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12 SUPERIOR COURT OF CALIFORNIA
 13 COUNTY OF SACRAMENTO

15 CALIFORNIA MANUFACTURERS
 16 AND TECHNOLOGY ASSOCIATION, a
 17 California corporation; and SOLANO
 18 COUNTY TAXPAYERS ASSOCIATION,
 a California corporation,

19 Petitioners,

20 v.

21 STATE WATER RESOURCES
 CONTROL BOARD,

22 Respondent.

CASE NO. 34-2014-80001850

**PETITIONERS' SUPPLEMENTAL
 MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 PETITION FOR WRIT OF MANDATE
 PURSUANT TO THE COURT'S
 NOVEMBER 15, 2015 ORDER**

Dept: Dept 44
 Judge: Hon. Christopher E. Krueger

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1 **A. The Meet and Confer Process Confirms that the Court Should Invalidate the MCL**

2 **1. The Court's Concerns Regarding Costs of Complying with the MCL**

3 At the oral argument on the Petition, the Respondent State Board Water Resources
4 Control Board ("State Board") stated that it believed that "contractors were hired" and "quite a
5 few of the projects were well into construction." (Declaration of Clifton J. McFarland Decl. at ¶¶
6 2-3, Ex. A, Transcript at 28:3-19.) In its November 15, 2016 Order, the Court indicated that it
7 had concerns regarding the effect of invalidating the MCL on public water systems that may
8 "have already spent substantial sums complying, or attempting to comply, with the current
9 MCL." (11/15/16 Order at p. 2.) Pursuant to the Court's admonition in its Order that the parties
10 were "...strongly encouraged to meet and confer," counsel for Petitioners contacted counsel for
11 the State Board to initiate a meet and confer process. (McFarland Decl. at ¶¶ 4-5.)

12 The parties first met and conferred on December 14, 2016. During the conference, the
13 Petitioners expressed the view that the parties should try to determine: (1) the total sums that
14 public water systems anticipated spending to achieve compliance with the MCL and (2) the sums
15 spent to date. Petitioners believed that once this foundational issue was resolved, it might be
16 possible to work toward a broader stipulation on the terms or scope of the remand. (McFarland
17 Decl. at ¶¶ 6-7.)

18 Several representatives of public water systems attended the second meet and confer
19 conference on January 9, 2017. In general, these water system representatives indicated that their
20 systems had spent very little of the total amounts they anticipated spending to comply with the
21 MCL. For example, the City of Winters had spent \$126,000 of the \$42 million it anticipates
22 spending, and the Coachella Water Authority had spent \$400,000 of the \$36.2 million it
23 anticipates spending. The water system representatives stated that they believed other water
24 systems were similarly situated. The water system representatives indicated that they would be
25 willing to help gather information to respond to the Court's question about expenditures to date,
26 and the State Board agreed. (McFarland Decl. at ¶¶ 8-13.)

27 Also during this conference, Mark Bartson, head of the Technical Operations Section of
28 the State Board, stated that about 197 public water systems have been operating one or more

1 water sources that contained Chromium-6 at levels exceeding the current MCL. Mr. Bartson
 2 indicated that the State Board was “not tracking” about 67 of these systems because they had an
 3 “easy out,” a simple and straightforward way of achieving compliance, such as taking a well out
 4 of service. Finally, Mr. Bartson indicated that the State Board was “tracking” about 130 systems
 5 with respect to compliance with the MCL. The Petitioners asked for the list of 130 systems
 6 because it would help the parties gather information to respond to the Court’s questions. The
 7 State Board indicated it would consider the request. (McFarland Decl. at ¶¶ 14-16.)

8 **2. The State Board Identified Water Systems Affected by the MCL on 1/31/17**

9 At the third meet and confer on January 31, 2017, the State Board provided a list of the
 10 names of the 194 public water systems that were identified as operating one or more water
 11 sources containing Chromium-6 at levels above the current MCL. The Petitioners indicated that
 12 they would attempt to contact the systems to obtain information about expenditures in order to
 13 answer the Court’s question. The parties agreed to meet again. (McFarland Decl. at ¶¶ 14-19.)

14 **3. Water Systems Identified by State Board Provided Information Re Costs**

15 Petitioners provided the purveyor list to California Municipal Utilities Association
 16 (“CMUA”), a trade group which represents water agencies. CMUA agreed to work with the
 17 water agency representatives who had attended the second meet and confer conference in order to
 18 obtain information from the purveyors on the State Board’s list. The water agency
 19 representatives and CMUA developed a survey that asked the respondents to state the total capital
 20 expenditure each system anticipated in order to achieve compliance with the MCL and the
 21 amounts expended to date. (See 11/15/16 Order at p. 2.) The survey was sent to a number of
 22 water agencies on the State Board’s list on a rolling basis in early and then again in late February
 23 2017, as their contact information was obtained. Additional outreach and follow up was
 24 conducted on an ongoing basis through a collaborative effort by CMUA and the water agency
 25 representatives. The information that was obtained through the survey, outreach, and follow up
 26 was collected and organized into a chart which was updated on an ongoing basis (the “survey
 27 results”). (McFarland Decl. at ¶ 24, Ex. B, Declaration of Danielle Blacet at ¶ 11.)
 28

