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6 Attorneys for Intervenor

NACIMIENTO REGIONAL WATER

7 MANAGEMENT ADVISORY COMMITTEE,

8 DALE FIEBER AND WILLIAM H. INGALLS

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF MONTEREY**

12 SALINAS VALLEY WATER COALITION,)

13 Petitioner and Plaintiff,)

14 vs.)

15 MONTEREY COUNTY WATER)
16 RESOURCES AGENCY; BOARD OF)
17 SUPERVISORS OF MONTEREY COUNTY)
18 WATER RESOURCES AGENCY; BOARD)
19 OF DIRECTORS OF MONTEREY COUNTY)
20 WATER RESOURCES AGENCY; COUNTY)
21 OF MONTEREY; BOARD OF)
22 SUPERVISORS OF THE COUNTY OF)
23 MONTEREY; and DOES 1 through 100,)
24 inclusive,)

Defendants.)

21 NACIMIENTO REGIONAL WATER)
22 MANAGEMENT ADVISORY)
23 COMMITTEE, a California non-profit)
24 corporation; DALE FIEBER, an individual;)
and WILLIAM H. INGALLS, an individual,)

Intervenors.)

Case No. 17 CV 000157

Hon. Lydia M. Villareal

**DECLARATIONS OF EDWARD B. KANG,
DALE FEIBER, WILLIAM H. INGALLS,
WILLIAM CAPPS AND DON BULLARD,
AND EXHIBITS THERETO, IN SUPPORT
OF MOTION TO INTERVENE**

Action Filed: January 13, 2017

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I, Edward B. Kang, declare as follows:

1. I am an attorney at law admitted to practice before all of the Courts in the State of California and an attorney with the firm Olivarez Madruga Lemieux O'Neill, LLP, attorneys of record for Intervenor Nacimiento Regional Water Management Advisory Committee, Dale Fieber and William Ingalls. I have personal knowledge of the following matters, and if called upon to testify, I could and would competently testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of the Court's 09/08/17 Order Specifying Issues for Reference to the State Water Resources Control Board.

3. Attached hereto as Exhibit B is a true and correct copy of Intervenor's Proposed Answer in Intervention.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of August 2018, in Los Angeles, California.


Edward B. Kang

EXHIBIT A

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12 Attorneys for Petitioner and Plaintiff,
SALINAS VALLEY WATER COALITION

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF MONTEREY**

16
17 SALINAS VALLEY WATER COALITION,

18 Petitioner and Plaintiff,

19 v.

20 MONTEREY COUNTY WATER
RESOURCES AGENCY; BOARD OF
21 SUPERVISORS OF MONTEREY COUNTY
WATER RESOURCES AGENCY; BOARD
22 OF DIRECTORS OF MONTEREY COUNTY
WATER RESOURCES AGENCY; COUNTY
23 OF MONTEREY; BOARD OF
SUPERVISORS OF THE COUNTY OF
24 MONTEREY; and DOES 1 through 100,
inclusive,

25 Defendants.
26

Case No. 17CV000157

Assigned for all purposes to:
Hon. Lydia M. Villarreal

**~~PROPOSED~~ ORDER SPECIFYING
ISSUES FOR REFERENCE TO THE
STATE WATER RESOURCES
CONTROL BOARD PURSUANT TO
WATER CODE SECTION 2000, ET SEQ.
AND STAY OF LITIGATION**

Trial Date: None
Action Filed: January 13, 2017

1 Respondents and Defendants Monterey County Water Resources Agency, Board of
2 Supervisors of Monterey County Water Resources Agency, Board of Directors of Monterey
3 County Water Resources Agency, County of Monterey, and Board of Supervisors of the County of
4 Monterey ("Defendants") moved this Court for an order for reference to the State Water Resources
5 Control Board ("State Water Board") to investigate and report upon the issue herein involved and,
6 on August 1, 2017, the Court entered an order appointing the State Water Board to investigate and
7 report upon the Fifth, Sixth, Ninth and Twelfth Causes of Action of the Plaintiff Salinas Valley
8 Water Coalition's ("Coalition") Verified Second Amended Petition for Writ of Mandamus and
9 Complaint for Declaratory Relief and Injunctive Relief ("Second Amended Petition"). The Court
10 ordered the Parties to stipulate to the issues of fact and law that the State Water Board will report
11 on in connection with the reference and to submit those issues to the State Water Board and the
12 Court on or by August 14, 2017.

13 The parties were unable to reach agreement on the issues of fact and law that the State
14 Water Board will report on in connection with the reference (each a "Party" and collectively, the
15 "Parties").

16 The Coalition submitted to this Court its last proposed stipulation specifying the issues of
17 law and fact on which the State Water Board is to investigate and report, while Defendants
18 submitted a proposed order that would have allowed the State Water Board "to investigate and
19 report on the issues of law and fact that it deems proper."

20 This Court denied Defendants' proposed order and directed the Coalition to submit a
21 proposed order.

22 NOW, THEREFORE, IT IS HEREBY ORDERED:

- 23 1. The Parties shall use best efforts to work with the State Water Board to complete
24 the reference proceeding by August 1, 2018.
- 25 2. The State Water Board shall investigate and report on as many of the following
26 issues as it reasonably can by August 1, 2018.
- 27 3. By August 1, 2018, the State Water Board will investigate and report on at least
28 items 3(a)-(d) (defined as "Phase I") of this reference proceeding:

- 1 a. Whether the Defendant Monterey County Water Resources Agency
2 ("Agency") has violated the Flow Prescription for Spawning and Rearing
3 Habitat in the Nacimiento River in License 7543 (Application 16124) and
4 Permit 21089 (Application 30532) by releasing less than 60 cubic feet per
5 second ("cfs") of water from Nacimiento Reservoir during the period from
6 June 4, 2014, through May 27, 2015;
- 7 b. If the State Water Board concludes the Agency did not comply with the 60
8 cfs water release requirement of the Flow Prescription for Spawning and
9 Rearing Habitat in the Nacimiento River, whether such failure reduced
10 recharge that otherwise would have been provided to the Salinas River
11 Groundwater Basin's ("Basin") Upper Valley and Forebay subareas and, if
12 so, whether that recharge reduction reduced water availability (i.e.,
13 groundwater elevations and groundwater quality) for any riparian and
14 overlying rights in the Upper Valley and Forebay subareas;
- 15 c. Whether the Agency's appropriative water rights for Nacimiento and San
16 Antonio reservoirs — License 7543 (Application 16124), License 12624
17 (Application 16761) and Permit 21089 (Application 30532) — are junior in
18 priority to any downstream riparian and overlying water rights in the
19 Salinas River and Basin;
- 20 d. To what extent, if any, must water use in other subareas of the Salinas
21 Valley Groundwater Basin be considered in concluding whether riparian
22 and overlying rights in the Upper Valley and Forebay subareas were injured
23 by the Agency's reservoir operations in 2014 and 2015.
- 24 e. Whether the Agency's operation of Nacimiento and San Antonio reservoirs
25 in 2014 and 2015 reduced the availability of water (i.e., groundwater
26 elevations and groundwater quality) for use by any downstream riparian and
27 overlying water rights in the Upper Valley and Forebay subareas below the
28 level of natural water availability that would have existed without the

