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15 OPV Coalition, et al.

VENTURA
SUPERIOR COURT
FILED

JUN 15 2021

BRENDA L. McCORMICK
Executive Officer and Clerk
By: _____, Deputy

MARIANA SUAZO

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF VENTURA

13 OPV COALITION, an unincorporated
14 association; PVR OXNARD, LLC; DUDA
15 WESTSIDE OXNARD, LLC; HHR OXNARD,
16 LLC; MONTGOMERY PROPERTIES LLC;
17 MARY C. MENNE & ASSOCIATES; ET
18 AGRICULTURAL ASSOCIATES, LLC; THE
19 IVAN AND MOLLY SOHRAKOFF TRUST;
20 THE SUSAN NAUMANN TRUST; THE
21 RICHARD W NAUMANN TRUST; ARNOLD
22 RANCH, LLC; J & P DOUGLAS FAMILY
23 TRUST; SHOZI BROTHERS, LLP; SHOZI
24 BROTHERS, LLC; JOSE C. MARTINEZ AND
25 MARIA ELENA MARTINEZ; WILDCAT
26 INVESTMENTS, LLC; GREYHER FARMING
27 COMPANY, INC.; SARA NAUMANN
28 MCANDREWS LIVING TRUST; BANJO
RANCH LLC; DINGALING RANCH LLC;
APTOS BERRY FARMS, INC.; BERKSHIRE
INVESTMENTS, LLC; DOUD HAILES
ROAD, LLC; ROCKINOEE, LP AND TARA
ENTERPRISES, LP; WOOLEY BERRY
FARMS, LLC; LANAI INVESTORS, LLC;
P&R PROPERTIES; PIERPONT BAY
RANCH; ROBERT C. DEBUSSCHERE AND
DEBUSSCHERE MORRIS FAMILY TRUST;
HECTOR DEBUSSCHERE TRUST ET AL;
THE DEBUSSCHERE MORRIS FAMILY
TRUST; LAS POSAS CAMARILLO CA, LP;
WEST GONZALES ROAD OXNARD, LLC;
NAUMANN ROAD OXNARD, LP; DUFAU

CASE NO. 56-2021-00555357-CU-PT-VTA

**COMPLAINT FOR COMPREHENSIVE
GROUNDWATER ADJUDICATION OF
THE OXNARD GROUNDWATER
SUBBASIN (No. 4-004.02) AND
PLEASANT VALLEY SUBBASIN (No. 4-
006) PURSUANT TO SECTIONS 830, ET
SEQ. OF THE CODE OF CIVIL
PROCEDURE; DECLARATORY
RELIEF; QUIET TITLE; AND
PETITION FOR WRITS OF MANDATE**

[CEQA CASE]

1 ROAD OXNARD, LP; ROUND MOUNTAIN
2 ROAD CAMARILLO CA, LP; SANTA
3 CLARA AVENUE OXNARD, LP; JAMES F.
4 NAUMANN TRUST; BENGARD
5 DEBUSSCHERE LAND CO LLC; CARR
6 CANYON PROPERTIES LLC; AMS
7 MELINDA LLC; AMS CRAIG, LLC; AMS
8 ROXANNE, LLC; CONNELLY RANCH,
9 LLC; ARAICH LIMITED, S.A; AMS
10 CHARLENE, LLC

11
12 Plaintiffs,

13 v.

14 FOX CANYON GROUNDWATER
15 MANAGEMENT AGENCY, a public entity; all
16 persons unknown, claiming any legal or
17 equitable right, title, estate, lien or interest in the
18 property described in the complaint adverse to
19 plaintiffs' title or any cloud on plaintiffs' title
20 thereto; and DOES 1 through 3000, inclusive,

21
22 Defendants.

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I. INTRODUCTION

1. Ventura County’s family farmers and other agricultural landowners in the Oxnard and Pleasant Valley Groundwater Basins bring this lawsuit to achieve an outcome critical to their livelihoods and the well-being of the public—a fair allocation of groundwater rights with the goal of sustainable management of the region’s most precious resource. This case is critical to landowners, water providers, local municipalities, businesses, school districts, and citizens, as it will resolve rights to a significant portion of the local water supply.

2. Plaintiffs forged the OPV Coalition and seek court relief out of necessity. Plaintiffs invested many months in cooperative efforts with stakeholders, including Defendant, the Fox Canyon Groundwater Management Agency (“FCGMA”), to achieve an equitable and comprehensive long-term plan for sustainable management of water resources. Unfortunately, those discussions have failed to lead to a fair and reasonable resolution, thereby necessitating judicial assistance. Plaintiffs bring this action with the hope that it will serve as a catalyst for the many stakeholders, including FCGMA, to work together, with the Court’s supervision, in reaching a fair determination of water rights.

