴

3 Second, the Tehachapi Basin Adjudication involved the following two separately defined
4 DWR basins as set forth below. (See DWR’s Adjudicated Basins Annual Reporting System for
5 the Tehachapi Basin, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/146>,
6 which lists the two basins in the adjudication.)

7 1. 5-28 Tehachapi Valley West;¹⁵ and

8 2. 6-45 Tehachapi Valley East.¹⁶

9 Finally, Ojai’s attempt to distinguish between “basins” and “subbasins” is not consistent
10 with the relevant statutes. Code of Civil Procedure section 832, subdivision (a) defines “basin”
11 by reference to Water Code section 10721, which in turn defines “basin” to mean “a basin or
12 *subbasin* identified and defined in Bulletin 118” (Water Code § 10721 subd. (b), emphasis
13 added.) Thus, basin and subbasin have the same meaning under the statutes. As Ventura and
14 others have demonstrated, there have been several common law cases that have adjudicated
15 separate basins or subbasins in one single action, and any assertion to the contrary lacks factual
16 support.

17 2. OJAI BASIN GROUNDWATER MANAGEMENT AGENCY AND THIS
18 COURT’S JURISDICTION

19 Ojai implies on page 12 of its brief that this Court lacks jurisdiction over the Ojai Basin
20 because the Ojai Basin Groundwater Management Agency Act invests the Ojai Basin

21
22 9-04 Santa Margarita Valley 2003 Bulletin 118 Basin Report available [here](#).

23 ¹³ 9-05 Temecula Valley 2020 Bulletin 118 Basin Description available [here](#).
24 9-05 Temecula Valley 2003 Bulletin 118 Basin Report available [here](#).

25 ¹⁴ 9-06 Cahuilla Valley 2020 Bulletin 118 Basin Description available [here](#).
26 9-06 Cahuilla Valley 2003 Bulletin 118 Basin Report available [here](#).

27 ¹⁵ 5-28 Tehachapi Valley West 2020 Bulletin 118 Basin Description available [here](#).
28 5-28 Tehachapi Valley West 2003 Bulletin 118 Basin Report available [here](#).

¹⁶ 6-45 Tehachapi Valley East 2020 Bulletin 118 Basin Description available [here](#).
6-45 Tehachapi Valley East 2003 Bulletin 118 Basin Report available [here](#).

1 Groundwater Management Agency (OBGMA) with jurisdiction over groundwater rights in the
2 basin. This contention is contrary to existing statutes and case law.

3 Ojai’s argument has been rejected already in *California American Water v. City of Seaside*
4 (2010) 183 Cal.App.4th 471 (*Seaside*). In *Seaside*, the Monterey Peninsula Water Management
5 District contended that a trial court exceeded its jurisdiction and violated the separation of powers
6 doctrine by adopting and ultimately enforcing a physical solution in an adjudication. (*Seaside*,
7 *supra*, 183 Cal.App.4th at 473.) The District contended that the trial court’s approval and
8 enforcement of a physical solution interfered with the District’s statutory authority to adopt a
9 groundwater management plan for the Seaside Basin. (*Id.* at 475.) The Court of Appeal held that
10 the trial court “acted within its jurisdiction and properly exercised its discretion in adhering to its
11 prior rulings to minimize conflict with and frustration of the physical solution.” (*Id.* at 481.) The
12 Court of Appeal quoted with approval the following statement from the trial court: “Clearly, the
13 [L]egislature contemplated that courts had the power to develop management plans for aquifer
14 management even if a water management district already existed in a geographical area.” (*Id.* at
15 476.) Of course, this makes sense because courts have a constitutional duty to impose a physical
16 solution. (*Seaside* at 480.)

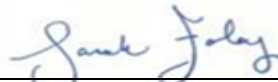
17 The Comprehensive Adjudication Statute recognizes the Court’s jurisdiction even when a
18 groundwater sustainability agency already exists in the geographical area. For example, Code of
19 Civil Procedure section 849 subdivision (a) expressly provides that the Court “shall have the
20 authority and the duty to impose a physical solution on the parties in a comprehensive
21 adjudication” The only requirement in Section 849 is that “[b]efore adopting a physical
22 solution, the court shall consider any existing groundwater sustainability plan or program.”
23 Similarly, Code of Civil Procedure section 838 subdivision (d) provides that “an action against a
24 groundwater sustainability agency that is located in a basin that is being adjudicated pursuant to
25 this chapter *shall be subject to transfer, coordination, and consolidation with the comprehensive*
26 *adjudication*, as appropriate, if the action concerns the adoption, substance, or implementation of
27 a groundwater sustainability plan, or the groundwater sustainability agency’s compliance with the
28 timelines in the Sustainable Groundwater Management Act.” (Emphasis added.) Therefore, the

1 Comprehensive Adjudication Statute not only recognizes the Court’s independent authority to
2 impose a physical solution as long as it “considers” any existing groundwater sustainability plan
3 or program, but also gives the Court specific jurisdiction over the actions or inactions of
4 groundwater sustainability agencies.