1 reservoirs and, if so, by how much;

2 f. If the Agency's operation of Nacimiento and San Antonio reservoirs in
3 2014 and 2015 reduced the availability of water for use by any downstream
4 riparian and overlying water rights in the Upper Valley and Forebay
5 subareas below the level of natural water availability that would have
6 existed without the reservoirs, did the reduction injure such riparian and
7 overlying water rights;

8 g. If the Agency's operation of Nacimiento and San Antonio reservoirs in
9 2014 and 2015 reduced the availability of water for use by any downstream
10 riparian and overlying water rights in the Upper Valley and Forebay
11 subareas below the level of natural water availability that would have
12 existed without the reservoirs, whether it is necessary to determine whether
13 any Coalition member holds a valid riparian or overlying water right in
14 order to determine (a) whether the Agency is operating the reservoirs in
15 compliance with License 7543 (Application 16124), License 12624
16 (Application 16761) and Permit 21089 (Application 30532) and (b) whether
17 such riparian or overlying water right were injured by the Agency's
18 reservoir operations;

19 h. If it is necessary to determine whether any member of the Coalition holds a
20 valid riparian or overlying water right in order to determine (a) whether the
21 Agency is operating the reservoirs in compliance with License 7543
22 (Application 16124), License 12624 (Application 16761) and Permit 21089
23 (Application 30532) and (b) whether such riparian or overlying water right
24 were injured by the Agency's reservoir operations, whether any member of
25 the Coalition holds a valid riparian or overlying water right that was injured
26 by the Agency's diversions of water from San Antonio River and
27 Nacimiento River in 2014 and 2015;

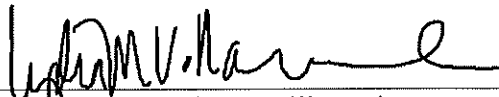
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IT IS SO ORDERED.

DATED:

September 8, 2017


The Honorable Lydia M. Villarreal

1 **PROOF OF SERVICE**

2 **Salinas Valley Water Coalition v. Monterey County Water Resources Agency, et al.**
3 **Monterey County Superior Court Case No.: 17CV000157**

4 **STATE OF CALIFORNIA, COUNTY OF SACRAMENTO**

5 At the time of service, I was over 18 years of age and not a party to this action. I am
6 employed in the County of Sacramento, State of California. My business address is 400 Capitol
7 Mall, 27th Floor, Sacramento, CA 95814.

8 On August 22, 2017, I served true copies of the following document(s) described as
9 **[PROPOSED] ORDER REGARDING ISSUES FOR REFERENCE TO THE STATE**
10 **WATER RESOURCES CONTROL BOARD PURSUANT TO WATER CODE SECTION**
11 **2000, ET SEQ. AND STAY OF LITIGATION** on the interested parties in this action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
14 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
15 document(s) to be sent from e-mail address twhitman@kmtg.com to the persons at the e-mail
16 addresses listed in the Service List. I did not receive, within a reasonable time after the
17 transmission, any electronic message or other indication that the transmission was unsuccessful.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed on August 22, 2017, at Sacramento, California.

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Terri Whitman

SERVICE LIST

**Salinas Valley Water Coalition v. Monterey County Water Resources Agency, et al.
Monterey County Superior Court Case No.: 17CV000157**

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NACIMIENTO REGIONAL WATER

MANAGEMENT ADVISORY COMMITTEE,

DALE FIEBER AND WILLIAM H. INGALLS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

SALINAS VALLEY WATER COALITION,

Petitioner and Plaintiff,

vs.

MONTEREY COUNTY WATER
RESOURCES AGENCY; BOARD OF
SUPERVISORS OF MONTEREY COUNTY
WATER RESOURCES AGENCY; BOARD
OF DIRECTORS OF MONTEREY COUNTY
WATER RESOURCES AGENCY; COUNTY
OF MONTEREY; BOARD OF
SUPERVISORS OF THE COUNTY OF
MONTEREY; and DOES 1 through 100,
inclusive,

Defendants.

NACIMIENTO REGIONAL WATER
MANAGEMENT ADVISORY
COMMITTEE, a California non-profit
corporation; DALE FIEBER, an individual;
and WILLIAM H. INGALLS, an individual,

Intervenors.

Case No. 17 CV 000157

Hon. Lydia M. Villareal

[PROPOSED] ANSWER IN INTERVENTION

Action Filed: January 13, 2017

1 By leave of Court, Intervenor NACIMIENTO REGIONAL WATER MANAGEMENT
2 ADVISORY COMMITTEE, DALE FIEBER and WILLIAM H. INGALLS (herein collectively
3 “Intervenor”) file the instant answer in intervention and thereby intervene in this action.

4 **ANSWER**

- 5 1. Intervenor deny, on information and belief, the allegations in paragraph 1.
6 2. Intervenor deny, on information and belief, the allegations in paragraph 2.
7 3. Intervenor deny, on information and belief, the allegations in paragraph 3.
8 4. Intervenor deny, on information and belief, the allegations in paragraph 4.
9 5. Intervenor deny, on information and belief, the allegations in paragraph 5.
10 6. In response to Paragraph 6, Intervenor are without sufficient knowledge or information
11 to form a belief as to the truth of the allegations therein, and on that basis deny each and every
12 allegation in this Paragraph.
13 7. Intervenor deny, on information and belief, the allegations in paragraph 7.
14 8. Intervenor deny, on information and belief, the allegations in paragraph 8.
15 9. In response to Paragraph 9, Intervenor are without sufficient knowledge or information
16 to form a belief as to the truth of the allegations therein, and on that basis deny each and every
17 allegation in this Paragraph.

18 **THE PARTIES AND STANDING**

- 19 10. Intervenor incorporate by reference Paragraphs 1 through 9 as though fully set forth
20 herein; no further response is required.
21 11. In response to Paragraph 11, Intervenor are without sufficient knowledge or
22 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
23 every allegation in this Paragraph.
24 12. In response to Paragraph 12, Intervenor are without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph.
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13. In response to Paragraph 13, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

14. Intervenor admits the Agency holds appropriative rights related to the Nacimiento and San Antonio Rivers, and the Agency is responsible for operating the Nacimiento and San Antonio reservoirs. As to the Agency Act, it speaks for itself and no further response is required. Intervenor denies, on information and belief, each remaining allegation of Paragraph 14.

15. Intervenor admits the Agency Directors annually adopt a schedule controlling releases of water from the reservoirs. As to the Agency Act, it speaks for itself and no further response is required. Intervenor denies, on information and belief, each remaining allegation of Paragraph 15.

16. As to the Agency Act, it speaks for itself and no further response is required. Intervenor's admit all remaining allegations of Paragraph 16.

