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7
 8 **Superior Court Of the State of California**
 9 **County of Los Angeles**

11 Santa Barbara Channelkeeper, a
 12 California non-profit corporation

13 Petitioner

14 v.

15 State Water Resources Control Board,
 a California state agency; City of San
 16 Buenaventura, a California municipal
 corporation, incorrectly named as City
 of Buenaventura,

17 Respondents

18 City of San Buenaventura, a
 19 California municipal corporation,

20 Cross-Complainant

21 v.

22 Duncan Abbott, an individual, et al.

23 Cross-Defendants

Case No.: 19STCP01176

[Unlimited Jurisdiction]

Assigned for all Purposes to Judge William
 F. Highberger, Dept. C10

Complaint Filed: September 19, 2014

Trial Date: TBD

Oak Haven, LLC's Answer to Adjudication
 Cross-Complaint



1 The undersigned denies all material allegations in the cross-complaint in this
2 action that seeks to adjudicate rights in the Ventura River Watershed, including its
3 groundwater basins, which are the (1) Upper Ventura River Groundwater Basin
4 (Department of Water Resources' ("DWR") Bulletin 118, Groundwater Basin
5 Number 4-3.01); (2) Ojai Valley Groundwater Basin (DWR's Bulletin 118,
6 Groundwater Basin Number 4-2); (3) Lower Ventura River Groundwater Basin
7 (DWR's Bulletin 118, Groundwater Basin Number 4-3.02); and (4) Upper Ojai
8 Valley Groundwater Basin (DWR's Bulletin 118 Groundwater Basin Number 4-1)
9 and asserts all applicable affirmative defenses to that cross-complaint.

10 **FIRST AFFIRMATIVE DEFENSE**

11 The Cross-Complaint and each of its purported causes of action fail to state facts
12 sufficient to constitute a cause or causes of action against Oak Haven, LLC ("Oak
13 Haven").

14 **SECOND AFFIRMATIVE DEFENSE**

15 As a further and separate affirmative defense, the Cross-Complaint, as well as
16 each purported cause of action therein, is barred by the applicable statute of limitations.

17 **THIRD AFFIRMATIVE DEFENSE**

18 As a further and separate affirmative defense, Cross-Complainant was negligent
19 with respect to each of the matters described in the Cross-Complaint and this negligence
20 was the cause in fact and proximate cause of the damages, if any, suffered by Cross-
21 Complainant. Cross-Complainant's negligence bars recovery in this action, either in
22 whole or in part.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 As a further and separate affirmative defense, Cross-Complainant's damages, if
25 any, were proximately caused or contributed to by the acts, omissions or wrongful
26 conduct of persons or entities over whom/which Oak Haven had no control and over
27 whom/which Oak Haven can have no responsibility or liability.

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FIFTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, the Cross-Complaint and each of its purported causes of action are barred by Cross-Complainant’s failure to take reasonable steps to avoid or otherwise mitigate the claimed damages.

SIXTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, Cross-Complainant acknowledged, ratified, consented to, and acquiesced in the alleged acts or omissions, if any, of Oak Haven, thus barring Cross-Complainant from any relief as prayed for herein.

SEVENTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, Oak Haven alleges that any and all conduct of which Cross-Complainant complains and which is attributed to Oak Haven was a just and proper exercise of discretion on the part of Oak Haven and was undertaken for a fair and honest reason.

EIGHTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, Cross-Complainant’s Cross-Complaint fails to state a claim upon which relief can be granted because Oak Haven’s use of any water falls under the de minimis usage standard.

NINTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, Oak Haven alleges there is a risk of substantial prejudice from various actions and the number of Cross-Defendants named in this Cross-Complaint.

TENTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, Cross-Complainant is estopped, by reason of its conduct and actions, from asserting each and any of the alleged claims herein.

ELEVENTH AFFIRMATIVE DEFENSE

As a further and separate affirmative defense, the Cross-Complaint, and each alleged cause of action contained therein, were brought by named Plaintiff in bad faith



1 and are frivolous; and by reason of the conduct stated herein, Oak Haven is entitled to,
2 and will seek, reasonable expenses, including attorney's fees, incurred in defending this
3 action pursuant to California Code of Civil Procedure section 128.6.

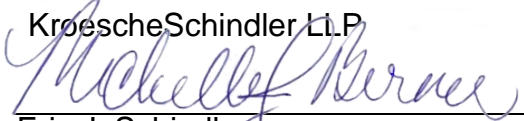
4 **TWELFTH AFFIRMATIVE DEFENSE**

5 Discovery in this matter may reveal additional basis for an avoidance or affirmative
6 defense. Oak Haven reserves the right to amend this answer to plead such affirmative
7 defenses should they be discovered.

8
9 **WHEREFORE**, Oak Haven prays as follows:

- 10 1. That Cross-Complainant take nothing by the Cross-Complaint for damages;
11 2. That Cross-Complainant's Cross-Complaint herein be dismissed in its entirety with
12 prejudice;
13 3. That Oak Haven recovers its costs of suit herein, including its reasonable
14 attorneys' fees; and
15 4. That the court award such other and further relief as it deems appropriate.

16 Dated: March 25, 2020

17 KroescheSchindler LLP
18 By: 
19 Eric J. Schindler
20 Michelle J. Berner
21 Attorneys for Oak Haven, LLC
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Certificate of Service

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I am employed in Orange County, California. I am over the age of 18 and not a party to this action; my business address is 2603 Main St., Suite 200, Irvine, California 92614; direct: 949-387-0495; fax 888-588-0034; email: bvossler@kslaw.legal.

I hereby certify that on March 25, 2020, I served Oak Haven, LLC's Answer to Adjudication Cross-Complaint on the following parties or counsel of record:

See Attached Service List

Electronic Transmission: I electronically uploaded an accurate copy of Oak Haven, LLC's Answer to Adjudication Cross-Complaint via File&ServeXpress website per the Notice Of Commencement Of Groundwater Basin And Watershed Adjudication dated January 6, 2020.

By Placing the original an accurate copy in sealed envelope(s) to the notification address(es) of record and sending by:

U.S. Mail: I arranged for the envelope(s) to be delivered by first-class mail. I am readily familiar with the firm's practice of collection and processing of First Class Mail. It is deposited with the Postal Service on the same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business and deposited in a mailbox or other like facility regularly maintained by the United States Postal Service.

Overnight Delivery: I arranged for the envelope(s) to be delivered by overnight delivery by close of business of the next business day. I am readily familiar with the firm's practice of collection and processing parcels for overnight carrier. They are deposited with the overnight carrier or at a location authorized to receive parcels on behalf of the overnight carrier on the same day, fully prepaid at Irvine, California in the ordinary course of business.

Personal Delivery: the original a true copy thereof to be delivered by hand to the notification address(es) of record by an employee or independent contractor of a registered California process service.

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

Executed on March 25, 2020, in Irvine, Orange County, California.

Name: Brent L. Vossler

Brent L. Vossler
(Signature)



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Service List

Santa Barbara Channelkeeper,

v.

State Water Resources Control Board

Dakotah Benjamin
Gene Tanaka
Sarah Christopher Foley
Shawn Hagerty
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Walnut Creek, CA 94596
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Attorneys for Respondent and Cross
Complainant City of San Buenaventura
Via File&ServeXpress website.