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Dated: November 30, 2021

BEST BEST & KRIEGER LLP

By: 
SHAWN D. HAGERTY
CHRISTOPHER MARK PISANO
SARAH CHRISTOPHER FOLEY
PATRICK D. SKAHAN
Attorneys for Respondent and Cross-
Complainant
CITY OF SAN BUENAVENTURA

1
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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 Best Best & Krieger LLP, 2001 N. Main Street, Suite 390, Walnut Creek, CA 94596. On November 30, 2021, I served the following document(s): **CITY OF SAN BUENAVENTURA’S SUPPLEMENTAL BRIEF ON THE ISSUES OF FACT AND LAW FOR THE PHASE 1 TRIAL**

- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
- I caused such envelope to be delivered via overnight delivery. Such envelope was deposited for delivery by United Parcel Service following the firm’s ordinary business practices.
- by transmission via **E-Service to File & ServeXpress** to the person(s) set forth below. Local Rules of Court 2.10 (P).
- By e-mail or electronic transmission.** I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Daniel Cooper
Sycamore Law
1004 O'Reilly Ave.
San Francisco CA 94129
Tel: (415) 360-2962
daniel@sycamore.law

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

Attorneys for Petitioner and Plaintiff
Santa Barbara Channelkeeper

Attorneys for Respondent and Defendant State
Water Resources Control Board

1 Marc N. Melnick
2 Deputy Attorney General
3 Attorney General's Office
4 1515 Clay Street, 20th Floor
5 P.O. Box 70550
6 Oakland, CA 94612-0550
7 Tel: 510-879-0750
8 Marc.melnick@doj.ca.gov

9 Attorneys for Respondent and Defendant State
10 Water Resources Control Board

11 Edward J. Casey
12 Gina Angiolollo
13 Alston & Bird LLP
14 333 South Hope Street, 16th Floor
15 Los Angeles, CA 90071
16 Tel: 213.576.1000
17 ed.casey@alston.com
18 gina.angiollillo@alston.com

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

Eric M. Katz
Supervising Deputy Attorney General
Noah Golden – Krasner
Deputy Attorney General
Carol Boyd
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Tel. (213) 269-6343
Fax (213) 897-2802
Eric.Katz@doj.ca.gov
Noah.goldenrasner@doj.ca.gov
Carol.boyd@doj.ca.gov

Attorneys for Proposed Intervenor California
Department of Fish & Wildlife

Ryan Blatz
Blatz Law Firm
206 N. Signal St. Suite G
Ojai, CA 93023
Tel: (805) 646-3110
ryan@ryanblatzlaw.com

Attorneys for Cross-Defendants Troy Becker
and Jeri Becker; Janet Boulton; Michael
Boulton; 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;
Michel A. Etchart, Trustee of the Michel A.
Etchart Separate Property Trust, and Mark W.
Etchart, Trustee of the Mark W. Etchart
Sepertate Property Trust; Lawrence
Hartmann; Ole Konig; Krotona Institute of
Theosophy; Stephen Michtell 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, 2976;
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,
Ltd.; Burgess Ranch; Cary Cheldin; Cynthia
Daniels; Wayne Francis; David Friend; The
Larry & Pat Hartmann Family Trust; The John
N. Hartmann Trust; Gary Hirschcron; Cheryl
Jensen; Lutheran Church of the Holy Cross of
Ojai, California; Janice Sattler (Mineo); Eitan

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Sloustcher; Rogers-Cooper Memorial Foundation; Robert Norris (not yet appeared); Patricia Norris; Old Creek Road Mutual Water Company (not yet appeared); Margaret Vanderfin; Telos Ojai, LLC (not yet appeared); 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 Bureson Cline, Trustees of the Mark Terry Cline and Connie Bureson 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 Carolyn D. Bennett, Trustees of the Bennett Family Trust; Sumeet Bhatia and Michael McDonald; John Joseph Broesamle and Katharine Sue Broesamle, Trustees of the Broesamle Family Trust; Richard Aaron Carlson, Trustee of the Richard Aaron Carlson Trust and Michelle Larson, Trustee of the Michelle Larson 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 L.L.C.; Douglas Roy Parent and Ann Marie Parent; William Erickson; Gelb Enterprises, L.P.; Jan Stephen Granade and Priscilla K. Granade, Trustees of the Granade Family Revocable Living Trust; Margot 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

