

1 SCOTT S. SLATER (State Bar No. 117317)
ROBERT J. SAPERSTEIN (State Bar No. 166051)
2 STEPHANIE C. OSLER (State Bar No. 186716) HATCH AND PARENT
3 21 East Carrillo Street
Santa Barbara, CA 93101-2782
4 Telephone: (805) 963-7000
Facsimile: (805) 965-4333

FILED

STEPHEN V. LOVE
COUNTY CLERK
SANTA CLARA COUNTY
BY: *[Signature]* DEPUTY

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5 Attorneys for Defendant and Cross-Complainant
6 SOUTHERN CALIFORNIA WATER COMPANY

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SANTA CLARA

10
11 SANTA MARIA VALLEY WATER CONSERVA-) CASE NO. CV 770214
TION DISTRICT, a public entity,)
12 Plaintiff,) CROSS-COMPLAINT OF SOUTHERN
13 v.) CALIFORNIA WATER COMPANY
14 CITY OF SANTA MARIA, a municipal) FOR DECLARATORY AND
corporation; SOUTHERN CALIFORNIA) INJUNCTIVE RELIEF AND
15 WATER COMPANY, a California corpor-) ADJUDICATION OF WATER
16 ation; and CITY OF GUADALUPE, a) RIGHTS
municipal corporation; DOES 1)
17 through 3,000 inclusive,)
18 Defendants.)
19
20 CITY OF SANTA MARIA, a municipal)
corporation,)
21 Cross-Complainant,)
22 v.)
23 SANTA MARIA VALLEY WATER)
CONSERVATION DISTRICT, a public)
24 entity; and ROES 1 through 10,000,)
inclusive,)
25 Cross-Defendants.)
26

[Complaint Filed 7/14/97]

27
28 caption continued...

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SCWC Cross-Complaint

140073.1:6774.59

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1 SOUTHERN CALIFORNIA WATER COMPANY,)
)
 2 Cross-Complainant,)
)
 3 v.)
)
 4 SANTA MARIA VALLEY WATER CONSER-)
 VATION DISTRICT; CITY OF GUADALUPE;)
 5 CITY OF SANTA MARIA; BANKERS TRUST)
 COMPANY OF CALIFORNIA, as Trustee)
 6 for the Eugene Rene LeRoy Trust;)
 BOREL BANK & TRUST COMPANY, as)
 7 Trustee of the Jean LeRoy Trust;)
 RICHARD E. ADAM, an individual;)
 8 NORMAN TEIXEIRA, an individual;)
 EVELYN M. TEIXEIRA, an individual;)
 9 DEAN TEIXEIRA, an individual; GLEN)
 TEIXEIRA, an individual; J.C.)
 10 TEIXEIRA, an individual; ELSIE)
 TEIXEIRA, an individual; ARTHUR R.)
 11 TOGNAZZINI FAMILY FARMS, a Cali-)
 fornia business entity; U.S. TRUST)
 12 COMPANY OF CALIFORNIA, N.A., as)
 Trustee of the Vecchiolo Family)
 13 Trust; BETTERAVIA PROPERTIES, a)
 California business entity; DANIEL)
 14 PHELAN, an individual; RUTH MARIE)
 PHELAN, an individual; SILVA IV, a)
 15 general partnership; SILVA V, a)
 general partnership; SILVA VI, a)
 16 general partnership; MANUAL SILVA,)
 JR., an individual; EDWARD W.)
 17 SILVA, an individual; HELEN E.)
 SILVA, an individual; APIO LAND)
 18 COMPANY, a California business)
 entity; KATHRYN W. DONOVAN, an)
 19 individual; NICHOLAS J. TOMPKINS,)
 an individual; KATHLEEN J.)
 20 TOMPKINS, an individual; RUTHANNE)
 S. TOMPKINS, an individual; OSR)
 21 ENTERPRISES, INC., a California)
 corporation; CLIFFORD SOUZA, an)
 22 individual; LUCILLE SOUZA, an)
 individual; JAMES SHARER, an)
 23 individual; MARETTI & MINETTI)
 RANCH COMPANY, a California)
 24 business entity; TH LIMITED PART-)
 NERSHIP, a limited partnership;)
 25 ROBERT MONDAVI PROPERTIES, INC.,)
 a corporation; and DOES 3,001)
 26 through 5,000)
)
 27 Cross-Defendants.)
)
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1 Cross-Complainant and defendant Southern California Water Com-
2 pany ("SCWC") alleges as follows:

