

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

FEB 11 2022

Darrel E. Parker, Executive Officer
BY Rosa Reyes
Rosa Reyes, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OPV COALITION, an unincorporated
association, et al.

Plaintiffs,

v.

FOX CANYON GROUNDWATER
MANAGEMENT AGENCY

Defendant.

Case No.: VENCI00555357

**RULING ON MOTION TO
DISQUALIFY THE HONORABLE
THOMAS P. ANDERLE PURSUANT
TO CODE OF CIVIL PROCEDURE
SECTION 170.1**

After consideration of the motion filed by United Water Conservation District (“United”) to disqualify Judge Thomas P. Anderle pursuant to Code of Civil Procedure section 170.1, the opposition filed by OPV Coalition, et al. (“OPV”), United’s reply, and the declaration of Judge Thomas P. Anderle, the Court grants United’s disqualification motion pursuant to Code of Civil Procedure section 170.1(a)(6)(A)(iii).

A party seeking to challenge a judge under Code of Civil Procedure section 170.1 carries the burden of proving that a ground for disqualification exists. (*Betz v. Pankow* (1993) 16 Cal.App.4th 919, 926.) Potential bias and prejudice must clearly be established by an objective standard. (*In re Scott* (2003) 29 Cal.4th 783, 817.)

1 United seeks to disqualify Judge Anderle based on his role as the trustee of a
2 family trust that owns a condominium located in Port Hueneme. The property overlies
3 the Oxnard Basin in Ventura County for which Plaintiffs are seeking a comprehensive
4 groundwater adjudication.

5 Section 838(a)(1) of the Code of Civil Procedure provides that in a
6 comprehensive adjudication of groundwater rights, a judge of a superior court of a
7 county that overlies the basin or any portion of the basin shall be disqualified. In such a
8 case, the Chairperson of the Judicial Council shall assign a judge to preside in all
9 proceedings in the comprehensive adjudication. (Code Civ. Proc., § 838.)

10 Judge Anderle, a superior court judge for the County of Santa Barbara, was
11 assigned to this case on September 29, 2021¹, by the Chief Justice and Chair of the
12 Judicial Council. On November 29, 2021, the Judicial Council assigned Judge Anderle
13 as the Coordination Motion Judge in Judicial Council Coordination Proceeding No.
14 5190, which includes this action. (Judge Anderle's Declaration, p. 1.)

15 OPV argues that "section 838(a)(1) specifically disqualifies only those judges
16 seated in a county that overlies the basin at issue." (Emphasis in original.) While it is
17 true that Judge Anderle sits in Santa Barbara County, public records submitted by
18 United in support of the disqualification motion show that he has an ownership interest
19 in real property in the city of Port Hueneme, within the County of Ventura. United's
20 exhibits further indicate that this property overlies the Oxnard Basin, which is at issue
21 in this case.

22 OPV also argues that United's motion is untimely, as the moving party seeking
23 to disqualify a judge is required to file a written statement at the earliest practicable
24 opportunity after discovery of the facts constituting the grounds for disqualification.
25 (Code Civ. Proc., § 170.3(c)(1).) OPV argues that United's counsel knew of the asserted
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28 ¹ Both United and OPV reference a Judicial Council Order dated September 23, 2021; however, neither party attached the initial order by the Chief Justice assigning the case for all purposes to Judge Anderle. According to Judge Anderle, he was assigned the case on September 29, 2021. (Judge Anderle's Declaration, p. 1.)

1 grounds for disqualification on October 1, 2021, well in advance of United's motion to
2 disqualify Judge Anderle filed on December 15, 2021.

3 According to United, the September 2021 assignment of Judge Anderle by the
4 Judicial Council was only temporary and specifically stated that any further motions or
5 other matters in the case would be heard only pursuant to a separate appointment order.
6 On December 6, 2021, United received notice of an Order of Assignment by the
7 Judicial Council dated November 29, 2021, assigning Judge Anderle to sit as a judge in
8 this case. (Declaration of Brian M. Wheeler, p. 3, lines 8-13.) Shortly thereafter, United
9 filed its motion to disqualify. The Court finds the motion is timely.

10 Judge Anderle declares that he is not biased nor prejudiced toward anyone in
11 this matter. (Judge Anderle's Declaration, p. 2.) United concedes that Judge Anderle is
12 a widely esteemed jurist and "would undoubtedly make every possible effort to
13 willfully disregard his personal interests." Nonetheless, the standard for disqualification
14 under section 170.1(a)(6)(A)(iii) is an objective one. "[D]ue to the sensitivity of the
15 question ... as well as the importance of public confidence in the judicial system, the
16 issue is not limited to the existence of an actual bias. Rather, if a reasonable [person]
17 would entertain doubts concerning the judge's impartiality, disqualification is
18 mandated." (*United Farm Workers of Am. v. Superior Ct.* (1985) 170 Cal.App.3d 97,
19 104; *Wechsler v. Superior Court* (2014) 224 Cal.App.4th 384, 391.)


20 The Court acknowledges OPV's argument that the nature of Judge Anderle's
21 property interest does not necessarily mean he has a claim to the groundwater rights at
22 issue in this matter. This argument, however, goes to the heart of the litigation, which
23 raises a dispute as to which persons and entities have a right to the groundwater in the
24 Oxnard Basin. In light of Judge Anderle's interest in real property overlying the basin, a
25 person aware of the facts might reasonably entertain a doubt that the judge would be
26 able to be impartial. (Code Civ. Proc., § 170.1(a)(6)(A)(iii).)

27 The motion is GRANTED.
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This case is referred back to the Judicial Council for re-assignment to a different
judicial officer.

Dated: February 10, 2022



Jacquelyn H. Duffy
Judge of the Superior Court