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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 Bengtson 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; 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; Oscar D. Acosta, Trustee of the Acosta Trust; Chris E. Platt and Hanh H. Plat; Deborah Lys Martin Crawford; Diane Syvertson, Trustee of the Diana Syvertson Living Trust; Erica J. Abrams, Trustee of the Erica J. Abrams Trust; Frank Clay Creasey Jr.; Frederic DeVault; Gilbert G. Vondriska and Carolyn J. Vondriska, Trustees of the Vondriska Living Trust; James P. Robie, Trustee of the Robie Family Trust; John H. Thacher and Caroline H. Thacher, Trustees of the Thacher Family Trust dated January 2004; Mandy Macaluso, Trustee of the Living Trust of Mandy Macaluso; Margot J. Griswold; Mark Sutherland, Trustee of the Sutherland Marital Trust; Randall Leavitt, Trustee of the Randall B. Leavitt 2010 Trust; Raul E. Alvarado and Hildegard M. Alvarado, trustees

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William G. Short, Esq.
Law Offices of William G. Short
Post Office Box 1313
Ojai, California 93024-1313
Tel: (805) 490-6399
Fax: (805) 640-1940
billshortesq@me.com

Attorney for Cross-Defendant Robin Bernhoft

Robert N. Kwong
Dennis O. La Rochelle
Arnold Larochelle Mathews Vanconas &
Zirbel, LLP
300 Esplanade Dr Ste 2100
Oxnard, CA 93036
Tel: (805) 988-9886
rk Wong@atozlaw.com

Attorneys for Cross-Defendant Casitas
Municipal Water District

of the Alvarado Family Trust; Sumeet Bhatia
and Michael McDonald; Timothy Jerome
Murch and Jody Caren Murch, Trustees of the
Jodim Family 2007 Trust dated July 31, 2007;
Wendell M. Mortensen and Laura L.
Mortensen, Trustees of the Mortensen Family
Revocable Trust; Petter Romming and Kimi
Romming, Trustees; William Armstrong and
April Nardini; William Erickson; Rancho
Sueño, LLC

Anthony Lee Francois
Briscoe Ivester & Bazel LLP
235 Montgomery Street, Suite 935
San Francisco, CA 94104
Tel: (415) 402-2707
Fax (415) 398-5630
tfrancois@briscoelaw.net

Attorney for Cross-Defendant Robin Bernhoft

Patrick Loughman
Cristian Arrieta
Lowthorp, Richards, McMillan, Miller &
Templeman
300 Esplande Drive, Suite 850
Oxnard, CA 93036
Tel: 805.804.3848
Ploughman@lrmmt.com
Carrieta@lrmmt.com

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

1 Gregory J. Patterson
William W. Carter
2 Musick, Peeler & Garrett LLP
2801 Townsgate Road, Suite 200
3 Westlake Village, CA 91361
Tel: (805) 418-3103
4 Fax: (805) 418-3101
g.patterson@musickpeeler.com
5 w.carter@musickpeeler.com

6 Attorneys for Cross-Defendants Robert C.
Davis, Jr.; James Finch; Topa Topa Ranch &
7 Nursery, LLC; The Thacher School; Thacher
Creek Citrus, LLC; Ojai Oil Company; Ojai
8 Valley School; Sharon Hamm-Booth and
David Robert Hamm, Co-Trustees of The
9 Hamm 2004 Family Trust Dated April 29,
2004; Reeves Orchard, LLC; and Ojai Valley
10 Inn, Edward J. Conner, Edward J. Conner,
Trustee of the Edward J. Conner Trust, Roe
11 56; Friend's Ranches, Inc.; Finch Farms,
LLC; Red Mountain Land & Farming, LLC;
12 James Finch, Trustee of the Finch Family
Trust

13 Jeanne Zolezzi
14 Herum Crabtree Suntag
5757 Pacific Avenue, Suite 222
15 Stockton, CA 95207
Tel: (209) 472-7700
16 Fax: (209) 472.7986
jzolezzi@herumcrabtree.com

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

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

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

Neal P. Maguire
Ferguson Case Orr Patterson LLP
1050 South Kimball Road
Ventura, CA 93004
Tel: (805) 659-6800
nmaguire@fcoplaw.com

Attorneys for Cross-Defendants Rancho
Matilija Mutual Water Company; Bettina
Chandler, Trustee of the Bettina Chandler
Trust; Martin Gramckow and Linda
Gramckow individually; 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

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23
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25
26
27
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1 Thomas S. Bunn III
Elsa Sham
2 Lagerlof Senecal Gosney & Kruse LLP
301 N. Lake Avenue, 10th Floor
3 Pasadena, CA 91101-5123
4 Tel.: (626) 793-9400
5 Fax: (626) 793-5900
tombunn@lagerlof.com
esham@lagerlof.com

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

11 Jeffrey E. Barnes
Chief Assistant County Counsel
12 Jason Canger
Assistant County Counsel
13 Office of Ventura County Counsel
800 South Victoria Avenue, L/C #1830
14 Ventura, CA 93009
Tel.: (805) 654-2879
15 Fax: (805) 654-2185
jason.canger@ventura.org

