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ELECTRONICALLY

**FILED**

Superior Court of California,  
County of San Francisco

**MAY 13 2015**

Clerk of the Court  
BY: WILLIAM TRUPEK  
Deputy Clerk

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO  
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12  
13 **SANTA BARBARA CHANNELKEEPER,**

Case No. CPF-14-513875

14 Petitioner,

**ANSWER OF RESPONDENT STATE  
WATER RESOURCES CONTROL  
BOARD**

15 v.

16 **STATE WATER RESOURCES CONTROL**  
17 **BOARD; CITY OF BUENAVENTURA,**

Dept: 302  
Judge: Hon. Ernest H. Goldsmith  
Action Filed: Sept. 19, 2014

18 Respondents.  
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24 Respondent State Water Resources Control Board (State Water Board) answers, responds,  
25 and asserts affirmative defenses as to the Verified Petition of Santa Barbara Channelkeeper on  
26 file in the above-entitled case as follows:  
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## **I. INTRODUCTION**

1. Paragraph 1 contains no allegations of fact and requires no response. To the extent a response is required, paragraph 1 is denied.

2. Paragraph 2 and its subparts contain no allegations of fact and requires no response. To the extent a response is required, paragraph 2 is denied.

## **II. THE PARTIES**

3. Paragraph 3 is denied for lack of sufficient information and belief.

4. Paragraph 4 is denied for lack of sufficient information and belief.

5. Paragraph 5 is denied for lack of sufficient information and belief.

6. Paragraph 6 is denied for lack of sufficient information and belief.

7. Paragraph 7 is denied.

8. Answering Paragraph 8, the statute speaks for itself and no further response is required. To the extent further response is required, Paragraph 8 is admitted.

9. Paragraph 9 calls for a legal conclusion; the statutes speak for themselves and no further response is required. To the extent further response is required, Paragraph 9 is vague as to "directly" and "Constitutional and statutory mandates," and is therefore denied for lack of sufficient information and belief.

10. Paragraph 10 calls for a legal conclusion; the statute speaks for itself and no further response is required. To the extent further response is required, Paragraph 10 is vague as to "directly" and "administering," and is therefore denied for lack of sufficient information and belief.

11. Answering Paragraph 11, the statute speaks for itself and no further response is required.

12. Paragraph 12 is denied for lack of sufficient information and belief.

13. Paragraph 13 calls for a legal conclusion; the Constitution speaks for itself and no further response is required.

## **III. AUTHENTICITY OF EXHIBITS ATTACHED**

14. Paragraph 14 is denied for lack of sufficient information and belief.

15. Paragraph 15 asserts no facts, and no response is required.

#### IV. JURISDICTION AND VENUE

16. Paragraph 16 is a legal conclusion, and no response is required. To the extent a response is required, Paragraph 16 is denied.

17. Paragraph 17 is a legal conclusion, and no response is required. To the extent a response is required, Paragraph 17 is denied.

18. Paragraph 18 is a legal conclusion, and no response is required. To the extent a response is required, Paragraph 18 is denied.

19. Paragraph 19 consists of legal conclusions and requires no response. To the extent a response is required, paragraph 19 is denied.

## V. REGULATORY BACKGROUND

20. Paragraph 20 consists of legal conclusions and requires no response.

21. Paragraph 21 consists of legal conclusions and requires no response.

22. Paragraph 22 consists of legal conclusions and requires no response.

23. Paragraph 23 consists of legal conclusions and requires no response.

24. Paragraph 24 consists of legal conclusions and requires no response.

25. Paragraph 25 consists of legal conclusions and requires no response.

26. Paragraph 26 consists of legal conclusions and requires no response.

27. Paragraph 27 consists of legal conclusions and requires no response.

28. Paragraph 28 consists of legal conclusions and requires no response. To the extent a response is required, Paragraph 28 is denied.

29. Paragraph 29 consists of legal conclusions and requires no response. To the extent a response is required, Paragraph 29 is vague as to “beneficial uses and beneficial use categories to be applied to the State’s waters” and is denied.