1 4. **The State Board Declined to Stipulate That Substantial Sums Not Incurred**

2 On February 28, 2017, the parties participated in their fourth meet and confer. The then
 3 current survey results were provided to the State Board in advance. At that time, the survey
 4 results included information for about 32 water systems and indicated that public water systems
 5 had not spent substantial sums in complying with the MCL. (McFarland Decl. at ¶¶ 20-21.) At
 6 the conference, the Petitioners indicated that the survey was being updated on an ongoing basis as
 7 additional responses were received, and asked if the State Board was amenable to extending the
 8 briefing schedule to gather additional responses. The State Board declined. The Petitioners
 9 asked the State Board if it had obtained any information regarding any systems that had indeed
 10 spent substantial costs in complying with the MCL to date. The State Board indicated that it did
 11 not have any such information. Petitioners also asked the State Board if it would agree to
 12 stipulate, based on the survey results as of that time that: (1) public water systems would incur
 13 very substantial costs in complying with the MCL; and (2) substantial sums have not been
 14 incurred to date. The State Board declined. (McFarland Decl. at ¶ 22.)

15 5. **Substantial Sums Have Not Been Spent Complying with the MCL to Date**

16 The survey results are the best information currently available in response to the Court's
 17 concerns about the potential effect of invalidating the MCL on systems attempting to comply.
 18 (For convenience, the survey results are attached hereto as **Exhibit 1**). At the time of this brief,
 19 the survey contains information on 94 systems. The survey results confirm that compliance with
 20 the MCL will be extraordinarily expensive and that public water systems have not yet spent
 21 substantial sums complying with the MCL. Generally, water systems have spent between zero
 22 and five percent of their total expected compliance costs to date. More than half the systems have
 23 spent less than one percent of their total expected compliance costs.

24 Examples of systems that expect to incur very considerable costs complying include: (1)
 25 Coachella Water Authority has spent \$400,000 of the \$36,200,000 it anticipates spending (1%);
 26 (2) Joshua Basin Water District has spent \$150,000 out of \$15,000,000 to \$17,000,000 (0.9 to
 27 1.0%); and (3) Myoma Dunes Mutual Water Company has spent \$100,000 out of \$10,000,000 to
 28 \$20,000,000 (0.5 to 1.0%).

1 Examples of systems that expect to spend less than \$1 million complying include: (1)
 2 Antelope Park Mutual Water Company has spent \$1,000 of the \$40,000 it expects to spend
 3 (2.5%); (2) Aptos Ridge Mutual Water Company has spent \$2,000 out of \$75,000 to \$120,000
 4 (1.7 to 2.7%); and (3) Terra Nova Mobile Home Park has spent \$5,000 out of \$160,000. Several
 5 smaller systems (e.g., First Mutual Water Company; Rolling Acres Mutual Water Company) did
 6 not provide estimates of total expected compliance costs based on their determination that they
 7 simply cannot afford to provide treatment. (**Exhibit 1**, survey at n. 13, 15.)

8 Some public water systems provided additional comments and several provided
 9 declarations in response to the Court's concerns and questions. The City of Kerman (pop.
 10 14,000) expects to incur \$20,000,000 in compliance costs and indicates that it will have to raise
 11 water rates four to five-fold. (**Exhibit 1**, survey at n. 17.) The City of Coachella (pop. 43,000)
 12 expects to incur \$36,200,000 to comply and indicates that it will have to double its water rates.
 13 Coachella is designated as a disadvantaged community with a median household income of
 14 \$37,408 and such a rate increase would result in the median household spending 4.2% of its net
 15 income on drinking water—a level that is deemed unaffordable pursuant to U.S. EPA criteria.
 16 The City of Winters (pop. 7,200) expects to incur between \$27,900,000 and \$42,000,000 in
 17 compliance costs and expects water rates to more than triple. (McFarland Decl. at ¶¶ 27, 28, Exs.
 18 5, 6 attaching Declarations of Scott Rogers and John W. Donlevy, Jr.).

19 The meet and confer process provided considerable information as to whether there are a
 20 meaningful number of systems that are “well into construction.” There are not. Because only a
 21 small percentage, on the order of 1%, of compliance costs have been incurred to date, there is no
 22 risk of significant stranded assets if the MCL is revised after remand.

23 **B. The *POET* Case Does Not Apply or Excuse Compliance with the APA**

24 1. *POET* Is Unique to CEQA And Does Not Apply To This Dispute

25 In response to the State Board's citation to the *POET* case at the end of oral argument on
 26 the Petition, the Court asked whether it may void the MCL, but allow it to remain operative
 27 pending the State Board's corrective action. (11/15/16 Order at p. 2; *POET, LLC vs. State Air*
 28 *Resources Board* (2013) 218 Cal.App.4th 681 (“*POET*”).) Respectfully, the answer is “no.”