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

19 Joseph C. Chrisman
Hathaway, Perrett, Webster, Powers,
20 Chrisman & Gutierrez
5450 Telegraph Road
21 Ventura, CA 93003
(805) 644-7111
22 jchrisman@hathawaylawfirm.com

23 Attorneys for Cross-Defendant Wood-
24 Claeysens Foundation

Michael J. Van Zandt
Nathan A. Metcalf
Sean G. Herman
Hanson Bridgett LLP
425 Market Street, 26 Floor
San Francisco, CA 94105
Tel: 415-777-3200
Fax: 415-541-9366
mvanzandt@hansonbridgett.com
nmetcalf@hansonbridgett.com
sherman@hansonbridgett.com

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

Scott Slater
Bradley Herrema
Christopher Guillen
Brownstein Hyatt Farber Schreck LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101
Tel: (805) 963-7000
Fax: (805) 965-4333
sslater@bhfs.com
bherrema@bhfs.com
cguillen@bhfs.com

Attorneys for Cross-Defendant The Wood-
Claeysens Foundation

Jeffrey M. Oderman
Douglas J. Dennington
Jeremy N. Jungreis
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-1931
Tel: 714-641-5100
Fax: 714-546-9035
joderman@rutan.com
ddennington@rutan.com
jjungreis@rutan.com

Attorneys for Cross-Defendant Casitas
Municipal Water District

1 Thomas E. Jeffry
Debra J. Albin-Riley
2 Arent Fox LLP
555 West Fifth Avenue, 48th Floor
3 Los Angeles, CA 90013-1065
(213) 629-7400
4 (213) 629-7401
Thomas.jeffry@arentfox.com

5 Attorneys for Cross-Defendant Community
6 Memorial Health System

7 Jennifer T. Buckman
Andrew J. Ramos
8 Holly Jacobson
Bartkiewicz Kronick & Shanahan, PC
9 1011 Twenty-Second Street
Sacramento, CA 95816-4907
10 Tel. (916) 446-4254
Fax (916) 446-4018
11 jtb@bkslawfirm.com
hjj@bkslawfirm.com

12 Attorneys for Cross-Defendant City of Ojai

13 Eric J. Schindler
14 Michelle J. Berner
Kroesche Schindler LLP
15 2603 Main Street, Suite 200
Irvine, CA 92614
16 Tel. (949) 387-0495
Fax (888) 588-0034 Fax
17 eschindler@kslaw.legal
mberner@kslaw.legal

18 Attorneys for Cross-Defendant Oak Haven,
19 LLC

20 Adam D. Wieder
Barry C. Groveman
21 Ryan Hiete
Groveman Hiete LLP
22 35 East Union Street, Suite B
Pasadena, CA 91103
23 Tel (626) 747-9383
Fax (626) 747-9370
24 awieder@grovemanhiete.com
bgroveman@grovemanhiete.com
25 rhiete@grovemanhiete.com

26 Attorneys for Cross-Defendant Michael
Bradbury; Heidi Bradbury; and The Heidi
27 Gramkow Trust

28

Andrew Brady
DLA Piper LLP (US)
550 South Hope Street, Suite 2400
Los Angeles, CA 90071-2618
Tel. (213) 330-7700
Fax: (213) 330-7701
andrew.brady@us.dlapiper.com

Attorneys for Cross-Defendant Integritas Ojai,
LLC

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

Attorneys for Cross-Defendant RDK Land,
LLC

Brian A. Osborne
Osborne Law Firm
674 County Square Drive, Suite 308
Ventura, CA 93003
Tel. (805) 642-9283
Fax (805) 642-7054
osbornelawyer@gmail.com

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

Peter A. Goldenring
Mark R. Pachowicz
Pachowicz | Goldenring A Professional Law
Corporation
6050 Seahawk Street
Ventura, CA 93003-6622
Tel. (805) 642-6702
Fax (805) 642-3145
attorneys@gopro-law.com
peter@gopro-law.com
mark@pglaw.law

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

1 Ernest J. Guadiana
2 Elkins Kalt Weintraub Reuben Gartside LLP
3 10345 W. Olympic Boulevard
4 Los Angeles, CA 90064
5 Tel. (310) 746-4425
6 eguadiana@elkinskalt.com

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

10 Karen A. Feld
11 Daniel S. Roberts
12 Cole Huber LLP
13 3401 Centrelake Drive, Suite 670
14 Ontario, CA 91761
15 Tel: (909) 230-4209
16 Fax: (909) 937-2034
17 kfeld@colehuber.com
18 droberts@colehuber.com

