

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Robert K. Johnson 61636 Johnson & James LLP 311 Bonita Drive Aptos, CA 95003 TELEPHONE NO. 831-688-8989 FAX NO. (Optional): 831-688-6232 E-MAIL ADDRESS (Optional): jjamesllp@aol.com ATTORNEY FOR (Name): The San Andreas Mutual Water Company	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Cruz STREET ADDRESS: 701 Ocean Street MAILING ADDRESS: 701 Ocean Street CITY AND ZIP CODE: Santa Cruz, CA 95060 BRANCH NAME: Santa Cruz	
PLAINTIFF/PETITIONER: The San Andreas Mutual Water Company, a California corporation, Joseph P. Pendry DEFENDANT/RESPONDENT: The Pajaro Valley Water Management Agency, All Persons Interested	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT - CIVIL	CASE NUMBER: CV 169080

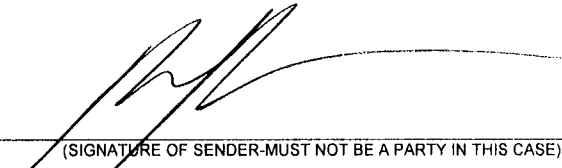
TO (insert name of party being served): Anthony Condotti, Esq., Attorney for Pajaro Valley Water Management Agency

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: October 18, 2010

_____ Robert K. Johnson, Esq. _____
(TYPE OR PRINT NAME)  _____
(SIGNATURE OF SENDER-MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

- This acknowledges receipt of *(to be completed by sender before mailing)* :
- A copy of the summons and of the complaint.
 - Other (specify) :
 Summons, Complaint, Case Management Information and Setting

(To be completed by recipient) :

Date this form is signed:

Anthony Condotti, Attorney for Pajaro Valley Water Mgmt Agcy _____
(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)  _____
(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ Santa Cruz Branch 701 Ocean Street, Room 110 Santa Cruz, CA 95060	<i>For Court Use Only</i>
Watsonville Branch 1 Second Street, Room 300 Watsonville, CA 95076 PLAINTIFF: JOSEPH P PENDRY DEFENDANT: THE PAJARO VALLEY WATER MANAGEMENT AGENCY	
CASE MANAGEMENT INFORMATION AND SETTING	CASE NO: CISCV169080

This case is in Santa Cruz County's Case Management Program. It is the Duty of each party to be familiar with the California rules of court and the date, time and place of the first case management conference.

This notice must be served with the summons on all defendants and cross-defendants. Notice of any other pending case management conference must be served on subsequently named defendants and cross-defendants.

ATTENTION DEFENDANT: YOU HAVE 30 DAYS AFTER THE SUMMONS IS SERVED ON YOU TO FILE A RESPONSE TO THE COMPLAINT. THE DATE BELOW DOES NOT EXTEND THE TIME TO FILE A RESPONSE. SEE THE SUMMONS FOR INSTRUCTIONS FOR RESPONDING TO THE SUMMONS AND COMPLAINT.

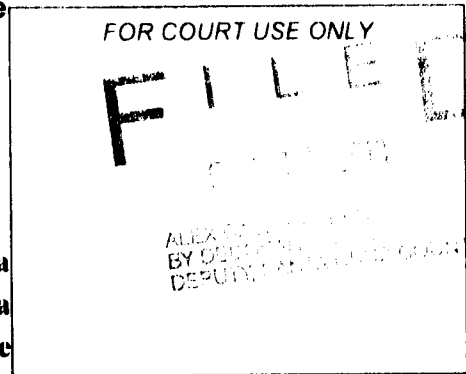
Cal.

The first Case Management Conference hearing date is:		
Date: 02/09/11	Time: 8:30	Department No.: 5
Address of the Court: <input checked="" type="checkbox"/> 701 Ocean Street, Santa Cruz, California <input type="checkbox"/> 1 Second Street, Watsonville, California		

Telephonic court appearances are provided through CourtCall to the court. To make arrangements to appear at the Case Management Conference by telephone, please call the program administrator for CourtCall at (310) 572-4670 or (888) 882-6878 at least five (5) court days prior to the hearing. DO NOT CALL THE COURT.

SUMMONS (CITACIÓN JUDICIAL) NO. CV 169080

Notice! You have been sued. The court may decide against you without your being heard unless you respond not later than November 26, 2010, which is ten (10) days or more after completion of the publication of this summons. Read information below.