1 *POET* is a California Environmental Quality Act (“CEQA”) case. Its holding is based and
2 dependent on a nuanced interpretation of the remedial provisions available to reviewing courts
3 under CEQA. To apply *POET* here would be to transport it entirely out of context. It would
4 transform what the appellate court itself called an “extraordinary,” “controversial,” and “unusual”
5 decision into a rule of general applicability. (*POET* at 761, 763.)

6 In *POET*, the petitioners challenged the California Air Resources Board’s (“ARB”)
7 adoption of the Low Carbon Fuel Standards regulations (“LCFS”). The petitioners argued that in
8 promulgating the LCFS regulations, ARB violated CEQA in three ways and—as a collateral
9 matter—one of the procedures for agency rulemaking in the Administrative Procedures Act (the
10 “APA”). The *POET* court’s analysis centers around Section 21168.9 of the Public Resources
11 Code (“Section 21168.9”). This is the provision in CEQA that empowers courts with three
12 categories of remedies (referred to as “mandates”) to correct violations of the act by 1) voiding
13 agency action, 2) suspending a project that has been approved by agency action if certain
14 conditions are met, or 3) requiring specific corrective action to bring the agency within CEQA.
15 (*POET* at 757, n.52, citing text of Section 21168.9(a).)

16 The *POET* court agreed that ARB violated CEQA in three ways. Relevant here, the LCFS
17 regulations were approved in a “defective” manner because they were issued before the
18 environmental review was complete. As a result, the appellate court had the power to void the
19 regulations and order ARB to comply with CEQA which was the “typical” approach under
20 Section 21168.9(a)(1). However, whether the regulations could remain in effect pending ARB’s
21 compliance with CEQA was a “separate question” because of the language in Section 21168.9
22 that distinguished between an agency’s decision, on the one hand, and the enforcement and
23 operation of that decision through the various phases of an environmental project, on the other.
24 (*POET* at 758-61.)

25 To answer that question, the appellate court engaged in a multi-layered interpretation of
26 Section 21168.9. The *POET* court concluded, first, that voiding the approval of a regulation for a
27 violation of CEQA does not “automatically” suspend the regulation under Section 21168.9(a)(2)
28 and, second, that the statute did not expressly or implicitly prohibit a court from allowing a

1 regulation to remain in effect on remand. (*POET* at 760-63.) Accordingly, in “extraordinary”
 2 CEQA cases, a reviewing court may maintain the “status quo” and allow the regulations to
 3 remain operative on remand if doing so will not “prejudice the consideration or implementation
 4 of mitigation measures.” (*POET* at 762.) However, the more “common alternative” is for a court
 5 to suspend the operation of the regulation pending the agency’s correction of its CEQA violation.
 6 (*POET* at 761.) And in mandamus proceedings outside of CEQA, the typical approach is simply
 7 to “strike down” the regulation as discussed in more detail in the following section.

8 At its core, *POET* is “about” CEQA and the remedial provisions of Section 21168.9. The
 9 decision proceeds from, and revolves around, this statute. Petitioners’ review reveals no
 10 published cases that extend the holding of *POET* outside of CEQA. *POET* is CEQA “centric.”
 11 Indeed, the *POET* court suggested that prior CEQA case authority might even be read to create a
 12 “preference” for a remedy that invalidates the regulation pending CEQA compliance. (*POET* at
 13 763-764.) The statute’s interpretation cannot be applied in a dissimilar case absent application of
 14 the statute upon which it is based.

15 The *POET* court used Section 21168.9 as a springboard to consider the “public interest”
 16 because it was concerned about the “adverse environmental impacts” that would come from
 17 automatically disabling a regulatory scheme of great “breadth.” (*POET* at 764.) In this case,
 18 however, the Petitioners are asking this Court to void and suspend a single regulation—the
 19 Chromium-6 MCL—that was promulgated in violation of law. As evidenced by the survey
 20 results, most of the public water systems have not spent substantial, or even appreciable, sums in
 21 complying with the MCL. Thus, there is no “status quo” with which the regulated community is
 22 complying that must be “maintained.” And, as discussed in more detail below, the public interest
 23 continues to be served given that a MCL for total Chromium (which includes both Chromium-6
 24 and Chromium-3) remains in effect.

25 **2. The State Board Remains Subject to the APA on Remand**

26 At the hearing on the Petition, the State Board argued that it should not have to “start from
 27 scratch” if the Court grants the Petition. The State Board apparently relies, again, on the *POET*
 28 case as support. (McFarland Decl. at ¶¶ 2-3, Ex. A, Transcript at 28:3-29:20.) The Court asks

several questions about the State Board's compliance with the APA, each of which are briefly addressed below. (11/15/16 Order at p.3.)

For a regulation to be effective, it must be within the scope of the authority conferred and in accordance with the standards prescribed by law. (Gov't Code § 11342.1; *Western States Petroleum Assn. v. Board of Equalization* (2013) 57 Cal.4th 401, 415-416.) A regulation must also not be in conflict with the statute being administered by the agency and must be reasonably necessary to implement the purpose of the statute. (Gov't Code § 11342.2; *Western States*, 57 Cal.4th at 415-416.)