17. In response to Paragraph 17, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

JURISDICTION AND VENUE

18. Intervenor's incorporate by reference Paragraphs 1 through 17 as though fully set forth herein; no further response is required.

19. As to the Agency Act, it speaks for itself and no further response is required. As to all remaining allegations, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every remaining allegation therein.

20. Paragraph 20 contains statements and conclusions of law to which no response is required. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 20.

21. Paragraph 21 contains statements and conclusions of law to which no response is required. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 21.

GENERAL ALLEGATIONS

22. Intervenor's incorporate by reference Paragraphs 1 through 21 as though fully set forth herein; no further response is required.

The Land and Water of the Salinas Valley

23. Intervenor's admit winter storms cause rain in the Valley, and that the Valley runs approximately 100 miles from south to north, that the Salinas River flows recharge groundwater, and that streams and rivers in the Valley run dry during the dry season. As to all remaining allegations, Intervenor's have no information or belief that the statements in Paragraph 23 are true, so Intervenor's deny them.

24. Intervenor admits that winter rains recharge groundwater supply, that the Salinas River has flooded and that salt water has intruded into portions of the Basin. Intervenor has no information or belief that the remaining statements in Paragraph 24 are true, so Intervenor denies them.

25. In response to Paragraph 25, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

26. Intervenor's admit dams were constructed on the Nacimiento and San Antonio Rivers and that the Agency planned, built and started operating these reservoirs to capture storm flows and recharge the Salinas Valley's groundwater through reservoir releases. As to all remaining allegations, Intervenor's have no information or belief that the statements in Paragraph 26 are true, so Intervenor's deny them.

27. In response to Paragraph 27, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

1 28. In response to Paragraph 28, Intervenor is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 29. In response to Paragraph 29, Intervenor is without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 30. In response to Paragraph 30, Intervenor is without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 31. In response to Paragraph 31, Intervenor is without sufficient knowledge or
11 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
12 every allegation in this Paragraph.

13 32. Intervenor admits that the authorized purposes for using water collected in Lake
14 Nacimientito include irrigation, industrial, municipal, recreation and domestic uses. As to all
15 remaining allegations in Paragraph 32, Intervenor has no information or belief that the statements in
16 Paragraph 32 are true, so Intervenor denies them.

17 33. In response to Paragraph 33, Intervenor is without sufficient knowledge or
18 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
19 every allegation in this Paragraph.

20 34. Intervenor admits that the authorized purposes for using water collected in Lake
21 Nacimientito include irrigation, industrial, municipal, recreation and domestic uses. As to all
22 remaining allegations in Paragraph 34, Intervenor has no information or belief that the statements in
23 Paragraph 32 are true, so Intervenor denies them.

24 35. In response to Paragraph 35, Intervenor is without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph.

27 36. Intervenor admits that the authorized purposes for using water collected in Lake
28 Nacimientito include irrigation, industrial, municipal, recreation and domestic uses. As to all

1 remaining allegations in Paragraph 36, Intervenor have no information or belief that the statements in
2 Paragraph 36 are true, so Intervenor deny them.

3 **The Agency's Historical Reservoir Operations and Water Supply Benefits to Landowners**

4 37. Intervenor deny, on information and belief, the allegations of Paragraph 37.

5 38. In response to Paragraph 38, Intervenor are without sufficient knowledge or
6 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
7 every allegation in this Paragraph.

8 39. The terms of the 2000 Operations Policy speak for themselves and no further response
9 is required. Intervenor have no information or belief that the remaining statements in Paragraph 39
10 are true, so Intervenor deny them.

11 40. Intervenor admit the Nacimiento and San Antonio Reservoirs have stored and
12 released water for the purposes of, including but not limited to, flood control and groundwater
13 recharge. Intervenor have no information or belief that the remaining statements in Paragraph 40 are
14 true, so Intervenor deny them.

15 41. In response to Paragraph 41, Intervenor are without sufficient knowledge or
16 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
17 every allegation in this Paragraph.

18 42. In response to Paragraph 42, Intervenor are without sufficient knowledge or
19 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
20 every allegation in this Paragraph.

21 43. In response to Paragraph 43, Intervenor are without sufficient knowledge or
22 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
23 every allegation in this Paragraph.

24 44. In response to Paragraph 44, Intervenor are without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph.

1 45. In response to Paragraph 45, Intervenors are without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 46. In response to Paragraph 46, Intervenors are without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 47. In response to Paragraph 47, Intervenors are without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 **Reservoir Drought Operations 1976-1977**

11 48. In response to Paragraph 48, Intervenors are without sufficient knowledge or
12 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
13 every allegation in this Paragraph.

14 49. In response to Paragraph 49, Intervenors are without sufficient knowledge or
15 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
16 every allegation in this Paragraph.

17 50. In response to Paragraph 50, Intervenors are without sufficient knowledge or
18 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
19 every allegation in this Paragraph.

20 **Reservoir Drought Operations 1987-1992**

21 51. In response to Paragraph 51, Intervenors are without sufficient knowledge or
22 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
23 every allegation in this Paragraph.

24 52. In response to Paragraph 52, Intervenors are without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph.

1 53. In response to Paragraph 53, Intervenor is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 54. In response to Paragraph 54, Intervenor is without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 **Reservoir Drought Operations 2007-2009**

8 55. In response to Paragraph 55, Intervenor is without sufficient knowledge or
9 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
10 every allegation in this Paragraph.

11 56. In response to Paragraph 56, Intervenor is without sufficient knowledge or
12 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
13 every allegation in this Paragraph.

14 57. In response to Paragraph 57, Intervenor is without sufficient knowledge or
15 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
16 every allegation in this Paragraph.

17 **The Agency's New Projects to Augment Basin Recharge**

18 58. In response to Paragraph 58, Intervenor is without sufficient knowledge or
19 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
20 every allegation in this Paragraph.

21 59. In response to Paragraph 59, Intervenor is without sufficient knowledge or
22 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
23 every allegation in this Paragraph.

24 60. In response to Paragraph 60, Intervenor is without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph.

1 61. Intervenors admit that steelhead are listed as threatened under the federal Endangered
2 Species Act. As to all remaining allegations in Paragraph 61, Intervenors have no information or
3 belief that the statements are true, so Intervenors deny them.

4 62. In response to Paragraph 62, Intervenors are without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 63. In response to Paragraph 63, Intervenors are without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 64. In response to Paragraph 64, Intervenors are without sufficient knowledge or
11 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
12 every allegation in this Paragraph.

13 65. In response to Paragraph 65, Intervenors are without sufficient knowledge or
14 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
15 every allegation in this Paragraph.

16 **Assessments for Special Benefits of Water Projects**

17 66. In response to Paragraph 66, Intervenors are without sufficient knowledge or
18 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
19 every allegation in this Paragraph.

20 67. In response to Paragraph 67, Intervenors are without sufficient knowledge or
21 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
22 every allegation in this Paragraph.