Notificación! Usted ha sido demandado. El juez podría emitir un fallo en contra de usted sin que usted exponga su caso a menos que usted responda a más tardar el 26 de noviembre de 2010, el cual cae diez (10) o más días después de que termine la publicación de esta citación. Sírvase leer la información que figura a continuación.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ. SUMMONS.
Case No. CV 169080.**

TRIBUNAL SUPERIOR DE CALIFORNIA, CONDADO DE SANTA CRUZ. CITACIÓN JUDICIAL. Caso No. CV 169080.

JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU WILLIAM J. McGRATH AND HENRY SCHIMPELER, Plaintiffs, v.

JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU, WILLIAM J. McGRATH y HENRY SCHIMPELER, Demandantes, contra

THE PAJARO VALLEY WATER MANAGEMENT AGENCY AND ALL PERSONS INTERESTED IN THE MATTER OF THE VALIDITY OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY ORDINANCE NO. 2010-02, DOES 1 TO 20, Defendants.

EL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY Y TODAS LAS PERSONAS INTERESADAS EN EL ASUNTO DE LA VALIDEZ DE LA ORDENANZA NO. 2010-02 Y LOS DOES DEL 1 AL 20 DEL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY, Demandados.

NOTICE TO THE PAJARO VALLEY WATER MANAGEMENT AGENCY AND ALL PERSONS INTERESTED IN THE MATTER OF THE VALIDITY OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY ORDINANCE NO. 2010-02, and DOES 1 TO 20:

NOTIFICACIÓN AL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY Y A TODAS LAS PERSONAS INTERESADAS EN EL ASUNTO DE LA

VALIDEZ DE LA ORDENANZA NO. 2010-02 Y LOS DOES DEL 1 AL 20 DEL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY.

JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU, WILLIAM J. McGRATH and HENRY SCHIMPELER, have filed a lawsuit to contest the legality or validity of the Pajaro Valley Water Management Agency Ordinance 2010-02 entitled "An Ordinance of the Pajaro Valley Water Management Agency Adjusting Groundwater Augmentation Charges." The name of the case is JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU, WILLIAM J. McGRATH and HENRY SCHIMPELER, Plaintiffs v. THE PAJARO VALLEY WATER MANAGEMENT AGENCY AND ALL PERSONS INTERESTED IN THE MATTER OF THE VALIDITY OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY ORDINANCE NO. 2010-02, DOES 1 TO 20 (Case No. CV 169080), pending in the Superior Court of California, Santa Cruz County.

JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU, WILLIAM J. McGRATH y HENRY SCHIMPELER, han presentado una demanda para impugnar la legalidad o validez de la Ordenanza 2010-02 del Organismo de Aprovechamiento del Agua de Pajaro Valley, titulada "Ordenanza del Organismo de Aprovechamiento del Agua de Pajaro Valley que Ajusta los Cargos de Aumento por Agua Subterránea". El nombre del caso es JOSEPH P. PENDRY, JAMES SPAIN, YUET-MING CHU, WILLIAM J. McGRATH y HENRY SCHIMPELER, Demandantes, contra EL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY Y TODAS LAS PERSONAS INTERESADAS EN EL ASUNTO DE LA VALIDEZ DE LA ORDENANZA NO. 2010-02 Y LOS DOES DEL 1 AL 20 DEL ORGANISMO DE APROVECHAMIENTO DEL AGUA DE PAJARO VALLEY, (Caso No. CV 169080) pendiente en el Tribunal Superior de California, Condado Santa Cruz.

You may take a position regarding the alleged validity or invalidity of The Pajaro Valley Water Management Agency Ordinance 2010-02, which purports to adjust the Groundwater Augmentation Charge to \$162/acre foot of pumped ground water for Metered Wells Outside the delivered water zone ["DWZ"] and \$195/acre foot of pumped groundwater for Metered Wells Inside the DWZ and \$156/acre foot of pumped groundwater for Unmetered Wells by appearing and filing a written answer to the complaint not later than November 26, 2010, which is ten (10) days or more after the completion of the publication of this summons. Your pleading must be in the form required by the California Rules of Court. Your original pleading must be filed in this Court with proper filing fees and proof that a copy thereof was served on Plaintiffs' attorney. Unless you so respond, the Plaintiffs may apply to the Court for the relief demanded in the complaint without any opposition from you. Persons who contest the legality or validity of the matter will not be subject to punitive action, such as wage garnishment or seizure of their real or personal property.