Here, the MCL was not adopted in accordance with the standards prescribed by law and is in conflict with the statute being administered. The State Board was obligated to, but did not, conduct an economic feasibility study and was obligated to, but did not, analyze the impacts of the 10 ppb MCL on California businesses. (Health & Safety Code § 116365; Gov't Code § 11346.3.) The State Board, in other words, failed to discharge mandatory, statutory duties in promulgating the new MCL. The Petitioners are not challenging the State Board's "weighing of the facts and policy considerations" or asking this Court to substitute its judgment for that of the agency. (*Western States Petroleum Assn v. Dept. of Health* (2002) 99 Cal.App.4th 999, 1006-07.) Rather, Petitioners challenge the State Board's actions because they are not in accordance with the standards prescribed by law and in conflict with the underlying statutes. (*Id.*, *Western States*, 57 Cal.4th 401 at 415-416, Gov't Code §§ 11342.1, 11342.2.)

A traditional mandamus action is proper to compel an agency to perform a ministerial act required by law (Code Civ. Proc. § 1085; *Young v. Gannon* (2002) 97 Cal.App.4th 209, 221; *Khan v. Los Angeles City Employees' Retirement System* (2010) 187 Cal.App.4th 98, 105.) In such a proceeding, a court must determine whether the agency exercised its quasi-legislative authority within the bounds of, and reasonably interpreted, its statutory mandate. (*Morris v. Williams* (1967) 67 Cal.2d 733, 748; *Western States Petroleum*, 99 Cal.App.4th at 1006-07.) The final responsibility for interpretation of the statute rests with the courts, which must exercise their independent judgment. (*Id.*) If a regulation is inconsistent with the underlying statute, the court must "strike down" the regulation and may do so through the mandamus proceedings

1 (*Morris*, 67 Cal.2d at 748; *Faulder v. Mendocino County* (2006) 144 Cal.App.4th 1362.)

2 Mandamus will lie to compel the agency to exercise its discretion under a proper interpretation of
3 the law. (*Young*, 97 Cal.App.4th at 221.)

4 The APA describes the notice-and-comment procedures attendant to the adoption of any
5 regulation. (Gov't Code §§ 11346.2-11346.5). These procedures are intended to provide for and
6 encourage public participation in the rulemaking process. (*Id.*) These procedures apply during
7 the initial rulemaking process and during the remand process. Petitioners are aware of no
8 authority that would allow the Court to find that the State Board failed to observe mandatory
9 duties, while at the same time excuse the agency from following the rulemaking process under the
10 APA when it complies (for the first time) with these mandatory duties. This makes particular
11 sense where the agency is commanded to undertake actions required by statute that it did not
12 undertake during the initial rulemaking.

13 Practically, the State Board's process will not have to start over in every respect. For
14 example, the State Board's analysis of technological feasibility was not challenged and would be
15 available to the agency for use in the proceedings on remand. However, with respect to the
16 economic feasibility and impacts on business analysis, the State Board never left "square one"
17 and that is the appropriate place to start. That aspect of the process should be subject to all of the
18 protections of a proper rulemaking process and to promote meaningful public participation in that
19 process. (E.g. Gov't Code §11346.)

20 Finally, the *POET* case does not change any of these answers (to the extent it is even
21 relevant to any of the questions). The *POET* court confirmed that the APA would apply on
22 remand by mandating public comment on "all issues" related to the approval of the LCFS
23 regulations and correction of the CEQA violations on remand. (*POET* at 767.)

24 **C. Additional Issues Raised in Court's Order**

25 **1. The Court Should Not Impose a Time Limit On Remand**

26 Petitioners do not believe the Court should impose time limits on the State Board by
27 which to complete the remand process. It has been Petitioners' experience that if a court sets a
28 deadline that turns out to be more time than is actually needed, the time taken will expand to meet

1 the deadline. If, on the other hand, the Court sets a deadline that turns out to be less time than is
2 actually needed, the work product will suffer and the standard will be vulnerable to legal attack.

3 Petitioners thus suggest a narrative standard, as opposed to a calendar deadline, but one
4 that is consistent with the timeframes and comment periods applicable under the APA. Among
5 potential narrative standards are: (1) in good faith and without delay; (2) with all deliberate speed;
6 and (3) as soon as possible consistent with applicable law. The remand process should be
7 efficient, but the analysis of economic feasibility required by the Safe Drinking Water Act should
8 be performed in an appropriate manner.

9 Petitioners, like the Court, are mindful that the Legislature set a deadline for the adoption
10 of a Chromium-6 MCL and that deadline has long since passed. Petitioners are also mindful that
11 the Legislature has extended the compliance date to January 1, 2020. In addition, invalidating the
12 MCL and providing for a genuine remand will not leave California without a limit on the level of
13 Chromium-6 that can be contained in drinking water. The existing California MCL for total
14 Chromium is 50 ppb, which means that water containing more than 50 ppb of Chromium-6
15 cannot be purveyed. (22 Cal. Code Reg. § 64431.) The total Chromium standard applicable in
16 the other 49 states is 100 ppb. Finally, the ISOR suggests that about one-half of the non-
17 compliant systems are purveying water below 15 ppb and about two-thirds are purveying water
18 below 20 ppb.