23 68. In response to Paragraph 68, Intervenors are without sufficient knowledge or
24 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
25 every allegation in this Paragraph.

26 69. In response to Paragraph 69, Intervenors are without sufficient knowledge or
27 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
28 every allegation in this Paragraph.

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71. In response to Paragraph 71, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

72. In response to Paragraph 72, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

73. In response to Paragraph 73, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

74. In response to Paragraph 74, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

75. In response to Paragraph 75, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

76. In response to Paragraph 76, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

77. In response to Paragraph 77, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

1 78. In response to Paragraph 78, Intervenor's are without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 79. In response to Paragraph 79, Intervenor's are without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 80. In response to Paragraph 80, Intervenor's are without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 **Modifications to the Salinas Valley Water Project**

11 81. In response to Paragraph 81, Intervenor's are without sufficient knowledge or
12 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
13 every allegation in this Paragraph.

14 82. In response to Paragraph 82, Intervenor's are without sufficient knowledge or
15 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
16 every allegation in this Paragraph.

17 83. In response to Paragraph 83, Intervenor's are without sufficient knowledge or
18 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
19 every allegation in this Paragraph.

20 84. In response to Paragraph 84, Intervenor's are without sufficient knowledge or
21 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
22 every allegation in this Paragraph.

23 85. In response to Paragraph 85, Intervenor's are without sufficient knowledge or
24 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
25 every allegation in this Paragraph.

26 86. In response to Paragraph 86, Intervenor's are without sufficient knowledge or
27 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
28 every allegation in this Paragraph.

1 87. In response to Paragraph 87, Intervenor is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 88. In response to Paragraph 88, Intervenor is without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 89. In response to Paragraph 89, Intervenor is without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 90. In response to Paragraph 90, Intervenor is without sufficient knowledge or
11 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
12 every allegation in this Paragraph.

13 91. In response to Paragraph 91, Intervenor is without sufficient knowledge or
14 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
15 every allegation in this Paragraph.

16 92. In response to Paragraph 92, Intervenor is without sufficient knowledge or
17 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
18 every allegation in this Paragraph.

19 93. In response to Paragraph 93, Intervenor is without sufficient knowledge or
20 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
21 every allegation in this Paragraph.

22 94. In response to Paragraph 94, Intervenor is without sufficient knowledge or
23 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
24 every allegation in this Paragraph.

25 95. In response to Paragraph 95, Intervenor is without sufficient knowledge or
26 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
27 every allegation in this Paragraph.
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1 96. In response to Paragraph 96, Intervenor is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 97. The Court's statements in *Howard Jarvis Taxpayers Ass'n v. City of Salinas* (2002)
5 98 Cal.App.4th 1351 speaks for itself and no further response is required. As to all remaining
6 allegations in Paragraph 97, Intervenor has no information or belief that the statements are true, so
7 Intervenor deny them.

8 98. In response to Paragraph 98, Intervenor is without sufficient knowledge or
9 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
10 every allegation in this Paragraph.

11 **Unlawful Reservoir Operations in 2014 and 2015**

12 99. Paragraph 99 contains statements and conclusions of law to which no response is
13 required. To the extent a response is required, Intervenor deny, on information and belief, each
14 allegation of Paragraph 99.

15 100. Paragraph 100 contains statements and conclusions of law to which no response is
16 required. Intervenor deny, on information and belief, each remaining allegation of Paragraph 100.

17 101. In response to Paragraph 101, Intervenor is without sufficient knowledge or
18 information to form a belief as to the truth of the allegations therein, and on that basis denies each and
19 every allegation in this Paragraph.

20 **Unlawful Reservoir Operations in 2016 and 2017**

21 102. Paragraph 102 contains statements and conclusions of law to which no response is
22 required. Intervenor deny, on information and belief, each remaining allegation of Paragraph 102.

23 **Agency Misappropriation of Funds**

24 103. In response to Paragraph 103, Intervenor is without sufficient knowledge or
25 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
26 every allegation in this Paragraph
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104. In response to Paragraph 104, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

105. In response to Paragraph 105, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

106. In response to Paragraph 106, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

107. In response to Paragraph 107, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

108. In response to Paragraph 108, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

109. In response to Paragraph 109, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

110. In response to Paragraph 110, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

111. In response to Paragraph 111, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph

Pre-Litigation Activities

112. In response to Paragraph 112, Intervenor is without sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on that basis deny each and every allegation in this Paragraph.

1 113. In response to Paragraph 113, Intervenor's are without sufficient knowledge or
2 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
3 every allegation in this Paragraph.

4 114. In response to Paragraph 114, Intervenor's are without sufficient knowledge or
5 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
6 every allegation in this Paragraph.

7 115. In response to Paragraph 115, Intervenor's are without sufficient knowledge or
8 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
9 every allegation in this Paragraph.

10 116. Intervenor's deny, on information and belief, each allegation of Paragraph 116.

11 **FIRST CAUSE OF ACTION**

12 **(Writ of Mandate — Implement Salinas Valley Water Project — As Against All Defendants)**

13 117. Intervenor's incorporate by reference Paragraphs 1 through 116 as though fully set forth
14 herein; no further response is required.

15 118. Intervenor's do not intervene in this action with respect to any of Petitioner's
16 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
17 response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 118

18 119. Intervenor's do not intervene in this action with respect to any of Petitioner's
19 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
20 response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 119

21 120. Intervenor's do not intervene in this action with respect to any of Petitioner's
22 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
23 response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 120.

24 121. Intervenor's do not intervene in this action with respect to any of Petitioner's
25 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
26 response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 121

122. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 122.

123. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 123.

124. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 124.

125. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 125.

126. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 126.

SECOND CAUSE OF ACTION

(Writ of Mandate — Reassessment of Special Benefits and Appropriate Assessments to Zone 2C Landowners from Current Salinas Valley Water Project — As Against All Defendants)

127. Intervenor's incorporate by reference Paragraphs 1 through 126 as though fully set forth herein; no further response is required.

128. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each and every allegation.

129. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each and every allegation.

130. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each and every allegation.

131. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 131.

132. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 132

133. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 133

134. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 134.

135. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 135.

136. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 136.

THIRD CAUSE OF ACTION

**(Writ of Mandate — Violation of Article XIII D of the California Constitution — As Against
All Defendants)**

137. Intervenor's incorporate by reference Paragraphs 1 through 136 as though fully set forth herein; no further response is required.

138. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 138.

139. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each and every allegation.

140. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 140.

FOURTH CAUSE OF ACTION

**(Writ of Mandate — Substantive and Procedural Due Process Violation of the California
and United States Constitutions — As Against All Defendants)**

141. Intervenor's incorporate by reference Paragraphs 1 through 140 as though fully set forth herein; no further response is required.

142. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 142.

143. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each and every allegation of Paragraph 143.

144. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 144.

145. Intervenor's do not intervene in this action with respect to any of Petitioner's proposition 218 claims and therefore no response is required to this paragraph. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 145.