Usted puede asumir una postura respecto a las presunta validez o invalidez de la Ordenanza 2010-02 del Organismo de Aprovechamiento del Agua de Pajaro Valley, la cual afirma ajustar el Cargo de Aumento por Agua Subterránea a \$162 por pie de acre de agua subterránea bombeada en el caso de Pozos Medidos Fuera de la zona de agua entregada (ZAE), y \$195 por pie de acre de agua subterránea bombeada en el caso de Pozos Medidos Dentro de la ZAE, y \$156 por pie de acre de agua subterránea bombeada en el caso de Pozos No Medidos, compareciendo y llenando por escrito una respuesta a la denuncia a más tardar el 26 de noviembre de 2010, el cual cae diez (10) o más días después de que termine la publicación de esta citación. Su alegato debe presentarse en el formulario exigido por los Reglamentos del Tribunal de California. El alegato original se debe presentar en este Tribunal con las debidas tasas administrativas y el comprobante de que una copia de dicho alegato fue entregada al abogado de los Demandantes. A menos que usted responda en la forma indicada, los Demandantes podrán solicitar al Juez la reparación pedida en la denuncia sin oposición por parte de usted. Las personas que impugnen la legalidad o validez de la causa no serán sujetas a medidas punitivas tales como embargo de sueldo o confiscación de bienes muebles o inmuebles.

You may seek the advice of an attorney in any matter connected with the complaint or this summons. Such attorney should be consulted promptly so that your pleading may be filed or entered within the time required by this summons.

Usted puede buscar el asesoramiento de un abogado en toda causa relacionada con la demanda o con esta citación. Se deberá consultar inmediatamente con dicho abogado para que sea posible presentar o asentar su alegato dentro del plazo exigido por esta citación.

DETAILED SUMMARY OF THE MATTER THAT PLAINTIFF SEEKS TO VALIDATE: The Agency has, pursuant to the Pajaro Valley Water Management Agency Act ["Act"], section 1001, passed an ordinance to levy groundwater augmentation charges on the extraction of groundwater from all extraction facilities within the agency. Section 1001 of the Act requires the augmentation charge be used for the purposes of paying the costs of purchasing, capturing, storing, and distributing supplemental water for use within the boundaries of the agency. On May 19, 2010 the Agency adopted Ordinance 2010-02 which ordinance would become effective if approved by a majority vote of the affected property owner voters voting in an election conducted pursuant to Agency Resolution Nos. 2010-03 and 04. Ordinance 2010-02, purported to adjust the Groundwater Augmentation Charge to \$162/acre foot of pumped ground water for Metered Wells Outside the DWZ and \$195/acre foot of pumped groundwater for Metered Wells Inside the DWZ and \$156/acre foot of pumped groundwater for Unmetered Wells. Ordinance 2010-02 became effective on September 8, 2010 when the Agency enacted Resolution 2010-09. The new Groundwater Augmentation Charge took effect on October 1, 2010. Ordinance 2010-02 is the subject of this validation action.

The Plaintiffs seek to invalidate Ordinance 2010-02. The plaintiffs contend that the acts, actions, findings, determinations and proceedings required to be performed, made or conducted under the Act and under all applicable laws, prior to and at the time of the passage of Ordinance 2010-02 by The Pajaro Valley Water Management Agency have not been properly and lawfully made, performed and conducted; and Ordinance 2010-02 has not been duly, properly and lawfully adopted pursuant to and in accordance with the Act and with law, whether statutory, constitutional, or decisional, applicable to the valid creation of and/or adjustment of the Augmentation Charge; and Ordinance 2010-02 and the Groundwater Augmentation Charge established thereunder, are illegal and invalid and should be set aside.

RESUMEN DETALLADO DE LA CAUSA QUE EL DEMANDANTE BUSCA VALIDAR: El Organismo, conforme al Artículo 1001 de la Ley del Organismo de Aprovechamiento del Agua de Pájaro Valley, ha aprobado una ordenanza para imponer cargos de aumento sobre la extracción de agua subterránea respecto a la extracción de agua subterránea de todas las instalaciones de extracción del organismo. El Artículo 1001 de la Ley exige que el cargo de aumento sea utilizado con el fin de pagar los gastos de adquisición, captura, almacenamiento y distribución de agua complementaria que se utiliza dentro de los límites del organismo. El 19 de mayo de 2010, el Organismo adoptó la Ordenanza 2010-02, la cual entraría en vigor si es aprobada por voto mayoritario de los votantes propietarios de predios afectados que voten en una elección conducida conforme a las Resoluciones No. 2010-03 y 04 del Organismo. La Ordenanza 2010-02, de la cual se afirma que ajusta el Cargo de Aumento por Aguas Subterráneas a \$162 por pie de acre de agua subterránea bombeada en el caso de Pozos Medidos Fuera de la ZAE y a \$195 por pie de acre de agua subterránea bombeada en el caso de Pozos Medidos Dentro de la ZAE, y \$156 por pie de acre de agua subterránea bombeada en el caso de Pozos No Medidos. La Ordenanza 2010-02 entró en vigor el 8 de septiembre de 2010, cuando el Organismo promulgó la Resolución 2010-09. El nuevo Cargo de Aumento por Agua Subterránea entró en vigor el 1º de octubre de 2010. La Ordenanza 2010-02 es el tema de la causa de validación.