19 2. **Impacts of Remand on Health & Safety Code Section 116431**

20 The Chromium 6 MCL was approved by the Office of Administrative Law on May 28,
21 2014, with an effective date of July 1, 2014 and a compliance date of July 1, 2015. During the
22 MCL rulemaking process, many water purveyors provided public comment that a five-year
23 compliance period should be provided. The purveyors pointed to a provision of the federal Safe
24 Drinking Water Act that allows U.S. EPA to provide a compliance period of up to five years if
25 the Administrator of EPA determines that additional time is necessary for capital improvements.
26 (42 U.S.C. § 300g-1(b)(12).) The California Safe Drinking Water Act contains no equivalent
27 provision. The State Board has discretion in establishing a compliance period. Because the
28 current MCL did not provide a realistic compliance period, water purveyors, under the auspices

of the Association of California Water Agencies, sponsored Senate Bill 385. Senate Bill 385 essentially provided the five-year compliance period that water purveyors had sought from the State Board.

The Southern California Water Committee ("SCWC"), whose members include a large percentage of water purveyors in the state, recently wrote a letter to the State Board with respect to the questions asked and issues posed by the Court in its 11/15/16 Order. In its letter, SCWC suggested the following:

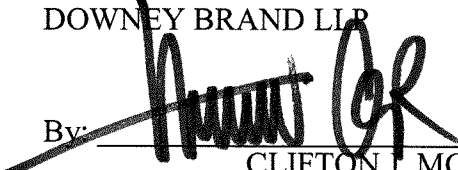
[W]e ask that the Water Board include a reasonable compliance period with the final MCL established through the remand process. Consistent with the 1996 amendments to the Federal Safe Drinking Water Act, the State Board should provide the water purveyors 5 years from the effective date of the final revised MCL to install facilities needed to comply with the MCL. ... Including an appropriate compliance period in the regulation, as Congress provided under federal law, will mitigate any concerns related to the timing of SB 385.

(McFarland Decl. at ¶ 29, Ex. 7.)

Petitioners believe that SCWC's suggestion is a sound one. Providing a realistic compliance period in connection with the remand should prevent time problems. The State Board has discretion to establish a compliance period and can take the various relevant factors into account in doing so. It appears that if water purveyors are aggrieved by any compliance period established by the State Board, they are capable of seeking legislative solutions.

DATED: March 10, 2017

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COUNTY TAXPAYERS ASSOCIATION

Exhibit 1

To the Petitioners' Supplemental Memorandum Of Points And Authorities In Support Of
Petition For Writ Of Mandate Pursuant To The Court's November 15, 2015 Order

Hexavalent Chromium MCL Water System Compliance Survey

March 10, 2017

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
Coachella Valley Water District: Core Community (3310001); CVWD: I.D. No. 8 (3310048)	Steve Bigley	\$278,000,000 ¹	\$14,700,000 ² (5%)
City of Banning	Luis Cardenas, Senior Civil Engineer	\$36,400,000 ³	\$260,000 (0.7%)
Santa Ynez Rancho Estates Mutual Water Company	Sig Hansen, Director and VP Operations	\$850,000 - \$1,400,000 ⁴	\$9,400 (0.7%-1%)
Coachella Water Authority	Scott Rogers, General Manager	\$36,200,000	\$400,000 (1%)
Joshua Basin Water District	Curt Sauer, General Manager	\$15,000,000 - \$17,000,000	\$150,000 (0.9%-1%)
Twentynine Palms Water District	Ray Kolisz, General Manager	\$2,775,000	\$275,000 (10%)
City of Winters	Carol Scianna	\$42,000,000 ⁵	\$126,000 (0.3%)
City of Los Banos Public Works Department	Randy Williamson, Water Quality Specialist	\$41,000,000 - \$92,000,000 ⁶	\$50,000 (0.05%-0.1%)
Hesperia Water District, City of Hesperia	Jeremy McDonald, Public Works Supervisor	\$2,100,000 - \$7,400,000	\$0
Morning Star Packing Co., Los Banos	Tod Harter	\$965,000	\$32,000 (3.3%)
City of Watsonville	Jackie McCloud	\$22,200,000	\$550,000 (2.4%)
Hidden Valley Lake Community Services District	Kirk Cloyd, General Manager	\$4,000,000 ⁷	\$40,000 (1%)

¹ Pursuant to the survey instrument, all costs reflected in this column are for capital expenditures only. Estimates do not include ongoing operation and maintenance costs.

² Includes consulting services to prepare a compliance plan pursuant to SB 385 (Hueso, 2015).

³ Banning estimates additional ongoing system operation and maintenance costs of approximately \$700,000 per year.

⁴ For 92 residential customers.

⁵ Winters does not qualify for grant funding. The City anticipates residential water rates will more than double if it is required to implement its current compliance strategy.

⁶ Capital cost to treat 13 groundwater wells.