3. With those goals in mind, Plaintiffs ask that the Court conduct a comprehensive adjudication under section 830 *et seq.* of the California Code of Civil Procedure to determine all rights to extract (that is, pump) groundwater in the Santa Clara River Valley - Oxnard Groundwater Subbasin (DWR No. 4-004.02) and the Pleasant Valley Groundwater Subbasin (DWR No. 4-006) (collectively, the “**Basins**”); enter an appropriate judgment; and impose a physical solution consistent with the law (the “**Comprehensive Adjudication**”). Plaintiffs also seek writs of mandate ordering FCGMA to correct legal errors relating to (i) an ordinance adopted by FCGMA to establish pumping allocations in the Basins, and (ii) the adoption of groundwater sustainability plans (“**GSP**”) for the Basins under California’s Sustainable Groundwater Management Act (“**SGMA**”). The Comprehensive Adjudication and petition for writs of mandate are necessary to ensure sustainable management of the Basins’ groundwater supplies in a manner consistent with SGMA; the California Constitution’s mandate in Article X, section 2 to manage

1 water resources for maximum beneficial use and avoid water waste; and water right priorities
2 under California law.

3 4. The Basins have been in a state of overdraft (*i.e.*, more water extracted than
4 replenished) for decades and in 2018 the California Department of Water Resources (“DWR”)
5 identified both Basins as in a state of “critical overdraft.”¹ The Basins face significant seawater
6 intrusion: excessive pumping has lowered water levels in the Basins’ aquifers below sea level
7 resulting in the landward migration of seawater into the potable aquifers adjacent to the coast. To
8 remedy the seawater intrusion and other problems, Plaintiffs have engaged for several years with
9 FCGMA and other stakeholders in negotiations over water rights, pumping allocations, and
10 groundwater management. Unfortunately, for the reasons described below, the negotiating
11 stakeholders have yet to achieve broad consensus, and Plaintiffs believe that this Comprehensive
12 Adjudication is necessary to achieve an efficient and lasting resolution. Consistent with the
13 statutory goal of encouraging the compromise and settlement of comprehensive adjudications (*see*
14 Code of Civ. Proc. § 830(b)(3), Plaintiffs hope to continue the ongoing negotiations and to seek
15 the Court’s assistance and direction to achieve a comprehensive settlement.

16 5. This Comprehensive Adjudication is similar to, and should be related to, a pending
17 comprehensive adjudication of the neighboring Las Posas Valley Groundwater Basin, which is
18 hydrologically connected to the Basins (sharing common dividing boundaries) and also within the
19 jurisdictional boundaries of FCGMA. *See Las Posas Water Rights Coalition et al. v. Fox Canyon*
20 *Groundwater Management Agency*, Santa Barbara Superior Court, Case No. VENCI00509700.
21 The Honorable Thomas Anderle of the Santa Barbara Superior Court is presiding over that related
22 case. Although the Las Posas Valley Basin is also located in Ventura County, the adjudication
23 was removed to the Santa Barbara Superior Court and assigned to Judge Anderle under Code of
24 Civil Procedure section 838, which provides that in a comprehensive groundwater basin
25 adjudication, a judge of a superior court of a county that overlies the basin or any portion of the
26 basin shall be disqualified, and that the Chairperson of the Judicial Council shall assign a judge to

27 ¹ See [https://water.ca.gov/Programs/Groundwater-Management/Bulletin-118/Critically-](https://water.ca.gov/Programs/Groundwater-Management/Bulletin-118/Critically-Overdrafted-Basins)
28 [Overdrafted-Basins](https://water.ca.gov/Programs/Groundwater-Management/Bulletin-118/Critically-Overdrafted-Basins).

1 preside in all proceedings in the adjudication. In light of the similar facts and issues (common
2 basin boundaries, aquifers, replenishment, and overlapping parties, counsel, and FCGMA
3 jurisdiction), Plaintiffs believe it to be appropriate for this action to be assigned to Judge Anderle
4 and related to the Las Posas Valley Basin adjudication. Doing so would advance judicial economy
5 and bring the parties closer to an equitable resolution of these complex issues.

6 **II. JURISDICTION AND VENUE**

7 6. This Court has jurisdiction over this action pursuant to Code of Civil Procedure
8 sections 526, 833, 1060, and 1085, section 3420 of the Civil Code, and sections 21168 and
9 21168.5 of the Public Resources Code.