Los demandantes buscan invalidar la Ordenanza 2010-02. Los demandantes sostienen que los actos, acciones, hallazgos, fallos y procedimientos que se deben realizar o se han realizado o conducido conforme a la Ley y a las demás leyes aplicables, antes de la aprobación de la Ordenanza 2010-02 o durante ella, llevados a cabo por el Organismo de Aprovechamiento del Agua de Pajaro Valley, no han sido hechos, realizados ni conducidos debida ni legalmente; y la Ordenanza 2010-02 no ha sido debida ni legalmente adoptada conforme a la Ley ni con derecho, ya sea reglamentario, constitucional o de providencia judicial, aplicable a la creación válida ni el ajuste del Cargo de Aumento; y la Ordenanza 2010-02 y el Cargo de Aumento por Agua Subterránea establecidos conforme a ello, son ilegales e inválidos y deberían ser anulados.

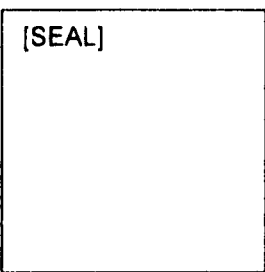
The name and address of the Court is (El nombre y la dirección del Tribunal es): Superior Court of the State of California, County of Santa Cruz; 701 Ocean Street, Santa Cruz, CA 95060. The names and address of Plaintiffs' attorneys are (Los

nombres, la dirección y el número de teléfono de los abogados del demandante son):
Robert K. Johnson, Johnson & James, LLP, 311 Bonita Drive, P. O. Box 245 , Aptos,
CA 95001-0245; (831) 688-8989.

Date: **OCT 12 2010**

RECEIVED

Clerk, by DEBORAH BOWAS, Deputy



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2 OMAR F. JAMES - SBN 69041
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9 Attorneys for Plaintiffs

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SANTA CRUZ

12 JOSEPH. P. PENDRY, JAMES SPAIN, YUET-)
13 MING CHU, WILLIAM J. McGRATH and)
14 HENRY SCHIMPELER,)

15 Plaintiffs,)

16 vs.)

17 THE PAJARO VALLEY WATER)
18 MANAGEMENT AGENCY, ALL PERSONS)
19 INTERESTED IN THE MATTER OF THE)
20 VALIDITY OF PAJARO VALLEY WATER)
21 MANAGEMENT AGENCY ORDINANCE)
22 2010-02, and DOES 1-20,)

23 Defendants.)
24)
25)
26)
27)
28)

Case No. **CV 169080**

COMPLAINT FOR 1) REVERSE
VALIDATION ACTION--CCP§863, 2)
DECLARATORY RELIEF, 3)
INJUNCTIVE RELIEF, AND 4) WRIT
OF MANDATE

Plaintiffs allege as follows:

FIRST CAUSE OF ACTION

(Reverse Validation Action--CCP § 863)

(Against All Defendants by All Plaintiffs)

1. Defendant Pajaro Valley Water Management Agency [the "Agency"] is and at all times relevant therein, was a public agency organized under and pursuant to the Pajaro Valley Water Management Agency Act, Water Code Appendix, Chapter 124 ["the Act"].

2. The defendants named herein, other than the Agency, are all persons interested in the matter of the validity of Agency Ordinance No. 2010-02 establishing an augmentation charge, which resolution was to become effective if approved by a purported election as set forth in Agency

1 Resolutions 2010-3, 2010-4 and 2010-5 ["the Ordinance"]. On or about September 8, 2010, the
2 Agency adopted Resolution 2010-09 which certified the results of the purported election and thereby
3 caused the Ordinance and augmentation charge established thereunder to take effect. The defendants
4 include, but may not be limited to, persons who own property within the Agency's boundaries, reside
5 within the Agency's boundaries, pump groundwater within the Agency's boundaries, utilize
6 groundwater within the Agency's boundaries, are charged and/or pay an augmentation charge, and/or
7 are subject to the charges imposed by the Ordinance.

8 3. Plaintiffs own property within the Agency's boundaries, pump groundwater within the
9 Agency's boundaries, utilize groundwater within the Agency's boundaries, are charged an
10 augmentation charge and are subject to the charges imposed by the Ordinance.

11 4. This court has jurisdiction and venue is proper in the County of Santa Cruz pursuant to
12 Sections 860 and 863 of the Code of Civil Procedure, to the extent that the augmentation charge is a
13 capacity charge, and separately pursuant to Code of Civil Procedure § 394.