⁷ System states it does not have the rate capacity to absorb this cost and does not qualify for State Revolving Fund loans.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
City of Dixon	Joe Leach, PE, City Engineer/Public Works Director	\$14,000,000	\$86,000 (0.6%)
Santa Ynez River Water Conservation District, Improvement District No. 1	Eric Tambini, Water Resources Manager	\$25,800,000 ⁸	\$1,700,000 (6.5%)
Rio Linda Elverta Community Water District	Robin Baral, Churchwell White LLP (General Counsel)	\$62,500,000	\$47,000 (0.08%)
City of Arcadia	John Corona	\$2,135,000	\$75,000 (3.5%)
City of Patterson	Kerry Fuller, Churchwell White, contract City Attorney	\$65,000,000 - \$70,000,000 ⁹	\$50,000 (0.07%-0.08%)
Antelope Park Mutual Water Company	Elizabeth Green	\$1,300,000 ¹⁰	\$1,000 (0.08%)
Antelope Valley Mobile Estates	Elizabeth Nicholson	\$60,000 - \$100,000 ¹¹	\$0
Aptos Ridge Mutual Water Company	Stephen Pfeiffer	\$75,000 - \$120,000	\$2,000 (1.7%- 2.7%)
Desmond Road Water System #3	Kate Sawyers	Unknown ¹²	\$0
Dolan Road Mutual Water Company	Gary Kubisch	\$150,000	\$0
First Mutual Water System	Bill Cox	Unknown ¹³	\$275.00
Harbor View Water Association	Jean Rashe	\$150,000	\$0
Paradise Lake Mutual Water Company	Josie Avala	Unknown ¹⁴	\$0
Rolling Acres Mutual Water Company	Alan Flint	Unknown ¹⁵	\$0
Myoma Dunes Mutual Water Company	Mark Meeler	\$10,000,000 - \$20,000,000	\$100,000 (0.5%-1%)

⁸ Compliance will result in a rate increase of 45% over a five year period. Compliance costs are significant considering that the Improvement District No. 1's 2016/2017 annual budget is \$9,281,960.

⁹ A feasibility study prepared by an independent consultant indicates Patterson will need to spend an additional \$135 million to \$175 million in ongoing operation and maintenance costs for the system over a 35 year lifecycle.

¹⁰ CrVI concentration 10.6 ppb in 2016.

¹¹ System anticipates an additional \$12,000-\$15,000 per year in ongoing operation and maintenance costs.

¹² Estimate not yet available.

¹³ Based on discussions with the State Water Board, the water system has concluded it cannot afford treatment.

¹⁴ Estimate not yet available.

¹⁵ System has not produced an estimate because it does not have sufficient resources to cover treatment cost.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
San Andreas Mutual Water Company	Owen Sharp	\$500,000	\$35,000 (7%)
Sundale Mutual Water Company	Vanessa Carrier	\$1,200,000	\$0
Sunny Mesa Water System	Don Rosa	\$3,000,000	\$33,000 (1.1%)
Terra Nova Mobile Home Park	Eric Graboff	\$160,000	\$5,000 (3.1%)
Clear Skies Mobile Home Park	Eric Graboff	\$112,000	\$5,000 (4.5%)
Wildewood East Mutual	Frank Starmer	\$2,598,000	\$35,000 (1.3%)
Rosamond Community Services District	Ronald Smith, General Manager/ GEI Consultants	\$1,300,000	N/A ¹⁶
City of Kerman	Ken Moore	\$20,000,000 ¹⁷	\$45,000 (0.23%)
City of Brentwood	Eric Brennan, Water Operations Manager	\$3,900,000 ¹⁸	\$0 ¹⁹
City of San Luis Obispo Water Department	Dean Furukawa, Water Treatment Plant Supervisor	\$3,600,000 ²⁰	\$0
Mitsubishi Cement Corporation	David M. Rib, Environmental Manager	\$0 ²¹	\$0
South Willows Industrial Park	Steve Soeth	\$1,000,000	\$10,000 (1%)
North Edwards Water District	Dolly Kostopoulos	\$7,816,390	\$0 ²²
Western Skies Mobile Home Park	Vicky Steel	Unknown	\$0
Landale Mutual Water Company	Frank Purcell	Unknown ²³	\$0

¹⁶ While RCSD did not provide an estimate of amount spent to date, the District has incurred costs associated with evaluation of treatment alternatives and “mandated state reporting on a Chromium VI Action Plan”, but “infrastructure costs have not been accrued to date.”

¹⁷ Additional ongoing operation and maintenance costs are estimated at \$ 1,500,000 per year. Kerman estimates that it will need to raise water rates by four- or five-fold over current rates just to comply with the 10 ppb Cr VI standard.

¹⁸ Includes annual operation and maintenance costs.

¹⁹ Brentwood has temporarily removed wells from service to comply with the 10 ppb MCL.

²⁰ SLOWD is currently evaluating further development of its groundwater basin that would require an additional estimated \$6.3 million for Cr6 treatment.