19 Attorneys for Cross-Defendant Ventura
20 Unified School District

21 David A. Ossentjuk
22 Ossentjuk & Botti
23 2815 Townsgate Road, Suite 320
24 Westlake Village, CA 91361
25 Tel: (805) 557-8081
26 Fax: (805) 456-7884
27 DOssentjuk@oandblawyers.com

28 Hermitage Mutual Water Company, and Santa
Ana Ranch, Inc.

Attn: J. Roger Essick
2955 Hermitage Road
Ojai, CA 93023
Tel. (805) 320-1406
rogeressick@gmail.com

Attorney for Cross-Defendant Robert Martin

Julie A. Baker
2193 Maricopa Hwy
Ojai, CA 93023
(805) 646-8700
Jandjbaker2@gmail.com

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

T&D Nevada Trust
Dennis and Antoinette Mitchell
Mitchell Homes Inc.
P.O. Box 360
Ojai, CA 93024
(805) 340-2890
amitc74383@aol.com

Michaela Boehm
12293 topa Lane
Santa Paula, CA 93060
Tel. (323) 493-3737
micboehm@me.com

1 Anthonie M. Voogd
2 918 Palomar Road
3 Ojai, CA93023
4 Tel. (805) 646-1512
5 avoogd@stanfordalumni.org

6 Heather Blair
7 556 So. Fair Oaks Ave., Ste 101
8 Box 356
9 Pasadena, CA 91105
10 Tel. (626) 755-6566
11 Hblair1946@gmail.com

12 Robert K. Cartin
13 Cartin Family LLC
14 505 Estremoz Ct.
15 Oceanside, CA 92057
16 Tel. (760) 429-4738
17 bob.cartin@dvm.com

18 Del Cielo LLC
19 Attn. Tim Carey, Managing Member
20 22410 Hawthorne Boulevard, Suite 5
21 Torrance, CA 90505
22 Tel. (310) 787-6569
23 tim@calvoterguide.com

24 Janice and Jesse Hillestad
25 9611 N. Ventura Ave.
26 Ventura, CA 93001
27 Tel. (310) 614-8438
28 janicehillestad@icloud.com
jesseshillestad@gmail.com

Carlos A Mejia
Sophie A Wenzlau
Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Tel. (916) 210-6379
Fax: (916) 327-2319
sophie.wenzlau@doj.ca.gov
carlos.mejia@doj.ca.gov

Attorneys for California Department of Parks
and Recreation

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

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

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

Joyce Syme, and
The Joyce A. Syme Living Trust
1760 Ocean Avenue
Santa Monica, CA 90401
Tel. (310) 403-1760
seaviewmotel@hotmail.com

Dale and Patricia Givner
12617 Koenigstein Rd.
Santa Paula, CA 93060
Tel. (805) 525-9524
dalegivner@gmail.com

Dennis and Nadine Corte
12812 MacDonald Drive
Ojai, CA 93023
Tel. (805) 701-1950
dwcorte@outlook.com

1 Jacob Slujter
2 Rabindra Singh
3 1070 McAndrew Road.
4 Ojai CA 93023; Tel.
5 (805) 646-2726
6 ED@KFA.ORG

7 In Propria Persona for Krishnamurti
8 Foundation of America

9 Kelton Lee Gibson
10 878 Oak Grove Court
11 Ojai, CA 93023
12 Tel. (805) 701-9318
13 kgibson@mwglaw.com
14 kgibson878@gmail.com

15 Kelton Lee Gibson, Trustee of the Gibson
16 Family Trust, dated June 6, 2006

17 Rebecca C. Collins
18 Thomas M. Collins, Jr.
19 241 Longhorn Lane
20 Ojai, CA 93023
21 Tel. 805-312-5894
22 tominojai@gmail.com
23 collinst3@sbcglobal.net

24 Claude R. and Patricia E. Baggerly
25 119 S. Poli Avenue
26 Ojai, CA 93023-2144
27 Tel. (805) 646-0767
28 Tel. (805) 766-7317
russ.baggerly65@gmail.com

David R. Greifinger
Law Offices of David R. Greifinger
15515 West Sunset Blvd., No. 214
Pacific Palisades, CA 90272
Tel. (424) 330-0193
tracklaw@me.com

Attorney for Cross-Defendants Danny Everett
and Tiarzha Talyor

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

Peter Duchesneau
Sigrid R Waggener
Mannat, Phelps & Phillips, LLP
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Tel (415) 291-7400
Fax (415) 291-7474
pduchesneau@manatt.com
swaggener@manatt.com

Attorneys for Cross-Defendant Aera Energy,
LLC

Judith L. Mercer
c/o of Jason Goldman
Mercer Family Trust Agreement of 1992
1175 Grand Avenue
Ojai, CA 93023
Tel. (310) 625-7795
jgoldman@bgroup.com