3 I. JURISDICTION AND VENUE

4 1. The Court has jurisdiction over this action pursuant to
5 Code of Civil Procedure sections 526 and 1060.

6 2. Venue is proper in this Court upon special assignment
7 from the Judicial Counsel, after the underlying Complaint in this
8 action was originally filed in the County of San Luis Obispo
9 because the water and real property which are the subject of this
10 action are located in the County of San Luis Obispo.

11 II. PARTIES

12 3. Defendant and Cross-Complainant SCWC is, and at all times
13 mentioned herein was, an investor-owned public utility subject to
14 the jurisdiction of the California Public Utilities Commission.
15 SCWC provides retail water service to customers in portions of
16 Santa Barbara and San Luis Obispo Counties. Most if not all of
17 SCWC's certificated service area overlies the Santa Maria Groundw-
18 ater Basin ("Basin").

19 4. Plaintiff and Cross-Defendant Santa Maria Valley Water
20 Conservation District ("District") is, and at all times mentioned
21 herein was, a water conservation district organized under the Water
22 Code section 74000 et seq.

23 5. Defendant and Cross-Defendant City of Guadalupe is, and
24 at all times mentioned herein was, a municipal corporation of the
25 State of California, located entirely within the County of Santa
26 Barbara. The City of Guadalupe provides retail municipal water
27 service to customers within its boundaries.

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1 6. Defendant and Cross-Defendant City of Santa Maria is, and
2 at all times mentioned herein was, a municipal corporation of the
3 State of California, located entirely within the County of Santa
4 Barbara. The City of Santa Maria provides retail municipal water
5 service to customers within its boundaries.

6 7. Cross-Defendant Bankers Trust Company of California, as
7 Trustee for the Eugene Rene LeRoy Trust, has, and at all times
8 mentioned herein had, a real property interest in the Basin ground-
9 water.

10 8. Cross-Defendant Borel Bank & Trust Company, as Trustee of
11 the Jean LeRoy Trust, has, and at all times mentioned herein had,
12 a real property interest in the Basin groundwater.

13 9. Cross-Defendants Richard E. Adam, Norman Teixeira, Evelyn
14 M. Teixeira, Dean Teixeira, Glen Teixeira, J.C. Teixeira, Elsie
15 Teixeira, Daniel Phelan, Ruth Marie Phelan, Edward W. Silva, Helen
16 E. Silva, Manual Silva, Jr., Kathryn W. Donovan, Nicholas J.
17 Tompkins, Kathleen J. Tompkins, Ruthanne S. Tompkins, Clifford
18 Souza, Lucille Souza, and James Sharer are, and at all times
19 mentioned herein were, individuals who each have a real property
20 interest in the Basin groundwater.

21 10. Cross-Defendant Arthur R. Tognazzini Family Farms is, and
22 at all times mentioned herein was, a business entity of unknown
23 character, that has a real property interest in the Basin ground-
24 water.

25 11. Cross-Defendant U.S. Trust Company of California, N.A.,
26 as Trustee of the Vecchiolo Family Trust, has, and at all times
27 mentioned herein had, a real property interest in the Basin
28 groundwater.

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1 12. Cross-Defendant Betteravia Properties is, and all times
2 mentioned herein was, a business entity of unknown character, that
3 has a real property interest in the Basin groundwater.

4 13. Cross-Defendants Silva IV, Silva V, and Silva VI are, and
5 at all times mentioned herein were, general partnerships, each with
6 a real property interest in the Basin groundwater.