1 **FIFTH CAUSE OF ACTION**

2 **(Writ of Mandate — Comply With Water Rights Terms and Conditions — As Against**
3 **Monterey County Water Resources Agency, Board of Directors of the Monterey County**
4 **Water Resources Agency, and Board of Supervisors of Monterey County Water Resources**
5 **Agency)**

6 146. Intervenors incorporate by reference Paragraphs 1 through 145 as though fully set forth
7 herein; no further response is required.

8 147. Intervenors admit the allegations of Paragraph 147.

9 148. The terms of License Nos. 7543 and 12624, and Permit No. 21089 speak for
10 themselves and no further response is required. As to all remaining allegations of Paragraph 148,
11 Intervenors have no information or belief that the statements are true, so Intervenors deny them.

12 149. The terms of License Nos. 7543 and 12624, and Permit No. 21089 speak for
13 themselves and no further response is required. As to all remaining allegations of Paragraph 149,
14 Intervenors have no information or belief that the statements are true, so Intervenors deny them.

15 150. The terms of License Nos. 7543 and 12624, and Permit No. 21089 speak for
16 themselves and no further response is required. As to all remaining allegations of Paragraph 150,
17 Intervenors have no information or belief that the statements are true, so Intervenors deny them.

18 151. Paragraph 151 contains statements and conclusions of law to which no response is
19 required. To the extent a response is required, Intervenors deny, on information and belief, each
20 remaining allegation of Paragraph 151.

21 152. Paragraph 152 contains statements and conclusions of law to which no response is
22 required. Intervenors deny, on information and belief, each remaining allegation of Paragraph 152.

23 153. In response to Paragraph 153, Intervenors are without sufficient knowledge or
24 information to form a belief as to the truth of the allegations therein, and on that basis deny each and
25 every allegation in this Paragraph.

26 154. Intervenors admit that water flowing in the Nacimiento and San Antonio Rivers flows
27 into the Salinas River and recharges the Salinas Valley Groundwater Basin. Intervenors have no
28 information or belief that the statements in Paragraph 154 regarding the Coalition's members'

1 beneficial interest, land ownership, or location are true, so Intervenor deny them. The terms of
2 License Nos. 7543 and 12624, and Permit No. 21089 speak for themselves and no further response is
3 required. As to all remaining allegations of Paragraph 154, Intervenor have no information or belief
4 that the statements are true, so Intervenor deny them.

5 155. Intervenor deny, on information and belief, each allegation of Paragraph 155.

6 156. Intervenor have no information or belief that the statements in Paragraph 156 are true,
7 so Intervenor deny them.

8 157. Paragraph 157 contains statements and conclusions of law to which no response is
9 required. To the extent a response is required, Intervenor deny, on information and belief, each
10 allegation of Paragraph 157

11 158. Paragraph 158 contains statements and conclusions of law to which no response is
12 required. To the extent a response is required, Intervenor deny, on information and belief, each
13 allegation of Paragraph 158.

14 **SIXTH CAUSE OF ACTION**

15 **(Injunctive Relief — Unlawful Diversion of Water and Injury to Senior Water Rights — As**
16 **Against Monterey County Water Resources Agency, Board of Directors of the Monterey**
17 **County Water Resources Agency, and Board of Supervisors of Monterey County Water**
18 **Resources Agency)**

19 159. Intervenor incorporate by reference Paragraphs 1 through 158 as though fully set
20 herein; no further response is required.

21 160. Intervenor have no information or belief that the statements are true, so Intervenor
22 deny them.

23 161. Intervenor have no information or belief that the statements are true, so Intervenor
24 deny them.

25 162. Paragraph 162 contains statements and conclusions of law to which no response is
26 required. To the extent a response is required, Intervenor have no information or belief that the
27 statements are true, so Intervenor deny them.

1 163. Intervenors have no information or belief that the statements are true, so Intervenors
2 deny them.

3 164. Intervenors admit that the Agency holds appropriative water rights, the terms of which
4 speak for themselves. Paragraph 164 contains statements and conclusions of law to which no response
5 is required. To the extent a response is required, Intervenors deny, on information and belief, each
6 remaining allegation of Paragraph 164.

7 165. The water the Agency may store under its rights is governed pursuant to the terms of
8 License Nos. 7543 and 12624, and Permit No. 21089, the terms of which speak for themselves.
9 Paragraph 165 contains statements and conclusions of law to which no response is required. To the
10 extent a response is required, Intervenors deny, on information and belief, each remaining allegation of
11 Paragraph 165.

12 166. Paragraph 166 contains statements and conclusions of law to which no response is
13 required. To the extent a response is required, Intervenors have no information or belief that the
14 statements are true, so Intervenors deny them.

15 167. Paragraph 167 contains statements and conclusions of law to which no response is
16 required. To the extent a response is required, Intervenors deny, on information and belief, each
17 remaining allegation of Paragraph 167.

18 168. Paragraph 168 contains statements and conclusions of law to which no response is
19 required. To the extent a response is required, Intervenors deny, on information and belief, each
20 remaining allegation of Paragraph 168.

21 169. Paragraph 169 contains statements and conclusions of law to which no response is
22 required. To the extent a response is required, Intervenors deny, on information and belief, each
23 remaining allegation of Paragraph 169.

24 170. Paragraph 170 contains statements and conclusions of law to which no response is
25 required. To the extent a response is required, Intervenors have no information or belief that the
26 statements are true, so Intervenors deny them.

1 171. Paragraph 171 contains statements and conclusions of law to which no response is
2 required. To the extent a response is required, Intervenor's have no information or belief that the
3 statements are true, so Intervenor's deny them.

4 172. Intervenor's have no information or belief as to the allegations about the Coalition's use
5 of water or water rights, so Intervenor's deny them. As to all remaining allegations in Paragraph 172,
6 Intervenor's deny, on information and belief, each allegation.

7 173. Paragraph 173 contains statements and conclusions of law to which no response is
8 required. To the extent a response is required, Intervenor's have no information or belief that the
9 statements are true, so Intervenor's deny them.

10 174. Paragraph 174 contains statements and conclusions of law to which no response is
11 required. To the extent a response is required, Intervenor's have no information or belief that the
12 statements are true, so Intervenor's deny them.

13 175. Paragraph 175 contains statements and conclusions of law to which no response is
14 required. To the extent a response is required, Intervenor's have no information or belief that the
15 statements are true, so Intervenor's deny them.

16 176. Paragraph 176 contains statements and conclusions of law to which no response is
17 required. As to all remaining allegations in Paragraph 176, Intervenor's deny, on information and
18 belief, each allegation.

19 177. Paragraph 177 contains statements and conclusions of law to which no response is
20 required. As to all remaining allegations in Paragraph 177, Intervenor's deny, on information and
21 belief, each allegation of Paragraph 177.

22 178. Paragraph 178 contains statements and conclusions of law to which no response is
23 required. As to all remaining allegations in Paragraph 178, Intervenor's deny, on information and
24 belief, each allegation of Paragraph 178.