30. Paragraph 30 consists of legal conclusions and requires no response.

31. Paragraph 31 states no facts, consists of legal conclusions, and requires no response.

32. Paragraph 32 consists of legal conclusions and requires no response. To the extent a response is required, Paragraph 32 is denied.

- 1           33. Paragraph 33 consists of legal conclusions and requires no response.
- 2           34. Paragraph 34 consists of legal conclusions and requires no response.
- 3           35. Paragraph 35 consists of legal conclusions. The Constitution speaks for itself. No  
4 further response is required.
- 5           36. Paragraph 36 consists of legal conclusions. The statutes speak for themselves. No  
6 further response is required.
- 7           37. Paragraph 37 consists of legal conclusions and requires no response.
- 8           38. Paragraph 38 consists of legal conclusions and requires no response.
- 9           39. Paragraph 39 consists of legal conclusions and requires no response.
- 10          40. Answering Paragraph 40, the document speaks for itself, or consists of a legal  
11 conclusion, and no response is required. To the extent further response is required, Paragraph 40  
12 is vague, and is therefore denied for lack of sufficient information and belief.
- 13          41. Paragraph 41 consists of legal conclusions and requires no response. To the extent a  
14 response is required, it is admitted that "the reasonableness of a use of water 'cannot be resolved  
15 *in vacuo* isolated from statewide considerations of transcendent importance."
- 16          42. Paragraph 42 consists of legal conclusions. The Supreme Court's decisions speak for  
17 themselves, and no response is required.
- 18          43. Paragraph 43 consists of legal conclusions and requires no response.
- 19          44. Paragraph 44 consists of legal conclusions and requires no response.
- 20          45. Paragraph 45 consists of legal conclusions, the cases speak for themselves and no  
21 response is required.
- 22          46. Paragraph 46 consists of legal conclusions and requires no response.
- 23          47. Paragraph 47 consists of legal conclusions and requires no response. To the extent  
24 further response is required, Paragraph 47 is vague, and is therefore denied for lack of sufficient  
25 information and belief.
- 26          48. Paragraph 48 consists of legal conclusions and requires no response.
- 27          49. Paragraph 49 consists of legal conclusions, the cases speak for themselves and no  
28 response is required.

1       50. Answering Paragraph 50, the document speaks for itself, or consists of a legal  
2 conclusion, and no response is required. To the extent further response is required, Paragraph 50  
3 is vague, and is therefore denied for lack of sufficient information and belief.

4       51. Paragraph 51 consists of legal conclusions, the case speaks for itself and no response  
5 is required.

6       52. Paragraph 52 consists of legal conclusions, the case speaks for itself and no response  
7 is required.

8       53. Paragraph 53 consists of legal conclusions and requires no response. To the extent  
9 further response is required, Paragraph 53 is vague, and is therefore denied for lack of sufficient  
10 information and belief.

11       54. Paragraph 54 consists of legal conclusions and no response is required. To the extent  
12 further response is required, Paragraph 54 is denied.

13       55. Paragraph 55 consists of legal conclusions and no response is required. To the extent  
14 further response is required, Paragraph 55 is denied.

15       56. Paragraph 56 consists of legal conclusions and no response is required. To the extent  
16 further response is required, Paragraph 56 is denied.

17       57. Answering Paragraph 57, the statutes speak for themselves and no further response is  
18 required.

19       58. Paragraph 58 is denied.

20       59. Paragraph 59 consists of legal conclusions and no response is required. To the extent  
21 further response is required, Paragraph 59 is denied.

22       60. Paragraph 60 consists of legal conclusions and no response is required. To the extent  
23 further response is required, Paragraph 60 is denied.

24       61. Paragraph 61 consists of legal conclusions and no response is required. To the extent  
25 further response is required, Paragraph 61 is vague as to "water user" and is denied for lack of  
26 sufficient information and belief.

27       62. Paragraph 62 consists of legal conclusions and no response is required. To the extent  
28 further response is required, Paragraph 62 is denied.