7 14. Cross-Defendant OSR Enterprises, Inc. is, and at all
8 times mentioned herein was, a corporation, with a real property
9 interest in the Basin groundwater.

10 15. Cross-Defendant Maretta & Minetti Ranch Co. is, and at
11 all times mentioned herein was, a business entity of unknown char-
12 acter, that has a real property interest in the Basin groundwater.

13 16. Cross-Defendant TH Limited Partnership is, and at all
14 times mentioned herein was, a limited partnership, with a real
15 property interest in the Basin groundwater.

16 17. Cross-Defendant Robert Mondavi Properties, Inc. is a
17 corporation that has a real property interest in the Basin ground-
18 water.

19 18. Cross-Defendant Apio Land Company is a business entity of
20 unknown character with a real property interest in the Basin
21 groundwater.

22 19. Each of Cross-Defendants identified as Does 3,001 through
23 5,000, inclusive, claim some right, title or interest to the Basin
24 and/or its water and such claim is, or may be, adverse to SCWC's
25 claim or rights. SCWC is unaware of the true names and identities
26 of Does 3,001 through 5,000 and therefore sues the Doe defendants
27 by such fictitious names, and will amend this pleading to reflect
28 their true identities and capacities once ascertained.

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1 mately 10,000 acre feet per year of water to serve these customers.
2 Further, SCWC anticipates an increase in water use as the property
3 within and adjacent to its service territory is developed.

4 24. SCWC is informed and believes and on that basis alleges
5 that groundwater pumping in the Basin has exceeded natural recharge
6 for decades and therefore the Basin was and continues to be in
7 overdraft. SCWC is informed and believes and on that basis alleges
8 that the total groundwater pumping exceeds natural replenishment by
9 about 20,000 to 30,000 acre feet per year. Many studies conducted
10 and made public over the years by various public agencies and
11 private consultants have confirmed that the Basin is in overdraft.
12 (See, e.g., Santa Barbara County Water Agency, Santa Maria Valley
13 Water Resources Report (1994); City of Santa Maria Long-Term Water
14 Management Plan (1991); City of Santa Maria Preliminary State
15 Project Water Implementation Study (1991); Joint Water Committee
16 White Paper: A Summary of the Santa Maria Valley Water Problems and
17 Alternatives (1988); Department of Water Resources, Santa Barbara
18 County State Water Project Alternatives (1985).) Although pumped
19 groundwater is replenished to a limited degree through the
20 operation of the Twitchell Project, groundwater levels have been in
21 a declining trend on a continuous basis since the early part of
22 this century. SCWC is informed and believes and on that basis
23 alleges that the Basin has been in overdraft for at least five
24 years prior to the filing of this action.

25 25. The condition of overdraft, if not restrained by order of
26 this Court, may have numerous adverse effects, including, but not
27 limited to, seawater intrusion into the Basin, increased pump lifts
28 causing higher cost of pumping, well interference, land subsidence,

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1 shortages of water to all Basin pumpers, and decreased water
2 quality.

3 26. Based on its historical use as a public water supplier
4 and the long-term existence of overdraft, SCWC has established
5 appropriate and prescriptive rights to the Basin.

6 27. Each Cross-Defendant has and continues to rely on the
7 groundwater within the Basin such that the combined extractions
8 continue to cause overdraft and deficiency in the available water
9 supplies from the Basin. SCWC is informed and believes and on that
10 basis alleges that each Cross-Defendant claims a right to extract
11 Basin groundwater and threatens to increase its extractions without
12 regard to the rights of SCWC. Continued uncontrolled extractions
13 have resulted in and will continue to result in a diminution and
14 impairment of the Basin groundwater and will deprive SCWC of water
15 to which it is entitled.

16 28. In 1991, SCWC secured a contractual entitlement to pur-
17 chase up to 500 acre feet per year of water from the State Water
18 Project ("SWP"). In addition to using SWP water for direct deli-
19 very to its customers, SCWC is considering plans to store such
20 water in the Basin by means of injection wells, spreading ponds,
21 in-lieu storage, and capture of return flows. The purchase and
22 storage of SWP water will supplement SCWC's pumping from the Basin,
23 will provide better quality water than native groundwater, will
24 decrease the adverse conditions in the Basin related to the over-
25 draft, such as well interference, increased pump lifts, and land
26 subsidence, and will provide supplemental, better quality water to
27 SCWC in times of drought and shortage.