10 7. Venue is initially proper in this Court because the lands, water rights, and other real
11 property that are the subject of this action are located within the County of Ventura. However, as
12 noted above, all judges of the Superior Court of Ventura County are disqualified from hearing this
13 action, and the Chairperson of the Judicial Council must assign a neutral judge to preside in all
14 proceedings. *See* Code Civ. Proc. § 838 subd. (a)(1). As mentioned above, judicial economy
15 counsels in favor of assigning the case to the Honorable Thomas Anderle of the Santa Barbara
16 Superior Court, who is presiding over the related case, *Las Posas Water Rights Coalition et al. v.*
17 *Fox Canyon Groundwater Management Agency*, Santa Barbara Superior Court, Case No.
18 VENCI00509700.

19 **III. PARTIES**

20 8. Plaintiff OPV Coalition is an unincorporated association formed to represent the
21 interests of its members that are overlying agricultural water users in the Basins. OPV Coalition
22 has standing to bring this action on behalf of its entire membership pursuant to Code of Civil
23 Procedure section 382.

24 9. Plaintiffs PVR Oxnard, LLC; Duda Westside Oxnard, LLC; HHR Oxnard, LLC;
25 Montgomery Properties LLC; Mary C. Menne & Associates; ET Agricultural Associates, LLC;
26 The Ivan and Molly Sohrakoff Trust; The Susan Naumann Trust; The Richard W Naumann Trust;
27 Arnold Ranch, LLC; J & P Douglas Family Trust; Shozi Brothers, LLP; Shozi Brothers, LLC;
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1 Jose C. Martinez and Maria Elena Martinez; Wildcat Investments, LLC; Grether Farming
2 Company, Inc.; Sara Naumann McAndrews Living Trust; Banjo Ranch LLC; Dingaling Ranch
3 LLC; Aptos Berry Farms, Inc.; Berkshire Investments, LLC; Doud Hailes Road, LLC; Rockinooe,
4 LP and Tara Enterprises, LP; Wooley Berry Farms, LLC; Lanai Investors, LLC; P&R Properties;
5 Pierpont Bay Ranch; Robert C. Debusschere and Debusschere Morris Family Trust; Hector
6 Debusschere Trust Et Al; The Debusschere Morris Family Trust; Las Posas Camarillo CA, LP;
7 West Gonzales Road Oxnard, LLC; Naumann Road Oxnard, LP; Dufau Road Oxnard, LP; Round
8 Mountain Road Camarillo CA, LP; Santa Clara Avenue Oxnard, LP; James F. Naumann Trust;
9 Bengard Debusschere Land Co LLC; Carr Canyon Properties LLC; AMS Melinda LLC; AMS
10 Craig, LLC; AMS Roxanne, LLC; Connelly Ranch, LLC; Araich Limited, S.A.; and AMS
11 Charlene, LLC each own land overlying the Basins, and each one grows commercial crops that are
12 irrigated with groundwater derived from the Basins.

13 10. Plaintiffs will amend this Complaint in the near future in order to add additional
14 plaintiffs, as such plaintiffs become known.

15 11. Each Plaintiff, including each member of OPV Coalition, owns groundwater rights
16 related to the parcels they own overlying the Basins.

17 12. Defendant FCGMA is a special district created by the California Legislature to
18 manage groundwater resources within its territory for the common benefit of water users. *See*
19 Water Code App. § 121-102. Each of the defendants identified as DOES 1 through 3,000,
20 inclusive (“**Doe Defendants**”), whether individuals, corporations, unincorporated associations,
21 partnerships, trustees, executors, guardians, or otherwise, claim some right, title, estate, lien, or
22 interest in water in the Basins that is adverse to Plaintiffs’ title and interest, or represents a cloud
23 on Plaintiffs’ respective titles thereto. Plaintiffs are unaware of the true names and capacities of
24 the Doe Defendants and, therefore, sue the Doe Defendants by fictitious names. Plaintiffs will
25 provide notice of the adjudication to all entities specified for receipt of notice, which will include
26 all Doe Defendants, pursuant to the provisions of Sections 835, 836, and 836.5 of the Code of
27
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1 Civil Procedure. These entities may elect to intervene in, or answer this Complaint, as provided
2 therein.

3 **IV. GENERAL ALLEGATIONS**

4 **A. Physical Setting**

5 13. The Santa Clara River Valley - Oxnard Basin, defined by the California
6 Department of Water Resources' Bulletin 118 as Basin No. 4-004.02, encompasses an area of
7 approximately 58,000 acres. The Basin is located entirely within Ventura County. The eastern
8 boundary is the Las Posas Valley Basin and Pleasant Valley Basin. The northern boundary is the
9 Oak Ridge Fault, and the southern boundary is the Santa Monica Mountains. The western
10 boundary is the Pacific Ocean.