²¹ Mitsubishi shut down its primary source well to meet the Cr VI MCL. This action resulted in some increased expense to pump water from more distant wells over greater elevation gains and to conduct additional sampling and analyses of alternative well water. Respondent did not quantify these expenses.

²² System reports possible state grant of unknown amount.

²³ CrVI concentration at 11.5 ppb in 2013.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
Hidden Valley Water Agency	Glenn Church	\$100,000	\$0
Leafwood Community Water Agency	Louie Calcagno	\$100,000	\$0
Strawberry Road Water System #06	Susan McCall	\$100,000	\$0
San Joaquin River Club Inc.	Sam Hedge, Water and Wells Chairman	\$850,000	\$44,000 (5.2%)
Monterey Bay Academy	Jay Ketelson	\$2,000,000	\$30,000 (1.5%)
Renaissance High School	Steve Okamura, Energy Manager	\$500,000	\$25,000 (5%)
60 th Street Association Water System	Cathy Montano	\$250,000 ²⁴	\$0
Quartz Hill Water District	Chad Reed, General Manager	\$2,000,000 ²⁵	\$0
Indio Water Authority	Scott Rogers, Water Quality	\$5,802,600 ²⁶	\$291,000 (5%)
Soquel Creek Water District	Carla James, Water Program Coordinator	\$10,000,000	\$300,000 ²⁷ (0.03%)
Fircrest Mutual Water Company	Mark Calhoon, System Operator	\$20,000 ²⁸	\$0
Fisherman's Bend Mobile Home Park	Anna Diaz, Sam Hedge, System Operator	\$750,000	\$0
Tierra Buena Mobile Home Park #1	Kevin Timms	\$10,000	\$0
Calvary Christian Center	Kevin Timms	\$12,000	\$0
Teichert Construction	Brett Lehman	Unknown	\$0
UC Davis	Lew Pollock – Superintendent, Water and Gas	\$0 ²⁹	\$0
Kenwood Village Water Company	Karen Ball	\$200,000	\$10,000 (5%)
Waller Tract Water District	La Juana Nix	\$500,000 ³⁰	\$0

²⁴ System states it cannot afford treatment. Current CrVI concentration at 10.4 ppb.

²⁵ CrVI concentration at 13 ppb.

²⁶ 3 impacted wells. Additional annual operation and maintenance costs of \$74,100.

²⁷ Spending \$10,000/month on CrVI compliance since October, 2014.

²⁸ System has shut down one well.

²⁹ One well with CrVI concentration at 12 ppb put on standby and not used. Will rely on surface water from City of Davis.

³⁰ CrVI concentration at 15 ppb in 2015. Plan to consolidate with City of Indio due to well collapse and CrVI compliance cost.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
Buena Vista Migrant Center	Water Sampling Services	\$500,000 ³¹	\$25,000 (5%)
Avalon Dairy Farm (formerly Costa Dairy Farm)	John Cockran	Unknown ³²	\$0
Fountain Trailer Park	Barbara Gonzalez	\$0 ³³	\$0
Baker Community Services District	Jacob Overson	Unknown ³⁴	\$10,000
City of Vacaville	Bonnie Robison	\$14,367,000	\$392,000 (2.7%)
Pine Grove Trailer Park	Larry Tardie, Macy Burnham	\$120,000 ³⁵	\$0
Lancaster Water Company	Art Kearin	\$1,500,000 ³⁶	\$800 (0.05%)
Elkhorn Road Water System #04	Bill Fenwick, Roger Anton	\$90,000 ³⁷	\$800 (0.9%)
Oasis Gardens Water Company	Chad Finch	\$300,000	\$0
Venture Estates Mutual Water Company	Diana Cooley	\$300,000 ³⁸	\$0
City of Woodland	Sherry Salas	\$40,000,000	Unknown ³⁹
Campbell Soup Supply Company, LLC	Thomas Maulhardt, Environmental Supervisor	\$100,000-\$300,000 ⁴⁰	\$17,500 – \$22,500 ⁴¹ (5.8%-22.5%)
Ingomar Packing Company	Josh Handley, Water Resource Supervisor	\$130,000 ⁴²	\$0
JG Boswell Tomato Company	Jose Lemus	\$173,116 ⁴³	\$0

³¹ System anticipates state funding to cover capital costs.

³² System reports it may have to destroy homes.

³³ Consolidated with North Edwards Water District. CrVI concentration at 13.25 ppb.

³⁴ BCSD describes itself as “a very small water district” that expects to incur costs in the millions of dollars and does not have a rate base sufficient to support such costs.

³⁵ CrVI concentration at 11-15 ppb.

³⁶ LWC states it would have to purchase property to accommodate treatment system and cannot afford treatment cost.

³⁷ CrVI concentration at 11-12 ppb. Cost estimate based on drilling a new well.

³⁸ CrVI concentration ranges from 3.5–12 ppb.

³⁹ Shifted to surface water with Davis and other local cities, but still need some groundwater to meet current demand.

⁴⁰ The broad range of costs reflects options ranging from shutting down the currently used groundwater well to installing a treatment system. Respondent is concerned that CrVI concentrations in the alternate well may increase over time, necessitating treatment.