25 179. Intervenor's deny, on information and belief, each allegation of Paragraph 179.

26 180. Intervenor's have no information or belief that the statements are true, so Intervenor's
27 deny them.
28

1 189. Intervenors do not intervene in this action with respect to any of Petitioner's
2 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
3 response is required, Intervenors have no information or belief that the statements in Paragraph 187 are
4 true, so Intervenors deny them.

5 190. Intervenors do not intervene in this action with respect to any of Petitioner's
6 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
7 response is required, Intervenors have no information or belief that the statements in Paragraph 187 are
8 true, so Intervenors deny them.

9 **NINTH CAUSE OF ACTION**

10 **(Declaratory Relief — Water Rights and Obligations — As Against Monterey County Water**
11 **Resources Agency, Board of Directors of Monterey County Water Resources Agency, and**
12 **Board of Supervisors of Monterey County Water Resources Agency)**

13 191. Intervenors incorporate by reference Paragraphs 1 through 190 as though fully set forth
14 herein; no further response is required.

15 192. Paragraph 192 contains statements and conclusions of law to which no response is
16 required. As to all remaining allegations of Paragraph 192, Intervenors have no information or
17 belief that the statements are true, so Intervenors deny them

18 193. Paragraph 193 contains statements and conclusions of law to which no response is
19 required. To the extent a response is required, Intervenors deny, on information and belief, each
20 allegation of Paragraph 193.

21 **TENTH CAUSE OF ACTION**

22 **(Writ of Mandate — Misappropriation of Funds in Violation of Proposition 218 — As**
23 **Against All Defendants)**

24 194. Intervenors incorporate by reference Paragraphs 1 through 193 as though fully set forth
25 herein; no further response is required.

26 195. Intervenors do not intervene in this action with respect to any of Petitioner's
27 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
28

1 response is required, Intervenors have no information or belief that the statements are true, so
2 Intervenors deny them.

3 196. Intervenors do not intervene in this action with respect to any of Petitioner's
4 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
5 response is required, Intervenors have no information or belief that the statements are true, so
6 Intervenors deny them.

7 197. Intervenors do not intervene in this action with respect to any of Petitioner's
8 proposition 218 claims and therefore no response is required to this paragraph. Intervenors have no
9 information or belief that the statements are true, so Intervenors deny them.

10 198. Intervenors do not intervene in this action with respect to any of Petitioner's
11 proposition 218 claims and therefore no response is required to this paragraph. To the extent a
12 response is required, Intervenors have no information or belief that the statements are true, so
13 Intervenors deny them.

14 **ELEVENTH CAUSE OF ACTION**

15 **(Writ of Mandate — Violation of the California Public Records Act, Gov. Code section 6250**
16 **et seq. — As Against Monterey County Water Resources Agency, Board of Directors of the**
17 **Monterey County Water Resources Agency, and Board of Supervisors of Monterey County**
18 **Water Resources Agency)**

19 199. Intervenors incorporate by reference Paragraphs 1 through 198 as though fully set forth
20 herein; no further response is required.

21 200. Intervenors do not intervene in this action with respect to any of Petitioner's Public
22 Records Act claims and therefore no response is required to this paragraph. To the extent a response is
23 required, Intervenors have no information or belief that the statements are true, so Intervenors deny
24 them.

25 201. Intervenors do not intervene in this action with respect to any of Petitioner's Public
26 Records Act claims and therefore no response is required to this paragraph. To the extent a response is
27 required, Intervenors have no information or belief that the statements are true, so Intervenors deny
28 them.

1 202. Intervenors do not intervene in this action with respect to any of Petitioner's Public
2 Records Act claims and therefore no response is required to this paragraph. To the extent a response is
3 required, Intervenors have no information or belief that the statements are true, so Intervenors deny
4 them.

5 203. Intervenors do not intervene in this action with respect to any of Petitioner's Public
6 Records Act claims and therefore no response is required to this paragraph. To the extent a response is
7 required, Intervenors have no information or belief that the statements are true, so Intervenors deny
8 them.

9 204. Intervenors do not intervene in this action with respect to any of Petitioner's Public
10 Records Act claims and therefore no response is required to this paragraph. To the extent a response is
11 required, Intervenors have no information or belief that the statements are true, so Intervenors deny
12 them.

13 **TWELFTH CAUSE OF ACTION**

14 **(Writ of Mandate — To Implement Steelhead Flow Condition in Reservoir Water Rights —**
15 **As Against Monterey County Water Resources Agency, Board of Directors of the Monterey**
16 **County Water Resources Agency, and Board of Supervisors of Monterey County Water**
17 **Resources Agency)**

18 205. Intervenors incorporate by reference Paragraphs 1 through 204 as though fully set forth
19 herein; no further response is required.

20 206. The terms of License Nos. 7543 and 12624, and Permit No. 21089 speak for themselves
21 and no further response is required. Paragraph 206 contains statements and conclusions of law to
22 which no response is required. To the extent a response is required, Intervenors have no information
23 or belief that the statements are true, so Intervenors deny them.

24 207. Paragraph 207 contains statements and conclusions of law to which no response is
25 required. To the extent a response is required, Intervenors deny, on information and belief, each
26 allegation of Paragraph 207
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208. Paragraph 208 contains statements and conclusions of law to which no response is required. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 208.

209. Paragraph 209 contains statements and conclusions of law to which no response is required. To the extent a response is required, Intervenor's deny, on information and belief, each allegation of Paragraph 209.

PRAYER

The remaining paragraphs of the Petition consist entirely of Petitioner's Prayer for Relief, to which no response is required. To the extent a response is required, Intervenor's deny each and every prayer for relief. Likewise, Intervenor's state that Petitioner is not entitled to the relief requested or any relief whatsoever.

FIRST AFFIRMATIVE DEFENSE

Petitioner has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Petition does not state facts sufficient to support a request for injunctive relief because Petitioner's remedies at law, to the extent it is entitled to any remedies at all, are adequate.

THIRD AFFIRMATIVE DEFENSE

Petitioner's claims are barred in whole or in part because Intervenor's owed no duty to Petitioner.

FOURTH AFFIRMATIVE DEFENSE

Petitioner is barred from the prosecution of its claims asserted because it failed to exhaust administrative remedies.

FIFTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred, in whole or in part, by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred, in whole or in part, by the doctrine of estoppel.

SEVENTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred, in whole or in part, by the applicable statutes of limitations.

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 Petitioner's claims are barred, in whole or in part, by the doctrine of laches.

3 **NINTH AFFIRMATIVE DEFENSE**

4 Petitioner's claims are barred, in whole or in part, because Petitioner suffered no harm.

5 **TENTH AFFIRMATIVE DEFENSE**

6 Petitioner's claims are barred, in whole or in part, by preemption.

7 **ELEVENTH AFFIRMATIVE DEFENSE**

8 With respect to the Fifth, Sixth, Ninth and Twelfth Causes of Action, in the factual context of
9 this litigation the purported uses of water and/or methods of diversion of water of the members of the
10 Salinas Valley Water Coalition violate Article X, Section 2 of the California Constitution in that
11 such uses of water and/or methods of diversion of water are unreasonable.