Henry D. Finkelstein
Brian Moskal
Greenberg Glusker Fields Claman &
Machtinger LLP
2049 Century Park East, Suite 2600
Los Angeles, CA 90067
Tel. (310) 553-3610
Fax (310) 553.0687
hfinkelstein@ggfirm.com
bmoskal@greenbergglusker.com

Attorneys for Ginnetti Living Trust, and
Baldwin Ranch, LLC

1 Harry D. Sims and Raymond P. Sims
2 P.O. Box 1870
3 Ojai, CA 93024
4 Tel. (805) 646-0167
5 1978simsfamilytrust@gmail.com

Tiernan Dolan
995 Riverside St.
Ventura, CA 93001
tdolan@hacityventura.org

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

7 Andrew K. Whitman
8 821 N. Signal Street
9 Ojai, CA 93023
10 Tel. (805) 444-5671
11 sfreberg@scr-legaliner.com

Christopher Danch
16200 Maricopa Highway
Ojai, CA 93023
Tel. (805) 640-8534
chrisdanch@gmail.com

10 In pro per and Atty for Cross-Defendants
11 Andrew K. Whitman and Heidi A. Whitman;
12 Nancy L. Whitman; John R. Whitman and
13 Nancy L. Whitman Family Trust

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

13 Paul R. Huff
14 The Huff Law Firm APC
15 21 S. California Street, Suite 205
16 Ventura, CA 93001
17 Tel. (805) 667-8940
18 Fax (805) 850-7399
19 phuff@hufffirm.com

Alessandro (Alex) Lobba
Alessandro Lobba and Mary E. Jackson,
individually as Trustees of the Lobba-Jackson
Family Trust
947 Casitas Vista Road
Ventura, CA 93001
Tel. (805) 895-7056
alobba@gmail.com

Attorneys for Barnard Properties, LLC

17 Christine Steiner
18 2560 Ladera Road
19 Ojai, CA 93023
20 Tel. (31) 600-3220
21 csteiner@csteinerlaw.com

William Slaughter
Slaughter, Reagan & Cole, LLP
625 East Santa Clara Street, Suite 101
Ventura, CA 93001
Tel. (805) 658-7800
Fax (805) 644-2131
slaughter@srllplaw.com

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

23 Julia Taft-Whitman, President CEO
24 Taft Corporation'
25 111 West Topa Topa Street
26 Ojai, CA 93023
27 Tel. (805) 794-2837
28 juliawhitman@gmail.com

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

| | | |
|----|--|---|
| 1 | Kelley M. Rasmussen, Trustee 2420 Park Road Lake Oswego, OR 97034 Tel. (805) 798-7125 kelleyras@gmail.com | Angela Small Booth, Attorney 2175 Valley Meadow Drive Oak View, CA 93022 Tel. (805) 765-5413 angie@angiesmall.org |
| 4 | William E. Colborn, Jr. 13183 Ojai Road Santa Paula, CA 93060 Tel. (805) 795-1909 jake@colbornandassociates.com | Rebecca Tickell 350 Verano Drive Ojai, CA 93023 Tel. (323) 559-5700 rebecca@bigpictureranch.com |
| 7 | Joshua Beckman 913 Oso Road Ojai, CA 93023 Tel. (323) 404-0465 joshbfbp@gmail.com | Gregg S. Garrison Garrison Law Corporation 12986 MacDonald Drive Ojai, CA 93023 Tel. (650) 726-1111 / Fax: (805) 669-3168 gsgarrison@garrisonlawcorp.com |
| 11 | | Attorney for Cross-Defendants Gregg S. Garrison, Rosanna Garrison, and Emily V. Brown, Trustee of The Restated Emily V. Brown Intervivos Trust, Roe 37 |
| 13 | Robert L. Smith 12777 Tree Ranch Road Ojai, CA 93023 Tel. (805) 558-6322 treeranch@ymail.com | Susan M. Glennon 292 Cruzero Street Ojai, CA 93023 Tel. (805) 646-4816 theglennonest@aol.com |
| 16 | Robin Schwartzburd 411 Franklin Drive Ojai, CA 93023 Tel. (805) 272-5877 robin.schwartzburd@gmail.com | Melinda Hass 11947 Koenigstein Road Santa Paula, CA 93060 Tel. (213) 713-4360 mlynnbooking@gmail.com |
| 19 | Malinda K. Vaughn Mitchell B. Vaughn 12283 Ojai Santa Paula Road Ojai, CA 93023-9323 Tel. (805) 890-6616 vaughnmb@aol.com | Rebecca D. Schwermer P. O. Box 174 Santa Paula, CA 93061 Tel. (805) 551-3494 octoberbabies2@verizon.net |
| 23 | Jennifer Jordan Day and Joel Fox 909 North Rice Road Ojai, CA 93023 Tel. (213) 321-5253 jenniferjordanday@gmail.com | Brigitte Lovell, Trustee of Lovell Living Trust 295 Encino Drive Oak View, CA 93022 Tel. (915) 227-9412 loveb9@gmail.com |
| 26 | | |
| 27 | | |
| 28 | | |