⁴¹ This expenditure includes engineering feasibility studies and hiring a consultant to prepare a compliance plan pursuant to SB 385.

⁴² Estimate is for installation of a new well.

⁴³ Company estimates additional ongoing operation and maintenance costs of \$10,750 per year.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
Martin's Mobile Home Park	Doris Martin, Owner	Unknown	\$0
Mesquite Mutual Water Company	Mike Mills, Operator	Unknown ⁴⁴	\$0
Pilot Travel Center #168	Lu Damerell/Eric Morton	\$85,000	\$50,000 (58.8%)
City of Newman Water Dept.	Koosun Kim, Public Works Director	\$1,800,000 ⁴⁵	Unknown
Los Osos Community Services District	Margaret Falkner, Utility Compliance Technician	\$500,000	\$0
Newberry Elementary School	Katy Hilton	\$1,600 ⁴⁶	\$1,200 ⁴⁷
Sunnyslope Water District	Don Ridenhour, General Manager	\$20,000 ⁴⁸	\$0
Galindo Housing Facility	Dolores Gallindo	Unknown ⁴⁹	\$0
Amezcu-Garcia Water	Oscar Amezcu	Unknown ⁵⁰	\$0
Jewel Date Co. Inc	Steve Denis	Unknown ⁵¹	\$0
Thermal Mutual Water Company	Carmen Fernandez/Mike Mills	Unknown ⁵²	\$0
Carver Tract Mutual Water Company	Dee Rodriguez	Unknown ⁵³	\$0
Monterey Mushrooms Water System ⁵⁴	John Peacock	\$120,000	\$10,000 (8.3%)
Mushroom Farms Water System ⁵⁵	John Peacock	\$120,000	\$10,000 (8.3%)
Elkhorn School Water System	Don Rosa	\$3,000,000 ⁵⁶	\$32,000 (1%)
Averydale MWC	Deborah Wolfe	Unknown ⁵⁷	\$0

⁴⁴ System plans to merge with Coachella because it cannot afford treatment for 40 connections.

⁴⁵ Amount represents combination of treatment for nitrates and CrVI.

⁴⁶ System notes 2 connections have CrVI concentrations of 15ppb. System is "currently purchasing bottled water."

⁴⁷ Percentage expenditure is not relevant because system is not currently treating source water.

⁴⁸ System notes having to shut down 2 wells and blend to stay under 10 ppb.

⁴⁹ System seeking consolidation with Coachella Valley Water District at unknown cost. CrVI concentration at 19 ppb.

⁵⁰ System plans to consolidate with City of Coachella at unknown cost.

⁵¹ System is presently testing a new well to see if CrVI concentration will be below MCL. Consolidation is not an option.

⁵² CrVI concentration at 15ppb. System expects state to cover costs for connection to Coachella because it qualifies as disadvantaged system.

⁵³ System plans to consolidate with City of Indio at an unknown cost. CrVI concentration at 12ppb.

⁵⁴ System #2701940, located in Morgan Hill, CA. CrVI concentration at 15.7 ppb.

⁵⁵ System #2701876, located in Royal Oaks, CA. CrVI concentration at 14 ppb.

⁵⁶ CrVI concentration at 17 ppb. System notes it will attempt to blend with nearby system.

⁵⁷ System has not received a request for a compliance plan from the State.

Agency / Water System	Contact	Estimated Total Spend	Amount Spent to Date (and % of total spend)
Mesquite Mines Inc.	Betty Zataray	Unknown ⁵⁸	Unknown
Mobile Estates FN	Chuck Seymour	Unknown ⁵⁹	Unknown
West Park Properties	Rita West	Unknown ⁶⁰	Unknown
Phelan Piñon Hills Community Services District	George Cardenas, Engineering Manager	\$19,000,000 ⁶¹	\$160,000 (0.84%)

⁵⁸ CrVI concentration is 12.1ppb. System has not developed a compliance plan.

⁵⁹ System reports waiting on permits to connect to Eureka County.

⁶⁰ System notes uncertainty on course of action. It was advised to consolidate due to inability to afford treatment and notes that consolidation is also expensive.

⁶¹ Includes 12 miles of pipeline, a blending tank and booster stations.

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 621 Capitol Mall, 18th Floor, Sacramento, California 95814-4686. On **March 10, 2017**, I served the within document(s):

**PETITIONERS' SUPPLEMENTAL MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF MANDATE PURSUANT
TO THE COURT'S NOVEMBER 15, 2015 ORDER**

- ☐ **BY E-MAIL:** by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- ☒ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

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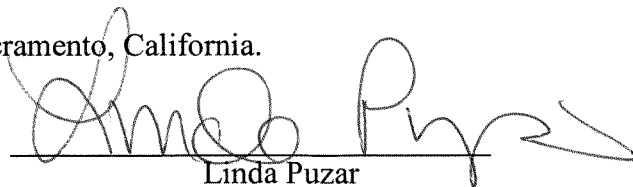
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Taxpayers Association*

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **March 10, 2017**, at Sacramento, California.


Linda Puzar