63. Paragraph 63 consists of legal conclusions and no response is required.

## **VI. FACTS AND PROCEDURAL BACKGROUND**

64. Answering Paragraph 64, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 64 is admitted.

65. Answering Paragraph 65, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 65 is admitted.

66. Answering Paragraph 66, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 66 is admitted.

67. Answering Paragraph 67, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 67 is denied.

68. Answering Paragraph 68, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 68 is denied.

69. Answering Paragraph 69, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 69 is admitted.

70. Answering Paragraph 70, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 70 is denied for lack of sufficient information and belief.

71. Answering Paragraph 71, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 71 is denied for lack of sufficient information and belief.

72. Answering Paragraph 72, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 72 is admitted.

73. Answering Paragraph 73, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 73 vague as to time, location, and "flows in the Ventura River," and is therefore denied for lack of sufficient information or belief.

1           74. Answering Paragraph 74, the referenced document speaks for itself and no further  
2 response is required. To the extent further response is required, Paragraph 74 is vague as to time  
3 and as to "disrupted," and is therefore denied for lack of sufficient information and belief

4           75. Answering Paragraph 75, the referenced document speaks for itself and no further  
5 response is required. To the extent further response is required, Paragraph 75 is vague as to time,  
6 as to "high degree," and as to "has been assumed" by whom, and is therefore denied for lack of  
7 sufficient information and belief.

8           76. Answering paragraph 76, the referenced document speaks for itself and no further  
9 response is required. To the extent a response is required, it is admitted that the referenced  
10 species have been listed as threatened or endangered under state or federal law. To the extent  
11 further response is required, the paragraph is vague as to "endangered or threatened," and is  
12 denied for lack of sufficient information and belief.

13           77. Answering Paragraph 77, the referenced document speaks for itself and no further  
14 response is required. To the extent further response is required, Paragraph 77 is vague as to time,  
15 as to "normal to wet," and as to who "estimated," and is therefore denied for lack of sufficient  
16 information and belief.

17           78. Answering Paragraph 78, the referenced document speaks for itself and no further  
18 response is required. To the extent further response is required, Paragraph 78 is vague as to time  
19 and as to "prime spawning habitat" and is denied for lack of sufficient information and belief.

20           79. Answering Paragraph 79, the referenced document speaks for itself and no further  
21 response is required. To the extent further response is required, Paragraph 79 is vague as to time  
22 and as to "96% decline" and "prompting," and is therefore denied for lack of sufficient  
23 information and belief.

24           80. Answering Paragraph 80, the referenced document speaks for itself and no further  
25 response is required. To the extent further response is required, Paragraph 80 is vague as to time  
26 and as to "dry years" and "fish," and is denied for lack of sufficient information and belief.

81. Answering Paragraph 81, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 81 is vague as to time and as to "the fish" and "other fish," and is denied for lack of sufficient information and belief.

82. Answering Paragraph 82, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 82 is vague as to "other tributaries" and to the extent it is framed in the passive voice. It is denied for lack of sufficient information and belief.

83. Answering Paragraph 83, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 83 is vague as to time and as to "rated as having high conservation value" and because it is framed in the passive voice, and is denied for lack of sufficient information and belief.

84. Answering Paragraph 84, the referenced document speaks for itself and no further response is required.

85. Answering Paragraph 85, the referenced document speaks for itself and no further response is required. To the extent further response is required, Paragraph 85 is denied for lack of sufficient information and belief.

86. Answering Paragraph 86, the referenced document speaks for itself and no further response is required. To the extent further response is required, the State Water Board cannot speak for NMFS, and the paragraph is therefore denied for lack of sufficient information and belief.

87. Answering Paragraph 87, the referenced document speaks for itself and no further response is required. To the extent further response is required, the State Water Board cannot speak for NMFS, and the paragraph is therefore denied for lack of sufficient information and belief.

88. Answering Paragraph 88, the referenced document speaks for itself and no further response is required. To the extent further response is required, the paragraph is therefore denied for lack of sufficient information and belief.