1 Catherine Ferro &
2 Catherine Eileen Ferro Inter Vivos Trust
3 312 Montana Road
4 Ojai, CA 93023
5 Tel. (805) 326-1686
6 cepharoah@gmail.com

7 Susan Capper
8 12870 Tree Ranch Road
9 Ojai, CA 93023
10 Tel. (805) 794-6421
11 chelsue@aol.com

12 Joyce L. Heath
13 Joyce Heath, Trustee of the Heath Family
14 Living Trust,
15 P.O. Box 1323
16 Ojai, CA 93024
17 Tel. (805) 290-6231
18 mamaheath55@gmail.com

19 Ronald W. Bowman
20 Trustee of the Bowman Trust dated April 8,
21 2011
22 672 W. Villanova Road
23 Ojai, CA 93023
24 Tel. (805) 732-4014
25 ron@l-binc.com

26 Amy Hueppe
27 1025 Moreno Drive
28 Ojai, CA 93023
Tel. (310) 699-4619
amychueppe@gmail.com

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

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

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

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

Andrew P. Byrne, Esq.
1140 Highland Avenue, Ste. 250
Manhattan Beach, CA 90266
Tel. (310) 505.7170
Andy@ByrneLaw-LA.com

Attorney for Cross-Defendant Roman
Catholic Archdiocese of Los Angeles, a sole
corporation

Glenn Bator
338 Montana Road
Ojai, CA 93023
Tel. (805) 798-1802
denibator@aol.com

Bryan M. Sullivan, Esq.
EARLY SULLIVAN WRIGHT GIZER &
McRAE LLP
6420 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048
Tel. (323) 301-4660
bsullivan@earlysullivan.com

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

1 David L. Osias, Esq.
2 Allen Matkins Leck Gamble Mallory & Natsis
3 LLP
4 One America Plaza
5 600 West Broadway, 27th Floor
6 San Diego, CA 92101-0903
7 Tel. (619) 233-1155
8 Fax (619) 233-1158
9 dosias@allenmatkins.com

Laura M. Peakes
John E. Peakes, Jr.
316 Verano Drive
Ojai, CA 93023
Tel. (805) 402-0249
jpeakesjr@aol.com

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

8 Kelsey Klein
9 Paula Kee
10 1042 Fairview Road
11 Ojai, CA 93023
12 Tel. (805) 640-5154
13 kelseyklein88@gmail.com

Laura R. Schreiner, a.k.a Laura Rearwin
418 Crestview Drive
Ojai, CA 93023
Tel. (805) 479-5400
laura@rearwin.com

11 Paul J. Deneen
12 12170 Ojai Santa Paula Road
13 Ojai, CA 93023-9358
14 Tel. (805) 218-0211
15 paul@carbide.com

Jennifer Carafelli
Robin Schwartzburd
211 Village Commons Boulevard, No. 21
Camarillo, CA 93012
Tel. (805) 340-2540
carafelli@gmail.com

15 Timothy Mahoney
16 10244 Ojai Santa Paula Road
17 Ojai, CA 93023
18 Tel. (323) 252-3309
19 honedog@mac.com

Thomas Adams
Adams & Associates
21781 Ventura Boulevard, Suite 10005
Woodland Hills, CA 93003
Tel. (805) 229-1529
tom@adamsassoc.com

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

20 Salvatore Scarpato
21 106 Calhoun Lane
22 Georgetown, TX 78633
23 Tel. (805) 797-8767
24 salscarpato@att.net

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

23 William R. Thatcher
24 12195 Linda Flora Drive
25 Ojai, CA 93023-9723
26 thelostplanetairmen@yahoo.com

David Bishop
Sophie Loire
Tel. (805) 403-5370
frenchiephotos@yahoo.com

26 Chet Hilgers
27 Mellanie Hilgers
28 mellaniehilgers@gmail.com

Stephanie Gustafson
Tel. (805) 646-1423
sgustafson@ovs.org

1 Kristi Schoeld
Neil Jorgensen
2 Tel. (805)272-8360
neilkristi@googlemail.com
3

Robert Turnage
9902 Sulphur Mountain Road
Ojai, CA 93023
Tel. (916) 837-3907
Robert.turnage@sbcglobal.net

4 Authorized Representative for Cross-
Defendant Meher Mount Corporation

5 Linda J.G. MacDougall, Trustee of The Linda
6 J.G. MacdDugall Living Trust
Marsha Kee Strong-Chandler
7 Richard Holt Robinson
119 E. Channel Islands Blvd.
8 Port Hueneme, CA 93041
(805) 202-6379
9 speakerholistic@gmail.com