14 5. Section 1001 of the Act authorizes the Agency to levy an augmentation charge
15 ["augmentation charge"]. The augmentation charge must be levied in accordance with law and in
16 accordance with the California Constitution.

17 6. The Ordinance, among other things, imposed an augmentation charge. The Ordinance
18 was enacted in violation of the Act, and in violation of the California Constitution and statutes,
19 including but not limited to Article XIID of the Constitution of the State of California ["Proposition
20 218"]. Plaintiffs are informed and believe and thereon allege that the Ordinance became effective on
21 October 1, 2010.

22 7. The Ordinance is invalid for numerous reasons, including but not limited to the
23 following:

24 A. Article XIII A was added to the California Constitution by Proposition 13
25 ["Proposition 13"]. Proposition 13 requires that the Agency obtain voter approval of any special taxes.
26 The Agency did not obtain voter approval and/or otherwise comply with the provisions of Proposition
27 13 in enacting the Ordinance.

1 B. Government Code sections 53720-53730 were adopted by the voters in Proposition
2 62 ["Proposition 62"]. Proposition 62 requires local Agencies, among other things, to obtain voter
3 approval in order to impose any special tax. The Ordinance and the augmentation charge fall within
4 the provisions of Proposition 62. The Agency did not obtain voter approval and/or otherwise comply
5 with the provisions of Proposition 62 in enacting the Ordinance.

6 C. Article XIIC and XIID were added to the California Constitution by the voters'
7 passage of Proposition 218. Proposition 218, among other things, requires voter approval of any
8 special tax, fee or charge and imposes procedures and legal requirements for any local government to
9 levy a fee or charge which is an incident of property ownership. The Ordinance falls within the
10 provisions of Proposition 218. The Agency did not obtain proper voter approval and/or otherwise
11 comply with the procedural and/or substantive provisions of Proposition 218, including but not limited
12 to Article XIID § 6 (a) (1) and (2), § 6 (b) (1), (2), (3), (4), and (5) and § 6 (c), in enacting the
13 Ordinance and imposing the augmentation charge.

14 D. The Agency did not comply with the provisions of Section 1001 of the Act in
15 enacting the Ordinance.

16 E. One or more of the directors of the Agency had a disqualifying conflict of interest
17 within the meaning of the Political Reform Act at the time of voting on the Ordinance and at the time
18 of voting on Agency Resolutions 2010-3, 2010-4, 2010-5 and 2010-09 ["the resolutions"], so that the
19 Ordinance and the resolutions are void.

20 8. Section 863 of the Code of Civil Procedure provides that any interested person may
21 bring an action to determine the validity of any matter which, under any other law, is authorized to be
22 determined by Chapter 9, §§ 860-870.5 of the Code of Civil Procedure ["Chapter 9"]. Plaintiffs are
23 informed and believe and thereon allege that the Agency contends that some or all of the augmentation
24 charge is a "capacity charge", and therefore any challenge to the validity of the Ordinance must be
25 determined pursuant to the provisions of Chapter 9. While plaintiffs dispute the Agency's contention
26 in this regard, plaintiffs bring this cause of action in case the court determines that the augmentation
27 charge, or some portion thereof, is a capacity charge or other charge which can only be challenged by a
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1 proceeding under Chapter 9.

2 9. Based upon the foregoing, plaintiffs are entitled to a declaration determining that:

3 (a) The acts, actions, findings, determinations and proceedings required to be made,
4 performed or conducted under all applicable laws, prior to and at the time of the passage of the
5 Ordinance, were not properly and lawfully made, performed and conducted by the Agency; and the
6 Ordinance and the augmentation charges imposed thereunder have not been duly, properly and lawfully
7 adopted pursuant to and in accordance with all laws, whether statutory, constitutional, or decisional;

8 (b) The Ordinance and the augmentation charges imposed thereunder and the
9 resolutions, are illegal, void and invalid and must be set aside.

10 **SECOND CAUSE OF ACTION**

11 **(Declaratory Relief)**

12 **(Against All Defendants by All Plaintiffs)**

13 10. Plaintiffs incorporate by reference paragraphs 1-9 of the complaint.