11 14. The Pleasant Valley Basin, defined by the California Department of Water
12 Resources' Bulletin 118 as Basin No. 4-006, encompasses an area of approximately 19,840 acres.
13 The Basin is located entirely within Ventura County. The northern boundary is the Camarillo
14 Hills and the Las Posas Hills, and the southern boundary is the Santa Monica Mountains. The
15 western boundary is the Oxnard Subbasin.

16 15. Groundwater overdraft in both Basins has led to seawater intrusion into the Oxnard
17 Basin. Although seawater intrusion has not occurred in the Pleasant Valley Basin, groundwater
18 pumping in the Pleasant Valley Basin contributes to seawater intrusion into the Oxnard Basin,
19 since the Basins are hydrologically connected.

20 **B. Groundwater Users**

21 16. Water in these Basins support diverse water users. These include municipal water
22 suppliers—among them the Cities of Oxnard, the largest city fully contained in the Oxnard Basin,
23 Camarillo, and San Buenaventura, and the Channel Island Beach Community Service District.

1 17. Agriculture in the Basins is a key industry, and dependent on groundwater supplies.
2 The Oxnard Basin, alone, provides water for more than half of Ventura County’s \$2.2 billion
3 agricultural industry.²

4 **C. History of Groundwater Management Efforts**

5 18. There is a long history of efforts to ameliorate the overdraft and resulting seawater
6 intrusion. The United Water Conservation District (“UWCD”), organized in 1950, under the
7 Water Conservation Act of 1931, has managed regional water enhancement efforts since its
8 formation. Today, UWCD operates infrastructure to divert surface water from the Santa Clara
9 River, delivers diverted river water to spreading grounds to enhance recharge of the Basins,
10 delivers diverted river water through pipelines to offset pumping in the more challenged areas of
11 the Basins, and pumps and delivers groundwater from areas near the river that are more easily
12 recharged to offset pumping in areas experiencing more acute overdraft.

13 19. UWCD operates as a water wholesaler and water management district, but it does
14 not have regulatory authority over pumpers or diverters within the District. When the State Water
15 Resources Control Board threatened to adjudicate pumping on the Oxnard Plain following the
16 drought of the late 1970s, FCGMA was created in 1982, to manage groundwater resources locally
17 in southern Ventura County, including the Basins. The prime objective and purpose of FCGMA
18 are to preserve the local water resources for agricultural, municipal, and industrial uses for the
19 common benefit of all water users by managing overdraft and the intrusion of saline waters.
20 FCGMA is empowered to regulate pumping within the groundwater basins it manages, but it does
21 not construct water projects. Although UWCD and FCGMA have helped limit pumping in the
22 Basins, overdraft remains.

23 **D. SGMA and the Groundwater Adjudication Statute**

24 20. To address the problems of groundwater overdraft, the Legislature adopted SGMA
25 in 2014 “[t]o provide for the sustainable management of groundwater basins.” Cal. Wat. Code §

26 _____
27 ² Background Report for Ventura County 2040 General Plan, Ch. 10, Water Resources, at 10-37
28 (Sept. 15, 2020) available at https://vc2040.org/images/Background_Report_-_September_2020/VCGPU_10_Adopted_Water_September_2020.pdf.

1 10720.1. SGMA requires the creation of one or more local groundwater sustainability agencies
2 (“GSA”) in each basin designated as medium- or high-priority. The GSAs must then develop and
3 implement GSPs to manage their groundwater basins to achieve sustainable groundwater
4 management—defined as management and use of the groundwater in a manner without causing
5 undesirable results. FCGMA is the GSA for the Basins.

6 21. SGMA provides groundwater management tools and authorities to the GSAs,
7 including powers to require measuring and reporting of groundwater extractions, limiting the
8 amount of extractions, imposing fees for groundwater management, and enforcing the terms of a
9 GSP. Importantly, however, SGMA did not change the longstanding framework of groundwater
10 pumping rights established by California courts. *See* Garner et al., *The Sustainable Groundwater*
11 *Management Act and the Common Law of Groundwater Rights—Finding a Consistent Path*
12 *Forward for Groundwater Allocation*, 38 UCLA J. Env’t L. & Pol’y 163, 166-67, 185-98 (2020).
13 Specifically, SGMA provides that “nothing in [the Act], or in any groundwater management plan
14 adopted pursuant to [the Act], determines or alters . . . groundwater rights under common law.”
15 Cal. Wat. Code § 10720.5(b). Similarly, SGMA affirms that a GSA-implemented limitation on
16 pumping “shall not be construed to be a final determination of rights to extract groundwater.” *Id.*
17 § 10726.4(a)(2).