12 **TWELFTH AFFIRMATIVE DEFENSE**

13 With respect to the Fifth, Sixth, Ninth and Twelfth Causes of Action, in the factual context of
14 this litigation the purported uses of water and/or methods of diversion of water of the members of the
15 Salinas Valley Water Coalition violate the public trust doctrine.

16 **THIRTEENTH AFFIRMATIVE DEFENSE**

17 Petitioner's claims are barred, in whole or in part, because any dispute between the parties is
18 not ripe for adjudication.

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 Petitioner's claims are barred, in whole or in part, because Petitioner lacks standing to assert
21 them.

22 **FIFTEENTH AFFIRMATIVE DEFENSE**

23 Petitioner's claims are barred, in whole or in part, because the alleged conduct of
24 Intervenor was not a proximate cause of the loss or damage, if any, to Petitioner or any purported
25 member of Petitioner.

26 **SIXTEENTH AFFIRMATIVE DEFENSE**

27 Petitioner's claims are barred, in whole or in part, by prior release.
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1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 Petitioner's claims are barred, in whole or in part, by the doctrine of unclean hands.

3 **EIGHTEENTH AFFIRMATIVE DEFENSE**

4 Petitioner's claims are barred, in whole or in part, by the doctrine of res judicata.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 Petitioner's claims are barred, in whole or in part, because Petitioner's and its purported
7 members' injuries, if any, were caused in whole or in part by one or more third parties not under the
8 control of Intervenor.

9 **TWENTIETH AFFIRMATIVE DEFENSE**

10 Petitioner's claims are barred, in whole or in part, because Intervenor acted in good faith.

11 **TWENTY FIRST AFFIRMATIVE DEFENSE**

12 Petitioner's claims are barred, in whole or in part, by Petitioner's acquiescence.

13 **TWENTY SECOND AFFIRMATIVE DEFENSE**

14 Petitioner's claims are barred, in whole or in part, because Petitioner and its purported
15 members have not suffered irreparable harm.

16 **TWENTY THIRD AFFIRMATIVE DEFENSE**

17 Petitioner's claims are barred, in whole or in part, because the relief sought would result in
18 Petitioner's and any of its purported members' unjust enrichment.

19 **TWENTY FOURTH AFFIRMATIVE DEFENSE**

20 Petitioner's claims are barred, in whole or in part, because Petitioner and its purported
21 members failed to mitigate damages, if any.

22 **TWENTY FIFTH AFFIRMATIVE DEFENSE**

23 Petitioner's claims are barred, in whole or in part, because Petitioner and its purported
24 members sustained no actual damages.

25 **TWENTY SIXTH AFFIRMATIVE DEFENSE**

26 With respect to the Fifth, Sixth, Ninth and Twelfth Causes of Action, in the factual context of
27 this litigation the purported uses of water and/or methods of diversion of water of the members of the
28 Salinas Valley Water Coalition fail to take into account Intervenor's water rights which must be

1 considered before any of Petitioner's alleged water rights as demanded in this action, if any, can be
2 adjudicated.

3 **RESERVATION OF ADDITIONAL AFFIRMATIVE DEFENSES**

4 Intervenor reserve the right to assert other applicable affirmative defenses as may become
5 available or apparent during this action. Intervenor further reserve the right to amend their
6 Answer and/or affirmative defenses accordingly, and/or delete affirmative defenses that they
7 determine are not applicable during the course of subsequent discovery and proceedings.

8 **DEMAND FOR JURY TRIAL**

9 Trial by jury is hereby demanded on any matters where such a trial is available.

10 **PRAYER**

11 WHEREFORE, Intervenor pray that judgment be entered as follows:

- 12 1. That Petitioner's Second Amended Verified Petition for Writ of Mandate and
13 Complaint for Declaratory Relief be denied with prejudice;
14 2. That Petitioner take nothing by reason of this action;
15 3. That Intervenor be awarded their costs of suit incurred as a result of the Petitioner's
16 action; and
17 4. That Intervenor be granted such other and further relief as this Court deems proper.

18
19 Dated: August 13 2018

OLIVAREZ MADRUGA LEMIEUX O'NEILL, LLP

20
21 By: 

Edward B. Kang

22 Attorneys for Intervenor, NACIMIENTO REGIONAL
23 WATER MANAGEMENT ADVISORY COMMITTEE,
24 DALE FIEBER and WILLIAM H. INGALLS
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is 500 South Grand Avenue, 12th Floor, Los Angeles, CA 90071.

On August 13, 2018, I served a true and correct copy of the foregoing document entitled:

[PROPOSED] ANSWER IN INTERVENTION

on the interested parties in this action by placing the document in a sealed envelope and addressed as follows:

Eric N. Robinson Hanspeter Walter Elizabeth Leeper Kronick Moskovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814	Attorneys for Plaintiff Tel: (916) 321-4500 Fax: (916) 321-4555
Meredith E. Nikkel Downey Brand 621 Capitol Mall 18th Floor Sacramento, CA 95814	Attorneys for Board Of Directors / Board of Supervisors of Monterey County Water Resources Agency; Board of Supervisors of the County of Monterey Tel: (916) 444-1000 Fax: (916) 444-2100
Leslie J. Girard, Chief Assistant County Counsel County of Monterey 168 West Alisal Street, 3rd Floor Salinas, CA 93901	Attorneys for the County of Monterey Tel: (831) 755-5045 Fax: (831) 755-5283
Eric N. Robinson Kronick Moskovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814	Attorneys for Salinas Valley Water Coalition Tel: (916) 321-4576 Fax: (916) 321-4555
Pamela H. Silkwood 6385 Carmel Rancho Boulevard Suite 200 Carmel, CA 93923	Attorneys for Salinas Valley Water Coalition Tel: (831) 373.4131 Fax: (831) 373.8302

☒ **BY MAIL:** I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at Los Angeles, CA.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 13, 2018, at Los Angeles, CA.

Marti Hale

Printed Name


Signature

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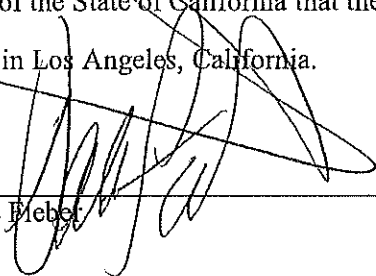
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1 such releases will have on recreational uses as it not only makes recreation more difficult, but
2 dangerous as well.

3 7. I only learned of this lawsuit and that my water rights would not be adequately
4 represented by any of the existing parties to the lawsuit just recently.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed this 9th day of August 2018, in Los Angeles, California.

