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12 PAJARO VALLEY WATER MANAGEMENT
AGENCY

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SANTA CRUZ**
16

17 JOSEPH P. PENDRY, JAMES SPAIN, YUET-
18 MING CHU, WILLIAM MCGRATH, and HENRY
19 SCHIMPELER,

20 Plaintiffs,

21 v.

22 THE PAJARO VALLEY WATER
MANAGEMENT AGENCY, ALL PERSON
23 INTERESTED IN THE MATTER OF THE
VALIDITY OF PAJARO VALLEY WATER
24 MANAGEMENT AGENCY ORDINANCE 2010-
02, AND DOES 1-20,

25 Defendants.
26

CASE NO.: CV 169080

**PAJARO VALLEY WATER
MANAGEMENT AGENCY'S ANSWER TO
COMPLAINT FOR (1) REVERSE
VALIDATION ACTION CCP § 863, (2)
DECLARATORY RELIEF; (3)
INJUNCTIVE RELIEF; AND (4) WRIT OF
MANDATE**

27
28 Defendant Pajaro Valley Water Management Agency ("Defendant") hereby answers

[EXEMPT FROM FILING FEES
GOV. CODE § 6103]

FILED
DEC 20 2010

ALEX CALVO, CLERK
BY DAVID CRISWELL
DEPUTY, SANTA CRUZ COUNTY

1 Plaintiff's Complaint filed in the above-entitled court as follows:

2 **FIRST CAUSE OF ACTION**

3 1. Answering Paragraph 1, Defendant admits the allegations of Paragraph 1.

4 2. Answering Paragraph 2, Defendant admits it adopted Resolution 2010-09, which document
5 speaks for itself. Defendant avers that the remaining allegations of Paragraph 2 consist of legal
6 theory, conclusion, and argument requiring no response. To the extent the remaining allegations of
7 Paragraph 2 contain factual allegations, Defendant lacks sufficient information or belief with which
8 to admit or deny the remaining allegations contained in Paragraph 2, and based thereon denies such
9 remaining allegations.

10 3. Answering Paragraph 3, Defendant lacks sufficient information or belief with which to admit
11 or deny the allegations contained in Paragraph 3, and based thereon denies such allegations.

12 4. Answering Paragraph 4, Defendant avers that the allegations of Paragraph 4 consist of legal
13 theory, conclusion, and argument requiring no response. To the extent the allegations of Paragraph 4
14 contain factual allegations, Defendant denies each and every allegation.

15 5. Answering Paragraph 5, Defendant avers that the allegations of Paragraph 5 consist of legal
16 theory, conclusion, and argument requiring no response. To the extent the allegations of Paragraph 5
17 contain factual allegations, Defendant denies each and every allegation.

18 6. Answering Paragraph 6, Defendant avers that the allegations of Paragraph 6 consist of legal
19 theory, conclusion, and argument requiring no response. To the extent the allegations of Paragraph 6
20 contain factual allegations, Defendant denies each and every allegation.

21 7. Answering Paragraph 7 in its entirety, including the subparagraphs, Defendant avers that the
22 allegations of Paragraphs 7 consists of legal theory, conclusion, and argument requiring no response.
23 To the extent the allegations of Paragraph 7, including each subparagraph, contains factual
24 allegations, Defendant denies each and every allegation.

25 8. Answering Paragraph 8, Defendant avers that the allegations of Paragraph 8 consist of legal
26 theory, conclusion, and argument requiring no response. To the extent the allegations of Paragraph 8
27 contain factual allegations, Defendant denies each and every allegation.

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1 9. Answering Paragraphs 9, Defendant denies each and every allegation.

2 **SECOND CAUSE OF ACTION**

3 10. Answering Paragraph 10, Defendant realleges its responses to paragraph 1-9 above as though
4 set forth fully here.

5 11. Answering Paragraph 11, Defendant avers that the allegations of Paragraph 11 consist of
6 legal theory, conclusion, and argument requiring no response. To the extent the allegations of
7 Paragraph 11 contain factual allegations, Defendant denies each and every allegation, except that
8 Defendant admits that it contends that the referenced Ordinance and the augmentation charge
9 imposed thereunder are valid.

10 12. Answering Paragraph 12, Defendant avers that the allegations of Paragraph 12 consist of
11 legal theory, conclusion, and argument requiring no response. To the extent the allegations of
12 Paragraph 12 contain factual allegations, Defendant denies each and every allegation.

13 **THIRD CAUSE OF ACTION**

14 13. Answering Paragraph 13, Defendant realleges its responses to paragraph 1-12 above as
15 though set forth fully here.

16 14. Answering Paragraph 14, Defendant avers that the allegations of Paragraph 14 consist of
17 legal theory, conclusion, and argument requiring no response. To the extent the allegations of
18 Paragraph 14 contain factual allegations, Defendant denies each and every allegation except as to
19 those allegations that are specifically admitted to, except that Defendant admits that it contends the
20 \$80 augmentation charge and the \$18/\$20 management fee are valid.

21 15. Answering Paragraph 15, Defendant avers that the allegations of Paragraph 15 consist of
22 legal theory, conclusion, and argument requiring no response. To the extent the allegations of
23 Paragraph 15 contain factual allegations, Defendant denies each and every allegation.

24 **FOURTH CAUSE OF ACTION**

25 16. Answering Paragraph 16, Defendant realleges its responses to paragraph 1-15 above as
26 though set forth fully here.

27 17. Answering Paragraph 17, Defendant denies each and every allegation.