18 22. In 2015, the Legislature enacted an additional statute (the “**Groundwater**
19 **Adjudication Statute**”) to harmonize the sustainability goals of SGMA with common law water
20 rights and the traditional role performed by the California courts in managing groundwater basins
21 through a “physical solution,” a form of judicial remedy in such cases. *See* Code of Civil Proc. §
22 830 *et seq.* The Groundwater Adjudication Statute contains numerous procedural rules for cases
23 of this sort and directs that it shall be applied consistent with the goals, among others of: (1)
24 protecting water rights consistent with Article X, section 2 of the California Constitution; (2)
25 conducting comprehensive adjudications in a manner that promotes efficiency, reduces
26 unnecessary delays, and provides due process; (3) encouraging the compromise and settlement of
27 comprehensive adjudications; (4) conducting a comprehensive adjudication in a manner that is
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1 consistent with the achievement of groundwater sustainability within the timeframes of SGMA;
2 and (5) establishing procedures by which courts may conduct comprehensive determinations of all
3 rights and priorities to groundwater in a basin. *See id.* § 830(b)(1)-(5). It also: (1) authorizes the
4 court to “determine all groundwater rights of a basin, whether based on appropriation, overlying
5 right, or other basis of right, and use of storage space in the basin,” *id.* § 834(a); and (2) provides
6 that “[t]he court shall have the authority and the duty to impose a physical solution on the parties
7 in a comprehensive adjudication where necessary and consistent with Article 2 of Section X of the
8 California Constitution... [after considering] any existing groundwater sustainability plan or
9 program.” *Id.* § 849.

10 **E. History of Allocation Negotiations**

11 23. OPV Coalition and its growers participated in good faith in FCGMA’s groundwater
12 management efforts for years. OPV Coalition representatives attended stakeholder workshops and
13 GMA board meetings, provided comments on drafts of FCGMA’s GSPs, and employed Dr. Steven
14 Bachman, a hydrogeologist, to participate in FCGMA’s Technical Advisory Group.

15 24. At FCGMA’s request, the OPV Coalition organized stakeholders to negotiate an
16 allocation plan for the Basin, which culminated in a whitepaper issued in February 2018 (“**OPV**
17 **Whitepaper**”).

18 25. After three years of negotiation, the OPV Coalition obtained support for the OPV
19 Whitepaper from approximately 85 percent of the agricultural community as well as most of the
20 municipal water providers.

21 **F. FCGMA Allocation Ordinance**

22 26. Rather than adopting the widely supported OPV Whitepaper, FCGMA passed an
23 allocation ordinance in October of 2019 (“**Allocation Ordinance**”) that deviated from the OPV
24 Whitepaper on several critical issues, including adoption of an allocation methodology based
25 exclusively on historical use of groundwater during a period many years ago and without any
26 minimum allocation per acre, and an approach for reducing individual allocations over time to
27 achieve sustainable management that was inconsistent with the OPV Whitepaper.

1 27. The California Environmental Quality Act, Cal. Pub. Res. Code § 21000 *et seq.*
2 (“CEQA”) requires that any agency taking discretionary action to consider whether the proposed
3 action will impact the environment. If impacts are found, the agency must prepare a study and
4 determine the appropriate level of CEQA review. Alternatively, the agency can determine a
5 proposed discretionary project is exempt from CEQA, either by statute or categorical exemption.

6 28. Section 1.9 of the Allocation Ordinance summarily concludes, without reference to
7 any other finding, that “[t]his ordinance is exempt from [CEQA] pursuant to Water Code section
8 107.28.6 and CEQA Guidelines sections 15061(b)(3), 15307 and 15308.” No additional analysis
9 was included in the staff report, and the Allocation Ordinance is infirm under CEQA.

10 29. OPV Coalition objected in writing³ and in public comments at a public hearing on
11 the Allocation Ordinance, explaining why the CEQA exemptions cited by FCGMA did not apply.
12 FCGMA, nonetheless, adopted the Allocation Ordinance.

13 30. Even after enactment of the Allocation Ordinance, Plaintiffs sought to resolve their
14 concerns through extensive discussion and negotiation with FCGMA. Plaintiffs proposed a tolling
15 agreement and a facilitation process to which FCGMA agreed. Despite nearly a year of
16 professionally facilitated negotiation, disagreements remain. A Comprehensive Adjudication is
17 thus the only path forward to reach an equitable water rights allocation that can assist stakeholders
18 to prepare reliably for the future and manage the Basin.