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FIRST CAUSE OF ACTION

DECLARATORY RELIEF

(For Prescriptive Rights Against All Cross-Defendants)

29. Cross-complainant SCWC realleges and incorporates as though fully set forth herein paragraphs 1 through 28 of the Cross-Complaint.

30. Continuously and for more than five years preceding the date of this action, SCWC has pumped water from the Basin for reasonable and beneficial purposes, and has done so in an actual, open, notorious, exclusive, uninterrupted, hostile, adverse manner, and has done so under a claim of right. Because of such pumping, SCWC contends that it has acquired prescriptive rights within the Basin. SCWC contends that its prescriptive rights to the Basin are superior to the rights of any of the Cross-Defendants.

31. An actual controversy has arisen and now exists between SCWC and Cross-Defendants in that SCWC is informed and believes and upon that basis alleges that Cross-Defendants dispute SCWC's contention as set out in the preceding paragraphs.

32. SCWC desires a judicial determination as to the amount of Basin water to which SCWC and each of the Cross-Defendants is entitled to extract from the Basin, and the priority and character of each entity's respective right, including SCWC's prescriptive rights.

SECOND CAUSE OF ACTION

DECLARATORY RELIEF

(For Storage of Imported Water Against All Cross-Defendants)

33. SCWC realleges and incorporates as though fully set forth herein paragraphs 1 through 32 of the Cross-Complaint.

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1 Basin.

2 39. SCWC contends that the rights of Cross-Defendants to pump
3 water from the Basin, if any, are limited to the native supply of
4 the Basin. SCWC is informed and believes and on that basis alleges
5 that Cross-Defendants claim the right to take water from the Basin
6 in excess of the safe yield of the Basin. SCWC contends that such
7 extractions will diminish the water supply and water quality in the
8 Basin. Unless restrained by order of the Court, Cross-Defendants
9 will continue to take water from the Basin in excess of the safe
10 yield, which will result in irreparable harm to SCWC.

11 40. Because Cross-Defendants' extractions of water from the
12 Basin exceed safe yield as alleged above, the amount, quality and
13 reliability of water available to SCWC has been reduced. Unless
14 the conduct of Cross-Defendants is restrained and enjoined by this
15 Court, the supply, reliability and quality of water in the Basin
16 will continue to diminish. Further depletion of the water in the
17 Basin will cause increased pump lifts, well interference, land sub-
18 sidence and water quality degradation which will permanently damage
19 and ultimately destroy the water yield and storage capacity within
20 the Basin.

21 41. To prevent irreparable injury to the Basin, it is neces-
22 sary and appropriate for this Court to determine, impose and retain
23 continuing jurisdiction over a physical solution upon the Cross-
24 Defendants who pump water from the Basin. Such physical solution
25 may include, but not be limited to, a determination of the oper-
26 ating safe yield of the Basin, a determination of the rights of
27 each party to available storage space, an operating plan for the
28 management of the Basin, a declaration of the rights of the parties

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1 named in this Cross-Complaint to use Basin groundwater, and the
2 appointment of a watermaster.

3 FOURTH CAUSE OF ACTION

4 DECLARATORY RELIEF

5 (Waste/Unreasonable Method of Use - Against the District)

6 42. Cross-Complainant SCWC realleges and incorporates as
7 though fully set forth herein paragraphs 1 through 41 of the Cross-
8 Complaint.

9 43. The Twitchell Project is a joint water conservation and
10 flood control project in the Santa Maria Valley. The Twitchell
11 Project consists of the Twitchell Dam and Reservoir. The Twitchell
12 Project captures water from the Cuyama River and its tributaries.

