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5 Brian A. Osborne, In Propria Persona

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF LOS ANGELES**
8

9 SANTA BARBARA CHANNELKEEPER, a)
California non-profit corporation,)

10 Petitioner,)

11 v.)

12 STATE WATER RESOURCES CONTROL)
13 BOARD, a California state agency;)
14 CITY OF SAN BUENA VENTURA, a)
California municipal corporation,)
15 incorrectly named as City of BUENA)
VENTURA,)

16 Respondents.)

17 CITY OF SAN BUENA VENTURA, a)
California municipal corporation,)

18 Cross-Complainant,)

19 v.)

20 DUNCAN ABBOTT, an individual, et al.)

21 Cross-Defendants.)
22

Case No. 19STCP01176

Assigned to:

Hon. William F. Highberger, Dept. 10

**VERIFIED ANSWER OF BRIAN A.
OSBORNE TO THIRD AMENDED
ADJUDICATION CROSS-COMPLAINT**

Action Filed: September 9, 2014

Trial Date: TBD

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VERIFIED ANSWER

1 **VERIFIED FORM ANSWER TO ADJUDICATION CROSS-COMPLAINT**

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

13 **SECOND AFFIRMATIVE DEFENSE**

14 The Cross-Complaint, and each purported cause of action therein, is barred by the
15 applicable statute of limitations.

16 **THIRD AFFIRMATIVE DEFENSE**

17 Cross-Complainant was negligent with respect to each of the matters described in the
18 Cross- Complaint and this negligence was the cause in fact and proximate cause of damages, if
19 any, suffered by Cross-Complainant. Cross-Complainant’s negligence bars recovery in this
20 action, either in whole or in part.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 Cross-Complainant’s damages if any, were proximately caused or contributed to by the
23 acts, omissions or wrongful conduct of persons or entities over whom/which Cross-Defendant
24 had no control over and whom/which Cross-Defendant cannot have any responsibility or
25 liability.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 The Cross-Complaint, and each of its purported causes of action, are barred by Cross-
28 Complainant’s failure to take reasonable steps to avoid or otherwise mitigate the claimed

1 damages.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 Cross-Complainant acknowledged, ratified, consented to, or acquiesced in the alleged
4 acts or omissions, if any, of Cross-Defendant, thus barring Cross-Complainant from any relief as
5 prayed for herein.

6 **SEVENTH AFFIRMATIVE DEFENSE**

7 Any and all conduct of Cross-Defendant was a just and proper exercise of discretion on
8 the part of Cross-Defendant and was undertaken for a fair and honest reason.

9 **EIGHTH AFFIRMATIVE DEFENSE**

10 Cross-Complainant's Cross-Complaint fails to state a claim upon which relief can be
11 granted because Cross-Defendant's use of any water falls under the de minimis usage standard.

12 **NINTH AFFIRMATIVE DEFENSE**

13 The Cross-Complaint, and each of its purported cause of action, is barred by laches.

14 **TENTH AFFIRMATIVE DEFENSE**

15 The Cross-Complainant is estopped, by reason of its conduct or actions, from asserting
16 each of the alleged claims herein.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 Cross-Complainant's complaints are barred because Cross-Complainant lacks standing to
19 assert the claims.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 None of the actions alleged in the Cross-Complaint give rise to any duty of care that
22 Cross-Defendant owed to Cross-Complainant.

23 **THIRTEENTH AFFIRMATIVE DEFENSE**

24 Any recovery by Cross-Complainant would be unjust and inequitable under the
25 circumstances of the case.

26 **FOURTEENTH AFFIRMATIVE DEFENSE**

27 The Cross-Complaint, and each cause of action therein, fails to state facts sufficient to
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1 constitute a cause of action and that the full responsibility for the harm, injuries and damages
2 allegedly pass to a third person or persons whose acts or omissions resulted in a superceding and
3 intervening cause.

4 **FIFTEENTH AFFIRMATIVE DEFENSE**

5 Cross-Defendant presently has insufficient knowledge or information upon which to form
6 a belief whether he may have additional, yet unstated, affirmative defenses. Cross-Defendant
7 reserves the right to assert additional affirmative defenses in the event discovery indicates that
8 additional affirmative defenses are appropriate.

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10 **WHEREFORE**, Cross-Defendants prays for judgment as follows:

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- 12 1. That Cross-Complaint and each cause of action therein be dismissed with prejudice;
 - 13 2. That Cross-Complainant take nothing by its Cross-Complaint;
 - 14 3. That Cross-Defendant be awarded its costs incurred herein;
 - 15 4. That Cross-Defendant be awarded its reasonable attorney's fees as available under
 - 16 applicable law; and
 - 17 5. For such other and further relief as the Court may deem just and proper.
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20 DATE: 7.14, 2020



21 Brian A. Osborne, In Propria Persona

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VERIFICATION

STATE OF CALIFORNIA)

)

COUNTY OF VENTURA)

I, Brian A. Osborne, declare:

I am a party to this action. I have read the foregoing Verified Answer and know the contents thereof. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Ventura, California on July 14, 2020.



Brian A. Osborne

PROOF OF SERVICE

STATE OF CALIFORNIA)
)s.s.
COUNTY OF VENTURA)

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action. My business address is 674 County Square Drive, Suite 310, Ventura, California, 93003. On July 15, 2020, I served the **VERIFIED ANSWER** to the interested parties in this action as follows:

Dakotah Benjamin
Gene Tanaka
Sarah Christopher Foley
Shawn Hagerty
Law Offices of Best Besy & Krieger LLP
2001 N. Main Street,
Suite 390
Walnut Creek, CA 94596

ALL PARTIES AND ATTORNEYS OF RECORD HAVE BEEN ELECTRONICALLY SERVED

☐ **BY MAIL:** 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 at Ventura, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY FAX:** The document was transmitted to the parties via facsimile.

☒ **BY ELECTRONIC SERVICE:** The document was transmitted to the parties via electronic service.

☐ **BY PERSONAL SERVICE:** I delivered said document by hand to the addressee at said address.

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

☐ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at those direction the service was made.

Executed on 7/15, 2020 at Ventura, California.


Araceli Hernandez