19 31. Plaintiffs exhausted all available administrative remedies by participating in
20 FCGMA’s public processes and submitting timely written and oral comments.

21 **G. GSPs**

22 32. FCGMA adopted a GSP for each of the Basins on December 13, 2019.⁴

23 33. These GSPs are deficient in a number of ways. First, the groundwater management
24 strategies in the GSPs are unsupported by evidence. The critical, undesirable outcome to be
25 avoided in the Basins is the intrusion of seawater, which renders the groundwater non-potable and
26 useless for beneficial use. Thus, under SGMA, FCGMA was required to set certain minimum

27 ³ See https://ventura.granicus.com/MetaViewer.php?view_id=45&clip_id=5357&meta_id=726998.

28 ⁴ The GSPs are available in full at <https://fcgma.org/groundwater-sustainability-plan>.

1 thresholds and measurable objectives in its GSPs to ensure that seawater intrusion is kept under
2 control. FCGMA’s approach was to start with the management strategies it intended to use, do
3 computer modeling based on a handful of scenarios implementing those preferred strategies, and
4 then set minimum thresholds and measurable objectives based on its modeling. In so doing,
5 FCGMA ignored well-known and more reliable empirical methods.

6 34. Second, even under FCGMA’s modeled conditions, its management approach
7 could not solve the problem of seawater intrusion. At Plaintiffs’ request, hydrogeologist Dr.
8 Steven Bachman reviewed the GSPs in draft form.⁵ His report is attached to Plaintiffs’ public
9 comments on the draft GSPs.⁶ Dr. Bachman’s analysis confirmed that FCGMA’s management
10 strategies, even under its own model, would result in seawater intrusion into one of the subbasins’
11 aquifers and loss of freshwater into the ocean from another aquifer. The modeled estimate reveals
12 that the approach in the GSPs will produce an annual loss (waste) of more than 4,000 acre-feet per
13 year (“AFY”) of fresh water into the ocean. The intrusion of seawater into the subbasins’ aquifers
14 and the loss of freshwater into the ocean would reduce the freshwater that pumpers can extract
15 sustainably—or, in the parlance of SGMA, a lower “sustainable yield.” The loss of sustainable
16 yield reduces the groundwater available to holders of water rights in the Basins.

17 35. Third, the GSPs set thresholds for seawater intrusion at inland wells rather than
18 coastal wells, resulting in management criteria not necessary, and not rationally developed, to
19 avoid undesirable results.

20 36. Fourth, because of the foregoing problems, the GSPs do not set their minimum
21 thresholds and measurable objectives according to the GSPs’ own criteria. For example, the
22 Oxnard Plain GSP states that “the measurable objective is the water level at which there is neither
23 seawater flow into nor freshwater flow out of the” relevant aquifers. But the GSP does not set a
24 measurable objective that could achieve this result. Because they are not rationally tied to even
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26 ⁵ Despite numerous public comments criticizing the plans, they were adopted as drafted.

27 ⁶ See September 23, 2019 Comment Letter from O’Melveny & Myers LLP, *available at*
28 <https://fcgma.org/component/phocadownload/category/74-revised-draft-gsp-for-oxnard-subbasin?download=634:o-melveny-myers-llp-comments>.

1 the GSP's own stated objectives, the minimum thresholds and measurable objectives are arbitrary
2 and capricious.

3 37. The FCGMA disregarded comments on the above-described deficiencies and
4 adopted the GSPs with "minimum thresholds" (as the term is defined in SGMA) that both waste
5 water in violations of Article X, section 2, and that are modeled to fail in controlling seawater
6 intrusion. Plaintiffs exhausted all available administrative remedies by participating in FCGMA's
7 public processes and submitting timely written and oral comments.

8 **H. Tolling Agreements and Negotiation Facilitation**

9 38. Plaintiffs sought to resolve their concerns with the Allocation Ordinance and GSPs
10 through extensive negotiation with FCGMA. In 2019, Plaintiffs proposed a facilitation process to
11 which FCGMA agreed. Plaintiffs also entered into a tolling agreement with the FCGMA to toll
12 the running of statutes of limitations relating to the Allocation Ordinance and GSPs in 2020 while
13 the facilitation proceeded. Because these professionally facilitated negotiations have not yielded a
14 resolution, and because FCGMA has declined to continue to extend the applicable tolling
15 agreements, this lawsuit is the only path forward to an equitable and lawful result.