13 44. The United States Bureau of Reclamation holds a license
14 from the State Water Resources Control Board to store in and divert
15 water from the Twitchell Reservoir for irrigation, domestic,
16 salinity control, municipal, industrial, and recreational uses.
17 Pursuant to the same license, the District holds the right to use
18 water that becomes available through the operation of the Twitchell
19 Project, subject to the prior rights of the Bureau of Reclamation.

20 45. The District is responsible for operating the Twitchell
21 Project. SCWC is informed and believes and on that basis alleges
22 that the District releases water from the Twitchell Reservoir to
23 re-charge groundwater levels in the Basin.

24 46. California Constitution article X, section 2, and Cali-
25 fornia Water Code section 100, provide that all water rights in
26 California are subject to "reasonable and beneficial use."

27 47. SCWC is informed and believes and upon that basis alleges
28 that the District operates the Twitchell Project in an inefficient

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1 manner, in that the District fails to maximize the recharge to and
2 yield of the Basin. Such inefficient operation of the Twitchell
3 Project by the District results in the waste of water in amounts
4 presently unknown to SCWC and the inefficient use of the available
5 groundwater storage capacity in the Basin.

6 48. An actual controversy has arisen between SCWC and the
7 District in that SCWC is informed and believes that the District
8 disputes the contentions described above.

9 49. SCWC desires a judicial determination as to whether the
10 District's management of the Twitchell Project is in compliance
11 with article X, section 2 of the California Constitution.

12 FIFTH CAUSE OF ACTION

13 DECLARATORY RELIEF

14 (Waste/unreasonable Method of Use -
15 Against All Cross-defendants)

16 50. Cross-Complainant SCWC realleges and incorporates as
17 though fully set forth herein paragraphs 1 through 49 of the Cross-
18 Complaint.

19 51. Article X, section 2 of the California Constitution
20 requires that all water in California be put to a reasonable and
21 beneficial use, and prohibits the waste and misuse of those water
22 resources.

23 52. SCWC is informed and believes and on that basis alleges
24 that some or all of the Cross-Defendants herein who use Basin water
25 for irrigation of agricultural crops fail to employ reasonable and
26 beneficial water use irrigation practices such as accurately
27 quantifying their water use through meters, use of sprinkler or
28 drip irrigation systems, and facilities useful in recapturing and

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1 recirculating tailwater run-off. Failure to use such standard
2 irrigation practices results in the excessive and wasteful use of
3 Basin groundwater and violates article X, section 2 of the Cali-
4 fornia Constitution.

5 53. An actual controversy has arisen between SCWC and Cross-
6 Defendants in that SCWC is informed and believes that Cross-Defen-
7 dants dispute the above-described allegations.

8 54. SCWC seeks a judicial declaration that Cross-Defendants
9 have no rights to unreasonable use or methods of use that result in
10 the waste of Basin groundwater, and that Cross-Defendants' rights,
11 if any, should be determined on the basis of the quantity of water
12 necessary for their respective reasonable and beneficial uses.

13 SIXTH CAUSE OF ACTION

14 DECLARATORY RELIEF

15 (Right to Twitchell Reservoir Yield

16 Against All Cross-Defendants)

17 55. Cross-Complainant SCWC realleges and incorporates as
18 though fully set forth herein paragraphs 1 through 54 of the Cross-
19 Complaint.

20 56. SCWC is informed and believes and on that basis alleges
21 that the Twitchell Project is funded through property tax assess-
22 ments paid by the property owners located within the District
23 boundaries. All such property owners within the District boun-
24 daries, including those who receive water service from SCWC, are
25 the intended beneficiaries of the enhanced groundwater yield
26 created by operation of the Twitchell Project.

27 57. SCWC further contends that the yield of the Twitchell
28 Project is "developed" water, subject to first-in-time, first-in-

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1 right appropriation by any user; and property owners overlying the
2 Basin have no prior right to the the yield of the Twitchell
3 Project.

4 58. An actual controversy has arisen between SCWC and Cross-
5 Defendants in that SCWC is informed and believes that Cross-
6 Defendants contend that SCWC or the properties it serves have no
7 right to the Twitchell Project yield and dispute the contention
8 described above.