14 11. An actual controversy exists between the plaintiffs and the defendants over the
15 characterization of the augmentation charge and the validity of the Ordinance and the augmentation
16 charge imposed thereunder. Plaintiffs contend that the augmentation charges imposed under the
17 Ordinance are not capacity charges, or taxes, assessments and/or fees subject to the validation
18 proceedings set forth in Code of Civil Procedure §§ 860-870.5. Plaintiffs further contend that the
19 Ordinance and the augmentation charges imposed thereunder were unlawfully enacted and violate the
20 provisions of the California Constitution and/or California statutes, including Proposition 13,
21 Proposition 218, and Proposition 62. Plaintiffs further contend that the purported election held by the
22 Agency relating to the Ordinance did not comply with law, including but not limited to the voting
23 requirements set forth in Proposition 218. Plaintiffs further contend that one or more of the Agency
24 directors voting for the Ordinance and the regulations had a disqualifying conflict of interest. Plaintiffs
25 are informed and believe and thereon allege that the Agency and one or more of the other defendants
26 dispute the above contentions and contend that the augmentation charge is a capacity charge, or tax,
27 assessment and/or fee subject to the validation proceedings set forth in Code of Civil Procedure §§
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1 860-870.5, that the Ordinance and augmentation charge imposed thereunder were lawfully enacted and
2 do not violate the provisions of the Act, the California Constitution and/or California statutes,
3 including Proposition 13, Proposition 218, and Proposition 62, that the purported election held by the
4 Agency relating to the Ordinance complied with Proposition 218 and with the law and that none of the
5 directors of the Agency had a disqualifying conflict of interest.

6 12. Plaintiffs desire a judicial determination of their rights and duties and a declaration as to
7 whether plaintiffs' or defendants' contentions are correct and a determination of whether any portion of
8 the augmentation charge imposed by the Ordinance is a capacity charge, or tax, assessment, or fee
9 subject to the validation proceedings set forth in Code of Civil Procedure §§ 860-870.5. Plaintiffs also
10 desire a judicial determination whether the Ordinance was lawfully enacted in conformance with the
11 Constitution and statutes and whether the augmentation charge imposed thereunder is valid and
12 enforceable. Plaintiffs also desire a judicial determination whether the purported election held by the
13 Agency relating to the Ordinance complied with law, including but not limited to the voting
14 requirements set forth in Proposition 218. Plaintiffs also desire a judicial determination whether any of
15 the directors of the Agency had a disqualifying conflict of interest at the time they voted for the
16 Ordinance and the resolutions.

17 **THIRD CAUSE OF ACTION**

18 **(Declaratory Relief)**

19 **(Against All Defendants by All Plaintiffs except Plaintiff William J. McGrath)**

20 13. Plaintiffs incorporate each and every paragraph above as if set forth in full.

21 14. An actual controversy exists between the plaintiffs, except Plaintiff William J. McGrath,
22 and the defendants regarding the \$80 augmentation charge currently being imposed by the Agency and
23 the \$18/\$20 management fee currently being imposed by the Agency. Plaintiffs, except Plaintiff
24 William J. McGrath, contend that the \$80 augmentation charge currently being imposed by the Agency
25 and the \$18/\$20 management fee currently being imposed by the Agency were unlawfully enacted and
26 violate the provisions of the Act, the California Constitution and/or California statutes, including
27 Proposition 13, Proposition 218, and Proposition 62. Plaintiffs further contend that the \$80
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1 augmentation charge currently being imposed by the Agency and the \$18/\$20 management fee
2 currently being imposed by the Agency are not capacity charges, or taxes, assessments and/or fees
3 subject to the validation proceedings set forth in Code of Civil Procedure §§ 860-870.5. Plaintiffs are
4 informed and believe and thereon allege that the Agency and one or more of the other defendants
5 dispute the above contentions and contend that the \$80 augmentation charge currently being imposed
6 by the Agency was lawfully enacted and is valid and does not violate the provisions of the California
7 Constitution and/or California statutes, including Proposition 13, Proposition 218, and Proposition 62,
8 and that the \$18/\$20 management fee currently being imposed by the Agency does not violate the
9 provisions of the California Constitution and/or California statutes, including Proposition 13,
10 Proposition 218, and Proposition 62 and that the \$80 augmentation charge currently being imposed by
11 the Agency and the \$18/\$20 management fee currently being imposed by the Agency are capacity
12 charges, or taxes, assessments and/or fees subject to the validation proceedings set forth in Code of
13 Civil Procedure §§ 860-870.5.

14 15. Plaintiffs desire a judicial determination of their rights and duties and a declaration as to
15 whether plaintiffs' or defendants' contentions are correct and a determination of whether the \$80
16 augmentation charge currently being assessed and the \$18/\$20 management fee currently being
17 imposed by the Agency were lawfully enacted in conformance with the Constitution and statutes and
18 whether the \$80 augmentation charge currently being assessed and the \$18/\$20 management fee
19 currently being imposed by the Agency are valid and enforceable and whether the \$80 augmentation
20 charge currently being assessed and the \$18/\$20 management fee currently being imposed by the
21 Agency are capacity charges, or taxes, assessments and/or fees subject to the validation proceedings set
22 forth in Code of Civil Procedure §§ 860-870.5.