1           89. Answering Paragraph 89, the referenced document speaks for itself and no further  
2 response is required. To the extent further response is required, Paragraph 89 is vague as to  
3 “lower basin” and is therefore denied for lack of sufficient information and belief.

4           90. Answering Paragraph 90, the referenced document speaks for itself and no further  
5 response is required. To the extent further response is required, Paragraph 90 is vague as to “the  
6 fish abundance surveys” and is denied for lack of sufficient information and belief.

7           91. Answering Paragraph 91, the referenced document speaks for itself and no further  
8 response is required. To the extent further response is required, Paragraph 91 is vague as to  
9 “most previous years, and in 2011” and is denied for lack of sufficient information and belief.

10          92. Answering Paragraph 92, the referenced document speaks for itself and no further  
11 response is required. To the extent further response is required, Paragraph 92 is vague as to “77%  
12 of steelhead fry” and because it is framed in the passive voice, and is denied for lack of sufficient  
13 information and belief.

14          93. Answering Paragraph 93, the referenced document speaks for itself and no further  
15 response is required. To the extent further response is required, Paragraph 93 is denied for lack of  
16 sufficient information and belief.

17          94. Answering Paragraph 94, the referenced document speaks for itself and no further  
18 response is required.

19          95. Answering Paragraph 95, the referenced document speaks for itself and no further  
20 response is required.

21          96. Answering Paragraph 96, the referenced document speaks for itself and no further  
22 response is required.

23          97. Answering Paragraph 97, the referenced document speaks for itself and no further  
24 response is required.

25          98. Answering Paragraph 98, the referenced document speaks for itself and no further  
26 response is required.

27          99. Paragraph 99 is vague as it refers to a draft document. Paragraph 99 is denied.  
28

100. Answering Paragraph 100, the referenced documents speak for themselves, and no response is required. To the extent a response is required, it is admitted that Reaches 3 and 4 of the Ventura River are listed as impaired for pumping and diversion. The remainder of the paragraph is denied.

101. Answering Paragraph 101, the quoted document speaks for itself and no further response is required.

102. Answering Paragraph 102, the referenced document speaks for itself and no further response is required. To the extent further response is required, the State Water Board cannot speak for the EPA, and Paragraph 102 is vague as to "may be," "likely," and "water quality conditions," and is therefore denied for lack of sufficient information and belief.

103. Answering Paragraph 103, the referenced document speaks for itself and no further response is required. To the extent further response is required, the State Water Board cannot speak for the EPA, and the paragraph is vague as to "existing degraded water quality conditions" and is therefore denied for lack of sufficient information and belief.

104. Answering Paragraph 104, the referenced document speaks for itself and no further response is required. To the extent further response is required, the State Water Board cannot speak for the EPA and is therefore denied for lack of sufficient information and belief.

105. Answering Paragraph 105, the referenced document speaks for itself and no further response is required.

106. Paragraph 106 consists of legal conclusions, and requires no response. To the extent further response is required, it is admitted that Ventura has no permit or license from the State Water Board to appropriate water from the River.

107. Paragraph 107 is denied for lack for sufficient information and belief.

108. Paragraph 108 is denied for lack for sufficient information and belief.

109. Answering Paragraph 109, the referenced document speaks for itself and no further response is required. To the extent further response is required, the paragraph is denied for lack of sufficient information and belief.

1 110. Answering Paragraph 110, the referenced document speaks for itself and no further  
2 response is required. To the extent further response is required, the paragraph is denied for lack  
3 of sufficient information and belief.

4 111. Answering Paragraph 111, the referenced document speaks for itself and no further  
5 response is required. To the extent further response is required, the paragraph is denied for lack  
6 of sufficient information and belief.

7 112. Paragraph 112 is denied for lack of sufficient information and belief.

8 113. Answering Paragraph 113, the referenced document speaks for itself and no further  
9 response is required. To the extent further response is required, the paragraph is denied for lack  
10 of sufficient information and belief.