9 59. SCWC desires a judicial declaration that all property
10 owners within the District boundaries, including those served water
11 by SCWC, have a right to receive the benefits created by operation
12 of the Twitchell Project.

13 SEVENTH CAUSE OF ACTION

14 INJUNCTIVE RELIEF

15 (Against All Cross-Defendants)

16 60. Cross-Complainant SCWC realleges and incorporates as
17 though fully set forth herein paragraphs 1 through 58 of the Cross-
18 Complaint.

19 61. Within the five years preceding the filing of this Cross-
20 Complaint, each of the Cross-Defendants have wrongfully and unlaw-
21 fully interfered with or threatened to interfere with SCWC's right
22 and entitlement to extract waters from the Basin.

23 62. The wrongful conduct and threatened conduct of Cross-
24 Defendants, unless enjoined and restrained by order of this court,
25 will cause great and irreparable injury and harm to SCWC in that
26 SCWC will suffer a loss of water and/or water rights necessary for
27 providing service to its municipal customers in the Santa Maria
28 Valley, as well as the increased rate of groundwater overdraft,

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1 increased demands for water, reduced use of existing groundwater
2 storage facilities, and actual reduction of SCWC's water rights.

3 63. SCWC has no adequate remedy at law for the injuries that
4 are threatened and would be sustained as a proximate result of the
5 actions of Cross-Defendants as alleged herein, as it is impossible
6 to estimate the loss or injury that would result from Cross-
7 Defendants' wrongful conduct.

8 WHEREFORE, SCWC prays for relief as follows:

9 1. For a declaration that SCWC holds a vested prescriptive
10 right to extract and use groundwater from the Basin, which right is
11 senior to the rights of Cross-Defendants;

12 2. For a declaration of SCWC's and each of the Cross-
13 Defendants' rights to use groundwater from the Basin, including the
14 amount of water each is entitled to, and the priority and character
15 of each right;

16 3. For a declaration of SCWC's priority right to store
17 imported water in the Basin, through direct injection, percolation,
18 in-lieu storage, or capture of return flows, and to recapture for
19 subsequent use imported water in its distribution system;

20 4. For an order imposing a physical solution for management
21 of Basin water, including: (i) a determination of the operating
22 safe yield of the Basin, (ii) a determination of the rights of each
23 party to use Basin groundwater and storage space in the Basin,
24 (iii) an operating plan for the management of the Basin, (iv) an
25 appointment of a watermaster, and (v) retention of ongoing juris-
26 diction over this matter;

27 5. For an order imposing an operating regime on the Dis-
28 trict's operation of the Twitchell Project which maximizes the

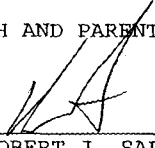
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- efficiency of the Twitchell Project yield and the Basin;
- 6. For a declaration of SCWC's right, on behalf of the landowners it serves, to rely on a portion of the yield of the Twitchell Project;
- 7. For preliminary and permanent injunctions which prohibit Cross-Defendants from using Basin groundwater in any manner which violates Article X, section 2 of the California Constitution, and which impose upon Cross-Defendants the implementation of best management practices for irrigation within a definite period of time;
- 8. For an order appointing a watermaster to administer the judgment;
- 9. For this Court to maintain continuing jurisdiction over this controversy and the enforcement of the resulting judgment;
- 10. For preliminary and permanent injunctions which prohibit Cross-Defendants from using Basin groundwater in any manner which interferes with the rights of SCWC to take water from or store water in the Basin to meet the reasonable and beneficial present and future needs of its customers;
- 11. For prejudgment interest as permitted by law;
- 12. For attorney and expert witness fees and costs incurred in this action; and
- 13. For such other and further relief as the Court may deem just and proper.

DATED: March 2, 1999

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By 
 ROBERT J. SAPERSTEIN
 Attorneys for Defendant and
 Cross-Complainant SOUTHERN
 CALIFORNIA WATER COMPANY

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