23 **FOURTH CAUSE OF ACTION**

24 **(Injunctive Relief)**

25 **(Against Defendant Pajaro Valley Water Management Agency by All Plaintiffs)**

26 16. Plaintiffs incorporate each and every paragraph above as if set forth in full.

27 17. Plaintiffs are informed and believe and thereon allege that the Agency is currently
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1 unlawfully violating the provisions of Propositions 13, 62 and/or 218. Plaintiffs have no adequate
2 remedy at law for the injuries currently being suffered and which are threatened in that the Agency will
3 continue to violate the provisions of Propositions 13, 62 and/or 218 unless restrained and enjoined by
4 this court, and unless ordered to comply with such constitutional provisions by not enforcing the
5 Ordinance and the augmentation charge imposed thereunder. Plaintiffs will be required to maintain a
6 multiplicity of judicial proceedings in order to protect their interests unless the Agency is restrained
7 and enjoined from unlawfully enforcing the Ordinance.

8 **FIFTH CAUSE OF ACTION**

9 **(Injunctive Relief)**

10 **(Against Defendant Pajaro Valley Water Management Agency**

11 **by All Plaintiff except William J. McGrath)**

12 18. Plaintiffs incorporate each and every paragraph above as if set forth in full.

13 19. Plaintiffs are informed and believe and thereon allege that the Agency is currently
14 unlawfully violating the provisions of Propositions 13, 62 and/or 218. Plaintiffs have no adequate
15 remedy at law for the injuries currently being suffered and which are threatened in that the Agency will
16 continue to violate the provisions of Propositions 13, 62 and/or 218 unless restrained and enjoined by
17 this court, and unless ordered to comply with such constitutional provisions by not enforcing the \$80
18 augmentation charge currently being assessed and the \$18/\$20 management fee currently being
19 imposed by the Agency. Plaintiffs will be required to maintain a multiplicity of judicial proceedings in
20 order to protect their interests unless the Agency is restrained and enjoined from unlawfully enforcing
21 the \$80 augmentation charge currently being assessed and the \$18/\$20 management fee currently being
22 imposed by the Agency.

23 **SIXTH CAUSE OF ACTION**

24 **(Writ of Mandate)**

25 **(Against Defendant Pajaro Valley Water Management Agency by All Plaintiffs)**

26 20. Plaintiffs incorporate each and every paragraph above as if set forth in full.

27 21. Plaintiffs are informed and believe and thereon allege that at all times herein mentioned,
28

1 the Agency has failed to comply with the Act, the California Constitution and the Political Reform Act
2 as set forth above.

3 22. The Agency will not abide by the California Constitution and/or cease illegally
4 enforcing the Ordinance and collecting the augmentation charge imposed thereunder unless and until a
5 writ is issued by this court.

6 23. Plaintiffs have a beneficial interest in the issuance of the writ because they have a clear,
7 present and substantial right to the performance of the Agency's duty in that the plaintiffs will be and
8 are being assessed the augmentation charge enacted by the Ordinance.

9 24. Plaintiffs have no plain, speedy, and adequate remedy in the ordinary course of law,
10 other than the relief sought in this writ.

11 **SEVENTH CAUSE OF ACTION**

12 **(Writ of Mandate)**

13 **(Against Defendant Pajaro Valley Water Management Agency**

14 **by All Plaintiffs except William J. McGrath)**

15 25. Plaintiffs incorporate each and every paragraph above as if set forth in full.

16 26. Plaintiffs are informed and believe and thereon allege that at all times herein mentioned,
17 the Agency has failed to comply with the Act and the California Constitution as set forth above.

18 27. The Agency will not abide by the California Constitution and/or cease illegally
19 enforcing and collecting the \$80 augmentation charge currently being assessed and the Agency will not
20 abide by the California Constitution and/or cease illegally enforcing and collecting the \$18/\$20
21 management fee currently being imposed by the Agency unless and until a writ is issued by this court.

22 28. Plaintiffs have a beneficial interest in the issuance of the writ because they have a clear,
23 present and substantial right to the performance of the Agency's duty in that the plaintiffs will be and
24 are being assessed the \$80 augmentation charge and the \$18/\$20 management fee.

25 29. Plaintiffs have no plain, speedy, and adequate remedy in the ordinary course of law,
26 other than the relief sought in this writ.