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9 Dale Fieber



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DECLARATION OF WILLIAM H. INGALLS

I, William H. Ingalls, declare as follows:

1. I make this declaration in support of Defendants' Motion for Leave to Intervene. I have personal knowledge of the following matters, and if called upon to testify, I could and would competently testify thereto.

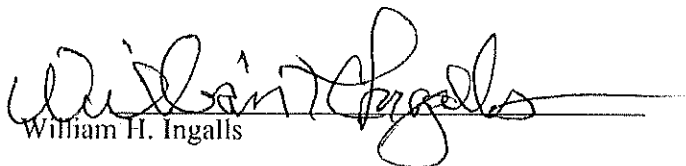
2. I am a property owner with approximately 500 acres of land directly adjacent to Lake Nacimiento (the "Lake") and have lived on the Lake for over 40 years.

3. My only source of water is from Lake Nacimiento. I have installed infrastructure that allows me access to the Lake's water and rely on such water for my everyday needs. I also use this water to support vegetation on my land, as well as for the raising of cattle.

4. As such, I rely on water from the Lake for both my basic daily needs, as well as for agricultural purposes (i.e., cattle) as it is my only source of water. Any additional water releases from the Lake, or a determination that fixed flows of water must be released from the Lake regardless of the condition or water levels of the Lake could adversely affect my rights to the water that I rely on and thus any determination of Petitioner's water rights must also consider my own rights with respect to water from the Lake.

5. I only learned of the instant lawsuit and that my water rights would not be adequately represented just recently.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ____ day of August 2018, in Los Angeles, California.


William H. Ingalls

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2 **DECLARATION OF WILLIAM CAPPS**

3 I, William Capps, declare as follows:

4 1. I make this declaration in support of Defendants' Motion for Leave to Intervene. I have
5 personal knowledge of the following matters, and if called upon to testify, I could and would
6 competently testify thereto.

7 2. I have been a board member of the Nacimiento Regional Water Management Advisory
8 Committee ("NRWMAC") for approximately eleven years and am currently the treasurer of
9 NRWMAC. I have been a resident of Lake Nacimiento (the "Lake") for approximately 35 years.

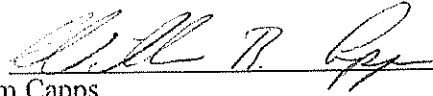
10 3. NRWMAC was formed in the late 1980's to represent Lake Nacimiento property
11 owners, visitors and enthusiasts in dealing with Monterey County's management of Lake Nacimiento.
12 During its tenure, NRWMAC has fought to maintain a consistent and appropriate water level to
13 support recreational uses on Lake Nacimiento for all Lake users. This issue is one of substantial public
14 interest as in just one month of the summer of 2017 alone, the Lake supported over 5000 unique
15 visitors for recreation.

16 4. Recently, Monterey County has stated that a Lake level of 730 feet msl is sufficient to
17 sustain recreational uses on Lake Nacimiento. In my personal experience that is simply not true. A
18 water level of 730 msl feet represents 25% of the storage capacity of the Lake and at that level, nearly
19 all of the launch ramps along the Lake are rendered unusable. A water level of 730 msl feet also
20 creates substantial safety issues as at that level it renders certain areas of the Lake too narrow for boats
21 to pass one another, as well as exposes previously submerged tree stumps, rocks and islands which
22 pose hazards to boating. It is NRWMAC's position, based on personal experience, that under current
23 conditions, and based on the high volume of visitor traffic on the Lake, a minimum water level of 748
24 msl feet is necessary to support recreational uses between Memorial Day and Labor Day each year.

25 5. NRWMAC only learned of the instant lawsuit in early July 2018 and has spent the past
26 month obtaining filings and documents relating to the lawsuit, as well as the administrative proceeding
27 currently pending before the State Water Resources Board. It was only when this review was
28 complete that NRWMAC determined that: (1) its water rights were at issue in this litigation in that the
current action will determine flow rates and water releases from Lake Nacimiento; and (2) that the

1
2 existing parties to this litigation would not be able to adequately represent NRWMAC's interests in
3 ensuring sufficient water levels to support recreational uses on Lake Nacimiento. As a result,
4 NRWMAC determined that it must intervene in this action so that it can safeguard its water rights as it
5 pertains to water levels on the Lake.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct. Executed this ____ day of August 2018, in Los Angeles, California.

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10 William Capps
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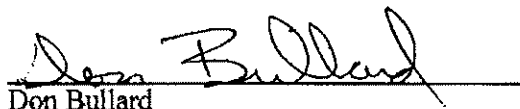
I. I make this declaration in support of Defendants' Motion for Leave to Intervene. I have personal knowledge of the following matters, and if called upon to testify, I could and would competently testify thereto.

3. NRWMAC was formed in the late 1980's to represent Lake Nacimiento property owners, visitors and enthusiasts in dealing with Monterey County's management of Lake Nacimiento. During its tenure, NRWMAC has fought to maintain a consistent and appropriate water level to support recreational uses on Lake Nacimiento for all Lake users. This issue is one of substantial public concern as in just one month of the summer of 2017 alone, the Lake supported over 5000 unique visitors for recreation.

5. NRWMAC only learned of the instant lawsuit in early July 2018 and has spent the past [REDACTED] obtaining filings and documents relating to the lawsuit, as well as the administrative proceeding [REDACTED] pending before the State Water Resources Board. It was only when this review was [REDACTED] that NRWMAC determined that: (1) its water rights were at issue in this litigation in that the [REDACTED]

1 current action will determine flow rates and water releases from Lake Nacimiento; and (2) that the
2 existing parties to this litigation would not be able to adequately represent NRWMAC's interests in
3 ensuring sufficient water levels to support recreational uses on Lake Nacimiento. As a result,
4 NRWMAC determined that it must intervene in this action so that it can safeguard its water rights as it
5 pertains to water levels on the Lake,

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct. Executed this ____ day of August 2018, in Los Angeles, California.

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9 
10 Don Bullard

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is 500 South Grand Avenue, 12th Floor, Los Angeles, CA 90071.

On August 13, 2018, I served a true and correct copy of the foregoing document entitled:

DECLARATIONS OF EDWARD B. KANG, DALE FEIBER, WILLIAM H. INGALLS, WILLIAM CAPPS AND DON BULLARD, AND EXHIBITS THERETO, IN SUPPORT OF MOTION TO INTERVENE

on the interested parties in this action by placing the document in a sealed envelope and addressed as follows:

Eric N. Robinson Hanspeter Walter Elizabeth Leeper Kronick Moskovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814	Attorneys for Plaintiff Tel: (916) 321-4500 Fax: (916) 321-4555
Meredith E. Nikkel Downey Brand 621 Capitol Mall 18th Floor Sacramento, CA 95814	Attorneys for Board Of Directors / Board of Supervisors of Monterey County Water Resources Agency; Board of Supervisors of the County of Monterey Tel: (916) 444-1000 Fax: (916) 444-2100
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☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 13, 2018, at Los Angeles, CA.

Marti Hale
Printed Name


Signature