11 114. Paragraph 114 is denied for lack of sufficient information and belief.

12 115. Paragraph 115 is admitted.

13 116. Paragraph 116 is denied for lack of sufficient information and belief.

14 117. Paragraph 117 is denied for lack of sufficient information and belief.

15 118. Paragraph 118 is denied for lack of sufficient information and belief.

16 119. Paragraph 119 is denied for lack of sufficient information and belief.

17 120. Paragraph 120 is denied for lack of sufficient information and belief.

18 121. Paragraph 121 is denied for lack of sufficient information and belief.

19 122. Paragraph 122 is denied for lack of sufficient information and belief.

20 123. Answering Paragraph 123, the referenced document speaks for itself and no further  
21 response is required. To the extent further response is required, the paragraph is denied for lack  
22 of sufficient information and belief.

23 124. Answering Paragraph 124, the referenced document speaks for itself and no further  
24 response is required. To the extent further response is required, the paragraph is denied for lack  
25 of sufficient information and belief.

26 125. Paragraph 125 is denied for lack of sufficient information and belief.

27 126. Paragraph 126 is denied for lack of sufficient information and belief.

28 127. Paragraph 127 is denied for lack of sufficient information and belief.

1 128.Paragraph 128 is denied for lack of sufficient information and belief.

2 129.Answering Paragraph 129, the referenced document speaks for itself and no further  
3 response is required. To the extent further response is required, the paragraph is denied.

4 130.Paragraph 130 is vague as to "conducted an analysis," and is therefore denied for lack  
5 of sufficient information and belief.

6 131.Answering Paragraph 131, the referenced document speaks for itself and no further  
7 response is required. To the extent further response is required, the paragraph is denied.

8 132.Paragraph 132 is vague as to "conducted an analysis," and is therefore denied for lack  
9 of sufficient information and belief.

10 133.Answering Paragraph 133, the referenced document speaks for itself and no further  
11 response is required. To the extent further response is required, the paragraph is denied.

12 134.Paragraph 134 is vague as to "made any modifications to Ventura's use" and  
13 "conform" and is therefore denied for lack of sufficient information and belief.

14 135.Answering Paragraph 135, the referenced document speaks for itself and no further  
15 response is required.

16 136.Answering Paragraph 136, the referenced document speaks for itself and no further  
17 response is required.

18 137.Answering Paragraph 137, the referenced document speaks for itself and no further  
19 response is required.

20 138.Paragraph 138 is a legal conclusion and requires no response. To the extent a  
21 response is required, the paragraph is vague as to "adequately address," and is denied for lack of  
22 information and belief.

23 139.Paragraph 139 is denied for lack of sufficient information and belief.

24 140.Paragraph 140 is a legal conclusion and requires no response. To the extent a  
25 response is required, the paragraph is denied for lack of information and belief.

26 141.Paragraph 141 is denied for lack of sufficient information and belief.

27 142.Paragraph 142 is a legal conclusion and requires no response. To the extent a  
28 response is required, the paragraph is denied for lack of information and belief.

1 143.Paragraph 143 is a legal conclusion and requires no response. To the extent a  
2 response is required, the paragraph is denied.

3 144.Paragraph 144 is a legal conclusion and requires no response. To the extent a  
4 response is required, the paragraph is denied.

5 **FIRST COUNT FOR RELIEF**

6 **Against City of Ventura**

7 145.Each of the preceding paragraphs is incorporated herein as if set forth in full.

8 146.Paragraph 146 is a legal conclusion and requires no response. To the extent a  
9 response is required, the paragraph is denied for lack of information and belief.

10 147.Paragraph 147 is denied for lack of sufficient information and belief.

11 148.Paragraph 148 is denied for lack of sufficient information and belief.

12 149.Paragraph 149 is denied for lack of sufficient information and belief.

13 **SECOND COUNT FOR RELIEF**

14 **Against State Water Board**

15 150.Each of the preceding paragraphs is incorporated herein as if set forth in full.