16 **FIRST CAUSE OF ACTION**

17 **Declaratory Relief Against All Defendants**

18 **(Request for Comprehensive Groundwater Adjudication; Code of Civ. Proc. §§ 830 *et seq.*)**

19 39. Plaintiffs reallege and incorporate herein, as if set forth in full, each and every
20 allegation contained in paragraphs 1 through 38 inclusive, of this Complaint.

21 40. An actual controversy has arisen and now exists between Plaintiffs, on the one
22 hand, and Defendants, on the other hand: the Basins are in a state of critical overdraft, and are
23 experiencing seawater intrusion, such that groundwater extraction must be limited and managed.
24 Plaintiffs contend the allocation system created by FCGMA ordinance is inequitable, harms many
25 longtime water users (including Plaintiffs), infringes on established property rights, is contrary to
26 the common law, and does not meet the requirements of the California Constitution and SGMA.
27 FCGMA and certain Doe Defendants contend otherwise.

1 **THIRD CAUSE OF ACTION**

2 **Writ of Mandate (October 2019 Allocation Ordinance) Against FCGMA**

3 45. Plaintiffs reallege and incorporate herein, as if set forth in full, each and every
4 allegation contained in paragraphs 1 through 44 inclusive, of this Complaint.

5 46. Plaintiffs seek a writ of mandate pursuant to Code of Civil Procedure section
6 1085(a) to require FCGMA to vacate, rescind, and set aside the Allocation Ordinance.

7 47. The Allocation Ordinance improperly allocates groundwater in a manner that is not
8 consistent with applicable common law.

9 48. By enacting the Allocation Ordinance, FCGMA has acted beyond the scope of its
10 power, authority, and jurisdiction, has abused its discretion, and has violated its duty to follow
11 California law.

12 49. Plaintiffs have a beneficial interest in ensuring that FCGMA does not seek to
13 enforce an ordinance that exceeds FCGMA’s authority, violates California law, and interferes with
14 Plaintiffs’ property rights, and would be irreparably harmed thereby.

15 50. Plaintiffs have no plain, speedy, and adequate remedy at law other than the relief
16 sought to determine the merits of its challenge to the Allocation Ordinance.

17 **FOURTH CAUSE OF ACTION**

18 **Writ of Mandate (Groundwater Sustainability Plan—Oxnard Subbasin) Against FCGMA**

19 51. Plaintiffs reallege and incorporate herein, as if set forth in full, each and every
20 allegation contained in paragraphs 1 through 50 inclusive, of this Complaint.

21 52. Plaintiffs seek a writ of mandate pursuant to Code of Civil Procedure section
22 1085(a) to require FCGMA to vacate, rescind, and set aside the Oxnard Subbasin GSP.

23 53. Plaintiffs and other parties submitted comments on drafts of the Oxnard Subbasin
24 GSP, raising the same issues upon which this Petition is based.

25 54. As FCGMA’s own estimates show, the GSP’s sustainable management criteria
26 improperly and unnecessarily limit the sustainable yield of the Oxnard Subbasin. FCGMA set the
27 GSP’s minimum thresholds and measurable objectives by looking directly to the results of
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1 groundwater model runs, rather than first determining, through real-world measurement, what
2 management criteria the Basin must meet to achieve sustainability. This method is backward;
3 SGMA requires the GMA to select management criteria to prevent undesirable results.
4 Additionally, the GSP set thresholds for seawater intrusion at inland wells rather than coastal
5 wells, resulting in management criteria not necessary, and not rationally developed, to avoid
6 undesirable results. Because of these fundamental flaws, the GSP does not even meet its own
7 criteria for what the minimum thresholds and measurable objectives are supposed to accomplish.
8 For all these reasons, the GSP is arbitrary, capricious, entirely unsupported by evidence, unfair,
9 and unlawful.

10 55. The GSP is also unlawful because it violates the constitutional requirement that
11 water be put to maximum beneficial use and not wasted. *See* Cal. Const., art. X, § 2.

12 56. The GSP also violates the common law rights of property owners by reducing the
13 groundwater available to holders of water rights in the Basin in a manner that is unfair, arbitrary,
14 capricious, and entirely unsupported by evidence. By adopting the Oxnard GSP, FCGMA has
15 acted beyond the scope of its power, authority, and jurisdiction, has abused its discretion, and has
16 violated its duty to follow California law.

17 57. Plaintiffs have a beneficial interest in ensuring that FCGMA does not seek to
18 enforce a GSP that exceeds FCGMA's authority, violates California law, and interferes with
19 Plaintiffs' property rights, and would be irreparably harmed thereby.

20 58. Plaintiffs have no plain, speedy, and adequate remedy at law other than the relief
21 sought to determine the merits of its challenge to the Oxnard GSP.