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FIFTH CAUSE OF ACTION

18. Answering Paragraph 18, Defendant realleges its responses to paragraph 1-17 above as though set forth fully here.

19. Answering Paragraph 19, denies each and every allegation.

SIXTH CAUSE OF ACTION

20. Answering Paragraph 20, Defendant realleges its responses to paragraph 1-19 above as though set forth fully here.

21. Answering Paragraph 21, Defendant denies each and every allegation.

22. Answering Paragraph 22, Defendant denies each and every allegation.

23. Answering Paragraph 23, Defendant avers that the allegations of Paragraph 23 consist of legal theory, conclusion, and argument requiring no response. To the extent the remaining allegations of Paragraph 23 contain factual allegations, Defendant lacks sufficient information or belief with which to admit or deny the remaining allegations contained in Paragraph 23, and based thereon denies such remaining allegations.

24. Answering Paragraph 24, Defendant denies each and every allegation.

SEVENTH CAUSE OF ACTION

25. Answering Paragraph 25, Defendant realleges its responses to paragraph 1-24 above as though set forth fully here.

26. Answering Paragraph 26, Defendant denies each and every allegation.

27. Answering Paragraph 27, Defendant denies each and every allegation.

28. Answering Paragraph 28, Defendant avers that the allegations of Paragraph 28 consist of legal theory, conclusion, and argument requiring no response. To the extent the remaining allegations of Paragraph 28 contain factual allegations, Defendant lacks sufficient information or belief with which to admit or deny the remaining allegations contained in Paragraph 28, and based thereon denies such remaining allegations.

29. Answering Paragraph 29, Defendant denies each and every allegation

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FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. The Complaint fails to state a claim or cause of action.

SECOND AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

2. The Complaint is barred because Plaintiffs failed to seek, pursue or exhaust their administrative remedies.

THIRD AFFIRMATIVE DEFENSE

(Failure to Comply With Claim Requirements)

3. The Complaint is barred because Plaintiffs failed to comply with the statutory claiming requirements.

FOURTH AFFIRMATIVE DEFENSE

(Waiver/Estoppel)

4. Plaintiffs are barred by the doctrines of waiver and/or estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

5. Each purported claim or cause of action of the Complaint is barred by reason of Plaintiffs' failure to comply with the applicable statute of limitations.

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SIXTH AFFIRMATIVE DEFENSE

(Laches)

6. The Complaint, and each and every purported cause of action therein, is barred, in whole or in part, by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

(Standing)

7. The Complaint, and each and every purported cause of action therein, is barred, in whole or in part, because Plaintiffs lack standing.

EIGHTH AFFIRMATIVE DEFENSE

(Ripeness)

8. Plaintiffs' claims are not ripe for adjudication.

NINTH AFFIRMATIVE DEFENSE

(Unclean Hands)

9. Plaintiffs' claims are barred by the doctrine of unclean hands.

10. Defendant has insufficient knowledge and information at present on which to form a belief as to whether it may have additional, as yet unstated, defenses available to them. Defendant reserves herein the right to assert additional defenses in the event future discovery or information indicates that they would be appropriate.

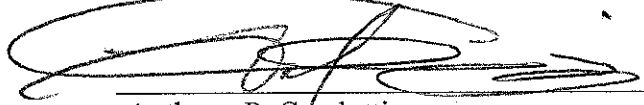
WHEREFORE, Defendant Pajaro Valley Water Management Agency prays for judgment as follows:

1. That Plaintiffs take nothing by this Complaint and that the same be dismissed;

- 1 2. That Defendant has judgment entered in its favor on the entire Complaint;
- 2 3. That Defendant be awarded costs of suit; and
- 3 4. For such other and further relief as the Court deems just and proper.

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7 DATED: December 20, 2010

**ATCHISON, BARISONE, CONDOTTI &
KOVACEVICH**



Anthony P. Condotti
Attorneys for Defendant
Pajaro Valley Water Management Agency

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PROOF OF SERVICE

**JOSEPH P. PENDRY, JAMES SPAIN, YET-MING CHU, WILLIAM J. MCGRATH, AND
HENRY SCHIMPELER v. PAJARO VALLEY WATER MANAGEMENT AGENCY, ALL
PERSONS INTERESTED IN THE MATTER OF THE VALIDITY OF PAJARO VALLEY
WATER MANAGEMENT AGENCY ORDINANCE 2010-02, AND DOES 1-20
Santa Cruz County Superior Court Case No. CV 169080**

I, Jennifer Pasquini, declare:

I am employed in the County of Santa Cruz, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 Church Street, Santa Cruz, CA 95060. On December 20, 2010, I served the document(s) described as **PAJARO VALLEY WATER MANAGEMENT AGENCY'S ANSWER TO COMPLAINT FOR (1) REVERSE VALIDATION ACTION CCP § 863, (2) DECLARATORY RELIF; (3) INJUNCTIVE RELIEF; AND (4) WRIT OF MANDATE** on the interested parties in this action as follows:

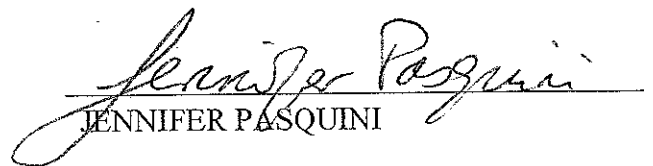
By placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: The envelope was mailed with postage thereon fully prepaid. 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 at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

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

Executed on December 20, 2010, at Santa Cruz, California.


JENNIFER PASQUINI

Colantuono & Levin, PC
300 S. Grand Ave., Suite 2700
Los Angeles, CA 90071

SERVICE LIST

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