16 151.Paragraph 151 is a legal conclusion and requires no response. To the extent a  
17 response is required, the paragraph is denied.

18 152.Paragraph 152 is a legal conclusion and requires no response. To the extent a  
19 response is required, the paragraph is vague and is denied for lack of sufficient information and  
20 belief.

21 153.Paragraph 153 is a legal conclusion and requires no response. To the extent a  
22 response is required, the paragraph is denied.

23 154.Paragraph 154 is a legal conclusion and requires no response. To the extent a  
24 response is required, the paragraph is vague and is denied for lack of sufficient information and  
25 belief.

26 155.Paragraph 155 is a legal conclusion and requires no response. To the extent a  
27 response is required, the paragraph is denied.

1 156.Paragraph 156 is a legal conclusion and requires no response. To the extent a  
2 response is required, the paragraph is denied.

3 157.Paragraph 157 is a legal conclusion and requires no response. To the extent a  
4 response is required, the paragraph is denied.

5 **THIRD COUNT FOR RELIEF**

6 **Against State Water Board**

7 158.Each of the preceding paragraphs is incorporated herein as if set forth in full.

8 159.Paragraph 159 is a legal conclusion and requires no response. To the extent a  
9 response is required, the paragraph is denied.

10 160.Paragraph 160 is a legal conclusion and requires no response. To the extent a  
11 response is required, the paragraph is denied.

12 161.Paragraph 161 is a legal conclusion and requires no response. To the extent a  
13 response is required, the paragraph is denied.

14 162.Paragraph 162 is a legal conclusion and requires no response. To the extent a  
15 response is required, the paragraph is denied.

16 163.Paragraph 163 is a legal conclusion and requires no response. To the extent a  
17 response is required, the paragraph is denied.

18 **FOURTH COUNT FOR RELIEF**

19 **Against State Water Board**

20 164.Each of the preceding paragraphs is incorporated herein as if set forth in full.

21 165.Paragraph 165 is a legal conclusion and requires no response. To the extent a  
22 response is required, the paragraph is denied.

23 166.Paragraph 166 is a legal conclusion and requires no response. To the extent a  
24 response is required, the paragraph is denied.

25 167.Paragraph 167 is a legal conclusion and requires no response. To the extent a  
26 response is required, the paragraph is denied.

27 168.Paragraph 168 is a legal conclusion and requires no response. To the extent a  
28 response is required, the paragraph is denied.

1 **FIFTH COUNT FOR RELIEF**

2 **Against State Water Board**

3 169. Each of the preceding paragraphs is incorporated herein as if set forth in full.

4 170. Paragraph 170 is a legal conclusion and requires no response. To the extent a  
5 response is required, the paragraph is denied.

6 171. Paragraph 171 is a legal conclusion and requires no response. To the extent a  
7 response is required, the paragraph is denied.

8 172. Paragraph 172 is a legal conclusion and requires no response. To the extent a  
9 response is required, the paragraph is denied.

10 173. Paragraph 173 is a legal conclusion and requires no response. To the extent a  
11 response is required, the paragraph is denied.

12 174. Paragraph 174 is a legal conclusion and requires no response. To the extent a  
13 response is required, the paragraph is denied.

14 175. Paragraph 175 is a legal conclusion and requires no response. To the extent a  
15 response is required, the paragraph is denied.

16  
17 **AFFIRMATIVE DEFENSES**

18 **FIRST AFFIRMATIVE DEFENSE**

19 Petitioners' fail to state a claim against the State Water Board, whether or not relief may  
20 be properly granted against other parties.

21 **SECOND AFFIRMATIVE DEFENSE**

22 Due to prosecutorial discretion, the State Water Board has no duty to take action against  
23 Ventura.

24 **THIRD AFFIRMATIVE DEFENSE**

25 Petitioner lacks standing to bring the claims alleged.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 The court should abstain from determining complex issues of water law and  
28 administrative prioritization, or refer the matter to the State Water Board. (Wat. Code, §§ 2000,

1 2001; Fleming v. Bennett (1941) 18 Cal.2d 518.)