22 **FIFTH CAUSE OF ACTION**

23 **Writ of Mandate (Groundwater Sustainability Plan—Pleasant Valley) Against FCGMA**

24 59. Plaintiffs reallege and incorporate herein, as if set forth in full, each and every
25 allegation contained in paragraphs 1 through 58 inclusive, of this Complaint.

26 60. Plaintiffs seek a writ of mandate pursuant to Code of Civil Procedure section
27 1085(a) to require FCGMA to vacate, rescind, and set aside the Pleasant Valley GSP.

1 61. As with the Oxnard GSP, the Pleasant Valley GSP’s sustainable management
2 criteria improperly and unnecessarily limit the sustainable yield of the Pleasant Valley Subbasin.
3 FCGMA set the GSP’s minimum thresholds and measurable objectives by looking directly to the
4 results of groundwater model runs, rather than first determining, through real-world measurement,
5 what management criteria the Basin must meet to achieve sustainability. This method is
6 backward; SGMA requires the GMA to select management criteria to prevent undesirable results.
7 Because of these fundamental problems, the GSP does not even meet its own criteria for what the
8 minimum thresholds and measurable objectives are supposed to accomplish. For all these reasons,
9 the GSP is arbitrary, capricious, entirely unsupported by evidence, unfair, and unlawful.

10 62. The GSP is also unlawful because its violates the constitutional requirement that
11 water be put to maximum beneficial use and not wasted. *See* Cal. Const., art. X, § 2.

12 63. The GSP also violates the common law rights of property owners by reducing the
13 groundwater available to holders of water rights in the Basin in a manner that is unfair, arbitrary,
14 capricious, and entirely unsupported by evidence. By adopting the Pleasant Valley GSP, FCGMA
15 has acted beyond the scope of its power, authority, and jurisdiction, has abused its discretion, and
16 has violated its duty to follow California law.

17 64. Plaintiffs have a beneficial interest in ensuring that FCGMA does not seek to
18 enforce a GSP that exceeds FCGMA’s authority, violates California law, and interferes with
19 Plaintiffs’ property rights, and would be irreparably harmed thereby.

20 65. Plaintiffs have no plain, speedy, and adequate remedy at law other than the relief
21 sought to determine the merits of its challenge to the Pleasant Valley GSP.

22 **SIXTH CAUSE OF ACTION**

23 **Violation of California Environmental Quality Act Against FCGMA**

24 66. Plaintiffs reallege and incorporate herein, as if set forth in full, each and every
25 allegation contained in paragraphs 1 through 65 inclusive, of this Complaint.

26 67. The Allocation Ordinance constitutes a “project” that may have a significant effect
27 on the environment and thus requires preparation of a legally adequate EIR by Respondents

1 pursuant to the CEQA. FCGMA violated its legal duty under CEQA, Public Resources Code §§
2 21000 *et seq.*, and the CEQA Guidelines, 14 Code of Regulations §§ 15000 *et seq.*, by adopting a
3 categorical exemption without demonstrating, with substantial evidence, that the Allocation
4 Ordinance constituted an action to assure the maintenance, preservation, or enhancement of the
5 environment.

6 68. SGMA does not exempt the Allocation Ordinance from CEQA review.

7 69. Plaintiffs have exhausted all available administrative and other remedies regarding
8 these deficiencies.

9 70. Plaintiffs have no plain, speedy, or adequate remedy at law. Unless the requested
10 writ of mandate and injunctive relief is granted, Plaintiffs will be irreparably harmed, which
11 cannot be adequately compensated with money or other legal remedies.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment as follows:

14 1. For an order adjudicating and fixing the respective rights to the extraction and use
15 of groundwater from the Basins, and the rights to use of the storage space in the Basins, among all
16 users of such groundwater and quieting title to all such rights (Code of Civ. Proc. § 834), and for
17 the imposition of a physical solution on all parties after considering the GSPs (Code of Civ. Proc.
18 § 849).

19 2. For an order declaring the Allocation Ordinance, Oxnard GSP, and Pleasant Valley
20 GSP to be invalid.

21 3. For the issuance of a writ of mandate requiring FCGMA to set aside, vacate, and
22 rescind the Allocation Ordinance, Oxnard GSP, and Pleasant Valley GSP.

23 4. For the issuance of a writ of mandate requiring FCGMA to comply with the
24 requirements of CEQA for the Allocation Ordinance, including preparing an initial study to
25 identify the appropriate level of environmental review due to the potential and foreseeable
26 environmental impacts of the Allocation Ordinance.

27 5. For any and all other relief that the Court deems just and proper.
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DATED: June 15, 2021

O'MELVENY & MYERS LLP

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