



## CITY OF OJAI

401 South Ventura Street · Ojai · California · 93023  
(805) 646-5581 · fax (805) 653-2236

August 26, 2020

### VIA US MAIL AND EMAIL

Mr. Matthew LaVere, Mayor  
City of Ventura  
501 Poli Street  
City Hall  
Ventura, CA 93002-0099

Re: Clarification of Relief Sought in City of Ventura's Third Amended Cross-Complaint

Dear Mayor LaVere:

Thank you and your colleagues at the City of San Buenaventura ("Ventura") for taking the time to meet with Councilmember Weirick and me to discuss Ventura's Third Amended Cross Complaint and the relief that Ventura is seeking through the watershed adjudication. As you know, this is a pressing issue for many residents of Ojai who have been named as cross-defendants in the complaint.

We understand that your outside counsel was required by state law to send notice to all owners of property overlying the groundwater basins, even though many of these property owners do not have wells and have no intention of pumping groundwater. We also understand that the Third Amended Cross-Complaint also names property owners as cross-defendants merely because they own property adjacent to a stream, even though many of them do not divert water from the stream.

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As we explained, our constituents have told us they are concerned that Ventura will seek attorneys' fees from these cross-defendants even if they do not appear in the litigation. Although the Third Amended Cross-Complaint does not explicitly state that Ventura seeks recovery of attorneys' fees, it does ask the Court to award Ventura its "litigation costs." Our counsel informs us that the statute defining "litigation costs" does include attorneys' fees, so the Third Amended Cross-Complaint is less clear on this point than we would like.

The informational mailer that Ventura distributed to the cross-defendants indicated that Ventura did not intend to seek recovery of attorneys' fees from individual cross-defendants. Assuming this is Ventura's position, we ask, on behalf of the residents of Ojai who have been named as cross-defendants, for Ventura to confirm this stance by counter-signing this letter agreement as indicated below.

Thank you for working with us to clarify this aspect of Ventura's cross-complaint.

Sincerely,

A handwritten signature in blue ink, appearing to read "John F. Johnston", is written over the typed name and title.

John F. Johnston, Mayor  
City of Ojai

cc: James Vega, City Manager

By signing below, the City of Ventura agrees that it does not intend to, and will not, seek recovery of attorneys' fees from individuals or businesses who received notice of the lawsuit entitled Santa Barbara Channelkeeper v. State Water Resources Control Board and City of San Buenaventura, Case No. 19STCP01176 (the "Lawsuit"), or who were named as cross-defendants in the Lawsuit.

If the City of Ventura is deemed the prevailing party in this litigation and seeks to recover litigation costs pursuant to Paragraph 7 of its Prayer for Relief, City of Ventura agrees that it will not seek attorneys' fees from any individual defendants or cross-defendants, even if there may be a basis in statute, contract, or law for recovery of those fees.

1. In Paragraph 92 of the Third Amended Cross-Complaint because they "are owners of or are beneficial interest holders in real property located within the Ventura River watershed, and they claim riparian rights to divert and/or extract surface and/or subsurface water from the Ventura River and/or its tributaries, whether or not they have exercised such riparian rights." This group is defined in the Third Amended Complaint as the "Riparian Landowners." City of Ventura will not seek recovery of attorneys' fees from the Riparian Landowners, regardless of whether they choose to appear in the litigation.
2. In Paragraph 93 of the Third Amended Cross-Complaint because they "are owners of or are beneficial interest holders in real property located within the Ventura River Watershed and overlying one or more of Watershed's Groundwater Basins (Upper Ventura River Groundwater Basin; Ojai Valley Groundwater Basin; Lower Ventura River Groundwater Basin; and Upper Ojai Valley Groundwater Basin) and they claim riparian rights to divert and/or extract surface and/or subsurface water from the Ventura River and/or its tributaries, whether or not they have exercised such riparian rights, and/or they claim overlying rights to extract water from one or more of the Watershed's Groundwater Basins, whether or not they have exercised such overlying rights." This group is defined in the Third Amended Cross-Complaint as the "Riparian and Overlying Landowners." City of Ventura will not seek recovery of attorneys' fees from the Riparian and Overlying Landowners, regardless of whether they choose to appear in the litigation.
3. In Paragraph 94 of the Third Amended Cross-Complaint because they are owners of "real property overlying the Watershed's Groundwater Basins" and were served with notice of the Cross-Complaint in accordance with Code of

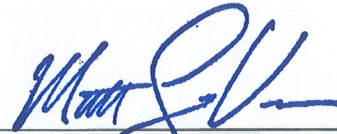
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Civil Procedure section 836(d)(1)(A). This group is defined in the Third Amended Cross-Complaint as the "Overlying Landowners." City of Ventura will not seek recovery of attorneys' fees from the Overlying Landowners regardless of whether they choose to appear in the litigation.

City of Ventura acknowledges that its Mayor has been authorized to sign this letter agreement on City of Ventura's behalf and City of Ventura agrees to be bound by its terms.



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Matthew LaVere, Mayor  
for City of San Buenaventura