2 **FIFTH AFFIRMATIVE DEFENSE**

3 Petitioner has failed to exhaust its administrative remedies.

4 **SIXTH AFFIRMATIVE DEFENSE**

5 Petitioner has failed to exhaust its nonadministrative remedies.

6 **SEVENTH AFFIRMATIVE DEFENSE**

7 Petitioner has failed to join necessary or indispensable parties.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9 Petitioner's claims against the State Water Board are not ripe.

10 **NINTH AFFIRMATIVE DEFENSE**

11 Petitioners, by their own actions and conduct, waived any claims they may have had  
12 against the State Water Board.

13 **TENTH AFFIRMATIVE DEFENSE**

14 The claims against the State Water Board seek an advisory opinion. Petitioner's claims  
15 against the State Water Board are moot, or will of necessity become moot before relief could be  
16 granted.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 Petitioners, by their own conduct, are estopped from complaining of the conduct of the  
19 State Water Board.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 Petitioners' claims are barred by the applicable statutes of limitation.

22 **THIRTEENTH AFFIRMATIVE DEFENSE**

23 Petitioners' claims are barred because they have an adequate remedy at law, directly  
24 against the City of Ventura.

25 **FOURTEENTH AFFIRMATIVE DEFENSE**

26 The Court and the State Water Board have concurrent jurisdiction over claims of illegal  
27 water use by Ventura. By bringing an action against Ventura before the Court, Petitioner has  
28 abandoned or forfeited any relief available from the State Water Board.

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**FIFTEENTH AFFIRMATIVE DEFENSE**

Petitioner cannot seek redress in this court and force the State Water Board to provide the same redress administratively.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Forum non conveniens. The City and County of San Francisco have no practical connection to the matter in this case.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Election of remedies. Petitioner has chosen to seek remedies in court directly against Ventura. It cannot simultaneously seek remedies against the State Water Board.

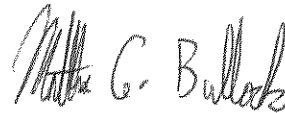
**WHEREFORE**, The State Water Board prays as follows:

1. That the Petition be dismissed in its entirety with prejudice;
2. That Petitioner take nothing by its Petition;
3. That judgment be entered against Petitioner;
4. That the State Water Board be awarded costs of suit and attorney fees; and
5. For such other and further relief as the Court may deem just and proper.

1 Dated: May 13, 2015

Respectfully Submitted,

2 KAMALA D. HARRIS  
Attorney General of California  
3 GAVIN G. MCCABE  
Supervising Deputy Attorney General  
4 JONATHAN WIENER  
Deputy Attorney General

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9 *Attorneys for Respondent*  
*State Water Resources Control Board*

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 IN AND FOR CITY AND COUNTY OF SAN FRANCISCO

11 **SANTA BARBARA CHANNELKEEPER,**

12 Plaintiffs and Petitioners,

13 v.

14 **STATE WATER RESOURCES**  
15 **CONTROL BOARD,**

16 Respondent,

17 **CITY OF BUENAVENTURA,**

18 Defendant.

Case No. CPF-14-513875


**CERTIFICATE OF ELECTRONIC  
SERVICE**

Dept: 302  
Judge: Hon. Ernest H. Goldsmith  
Action Filed: Sept. 19, 2014

19  
20 I, Matthew G. Bullock, am employed in the Office of the Attorney General, which is the  
21 office of a member of the California State Bar, at which member's direction this service is made.  
22 I am 18 years of age or older and not a party to this matter.

23 On May 13, 2015, I electronically served 1) Answer of Respondent State Water Resources  
24 Control Board, via File & ServeXpress on the recipients designated on the Transaction Receipt  
25 located on the File & ServeXpress website.  
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1 I declare under penalty of perjury under the laws of the State of California the foregoing is  
2 true and correct and that this declaration was executed on May 13, 2015, at San Francisco,  
3 California.

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6 MATTHEW G. BULLOCK

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