Gerrold Grigsby
Karen Grigsby
9799 Ojai Santa Paula Road
Ojai, CA 93023
Tel. (805) 649-1624
grigsbyranch@gmail.com

10 James A. Vickman
Vickman & Associates
11 424 South Beverly Drive
Beverly Hills, CA 90212
12 Tel. (310) 553-8533
Fax (310) 553-0557
13 jv@vickmanassociates.com

Nancy J. Johnson
Berliner Cohen LLP
10 Almaden Blvd., 11th Floor
San Jose, CA 95113
Tel. (408) 286-5800
Fax (408) 998-5388
Nancy.Johnson@berliner.com

14 Attorneys for Cross-Defendant New
Civilization, a California corporation

Attorneys for Cross-Defendant Union Pacific
Railroad Company, a Delaware corporation –
Roe 411

16 Claire S. Brian and Brad D. Brian, Trustees of
the Brad & Claire Brian Living Trust, Roes 30
17 and 31
1150 So Arroyo Blvd.
18 Pasadena, CA 91105
cbrian8587@gmail.com
19 brad.brian@mto.com

Michael W. Price, Trustee of the Michael W.
Price Trust, Roe 197
Leslie L. Clark, Trustee of the Leslie L. Clark
Trust, Roe 51
10886 Creek Rd
Ojai, CA 93023
michael@nomadgal.com
leslie@nomadgal.com
Thomas G. Gehring, Esq.
Julia J. Park, Esq.
Thomas G. Gehring & Associates, a
Professional Corporation
1534 17th Street, Suite 203
Santa Monica, CA 90404
Tel. (310) 264-7744
Fax (310) 264-7746
tom@tomgehring.com
julia@tomgehring.com

20 Stacey Birchfield
Double Vision Development, LLC
21 1810 Miramar Drive
Ventura, CA 93001
22 Tel. (805) 340-0929
stacey.birchfield@gmail.com
23

Attorneys for Cross-Defendant Teen
Challenge of Southern California, Inc., a
California nonprofit corporation

28

1 Erin E. Holebrook
2 Jerald M. Montoya
3 Steven J. Dadaian
4 Erick L. Solares
5 Julie Del Rivo
6 Tucker Wisdom-Stack
7 100 South Main Street, 1300
8 Los Angeles, California 90012-3702
9 Tel. (213) 687-6000
10 Fax (213) 687-8300
11 Tucker.Wisdom-Stack@dot.ca.gov

7 Tom Maloney
8 Executive Director
9 Ojai Valley Land Conservancy
10 P.O. Box 1092
11 Ojai, CA 93024
12 Tel. (805) 649-6852 Ext. 1
13 tom@ovlc.orgf

12 William Francis Tarantino
13 Justin Fisch
14 Morrison & Foerster LLP
15 425 Market St. |
16 San Francisco, CA 94105
17 Tel. (415) 268-7850
18 jfisch@mofo.com
19 wtarantino@mofo.com

16 Attorneys for Ventura Land Trust

17 Christopher Stolz
18 Valerie Levett
19 11871 Koenigstein Rd.
20 Santa Paula, CA 93060
21 kitstolz@gmail.com

23 Via First Class Mail

24 Warren W. Greene
25 Bonnie M. Greene
26 958 E. Main Street
27 Ventura, CA 93001
28 Tel. (805) 652-1080
Fax (805) 652-0400

Kathleen Janetatos Smith, Trustee of the
Smith Family 2020 Revocable Trust dated
January 3, 2020, Roe 426
Tel. (805) 844-2093
kathismith@sbcglobal.net

Adam C. Kear
1940 N. Saint Andrews Pl.
Los Angeles, CA 90068
Phone (323) 481-9392
ackear@gmail.com

Attorney for Cross-Defendant Senior Canyon
Mutual Water Company (co-counsel w/Ryan
Blatz)

Amy Elmore
110 Park Road
Ojai, Ca 93023
Tel. (805) 746-1551
elmoreaw@gmail.com

Brandon Hansen
P.O. Box 1516
Oak View, CA
Tel. (805) 207-1869
brandon@weldo.com

Pro Per for Brandon Hansen, Jamie Hansen,
Ralph Hansen, Landon Hansen, Sandra
Hansen, Ojai Highlands LLC, BH Holding
LLC, 403 Bryant LLC, and 401 Bryant LLC

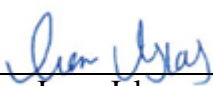
Via First Class Mail

Lewis A. Enstedt
12617 Macdonald Drive
Ojai, CA 93023
(310) 613-3937

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Executed on November 30, 2021 at Walnut Creek, California



Irene Islas

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
655 WEST BROADWAY, 15TH FLOOR
SAN DIEGO, CALIFORNIA 92101