27 WHEREFORE, plaintiffs pray for entry of judgment as follows:
28

1 That judgment be entered on the First Cause of Action determining that:

2 1. The acts, actions, findings, determinations and proceedings of the Agency in the passage
3 of the Ordinance and in imposing the augmentation charge thereunder were not performed, made or
4 conducted under applicable law and that the Ordinance was not duly, properly and/or lawfully adopted
5 pursuant to and in accordance with either statutory, constitutional, or decisional law;

6 2. The Ordinance and any augmentation charges imposed thereunder are illegal, void and
7 invalid and must be set aside.

8 That judgment be entered on the Second Cause of Action as follows:

9 1. For a declaration that the augmentation charge imposed by the Ordinance is not a
10 capacity charge, or tax, assessment and/or fee subject to the validation proceedings set forth in Code of
11 Civil Procedure §§ 860-870.5;

12 2. For a declaration that the Agency is not in compliance with Propositions 13, 62 and/or
13 218 and that the Ordinance and the augmentation charge imposed thereunder were not duly, properly
14 and/or lawfully adopted pursuant to and in accordance with either statutory, constitutional, or
15 decisional law;

16 3. For a declaration that the purported election held by the Agency relating to the
17 Ordinance did not comply with Proposition 218 or with law and that the purported election be set aside
18 and declared void;

19 4. For a declaration that one or more of the directors of the Agency had a disqualifying
20 conflict of interest at the time they voted for the Ordinance and the resolutions and that the Ordinance
21 and the resolutions be set aside and declared void.

22 That judgment be entered on the Third Cause of Action as follows:

23 1. For a declaration that the Agency is not in compliance with Propositions 13, 62 and/or
24 218 and that the \$80 augmentation charge and the \$18/\$20 management fee were not duly, properly
25 and/or lawfully adopted pursuant to and in accordance with either statutory, constitutional, or
26 decisional law, and that the \$80 augmentation charge and the \$18/\$20 management fee be declared
27 void and set aside;

1 2. For a declaration that the \$80 augmentation charge and the \$18/\$20 management fee are
2 not capacity charges, or taxes, assessments and/or fees subject to the validation proceedings set forth in
3 Code of Civil Procedure §§ 860-870.5;

4 That judgment be entered on the Fourth Cause of Action as follows:

5 1. For issuance of a temporary restraining order, preliminary injunction, and permanent
6 injunction restraining and enjoining the Agency and its agents, servants, customers, suppliers, and
7 employees, and all persons acting in concert with or for them from enforcing the Ordinance and/or
8 collecting the augmentation charge imposed thereunder and compelling such parties to comply with all
9 of the provisions of Propositions 13, 62 and/or 218 and/or the Act and for a mandatory injunction
10 ordering all improperly collected monies be returned to those paying the charges and fees.

11 That judgment be entered on the Fifth Cause of Action as follows:

12 1. For issuance of a temporary restraining order, preliminary injunction, and permanent
13 injunction restraining and enjoining the Agency and its agents, servants, customers, suppliers, and
14 employees, and all persons acting in concert with or for them from enforcing and/or collecting the \$80
15 augmentation charge and the \$18/\$20 management fee, and compelling such parties to comply with all
16 of the provisions of Propositions 13, 62 and/or 218 and/or the Act and for a mandatory injunction
17 ordering all improperly collected monies be returned to those paying the charges and fees.

18 That judgment be entered on the Sixth Cause of Action as follows:

19 1. That the court issue a peremptory writ in the first instance (1) commanding the Agency to
20 cease enforcing the Ordinance, (2) setting aside and declaring the Ordinance void, and (3) halting the
21 collection of augmentation charges imposed under the Ordinance until the Agency complies with the
22 law, or

23 2. That the court, alternatively, first issue an alternative writ (1) commanding the Agency to
24 cease enforcing the Ordinance and resolutions and collecting the augmentation charges authorized
25 thereunder, (2) setting aside and declaring the Ordinance, resolutions and the augmentation charges
26 authorized thereunder void, and (3) halting the collection of augmentation charges imposed under the
27 Ordinance until the Agency complies with the law, or, in the alternative, show cause why it should not
28

1 do so, and thereafter issue a peremptory writ (1) commanding the Agency to cease enforcing the
2 Ordinance and resolutions, (2) setting aside and declaring the Ordinance void, and (3) halting the
3 collection of augmentation charges imposed under the Ordinance until the Agency complies with law.

4 That judgment be entered on the Seventh Cause of Action as follows:

5 1. That the court issue a peremptory writ in the first instance (1) commanding the Agency to
6 cease collecting the \$80 augmentation charge and cease collecting the \$18/\$20 management fee, (2)
7 setting aside and declaring the \$80.00 charge void, and setting aside and declaring the \$18/\$20
8 management fee void, and (3) halting the collection of the \$80 augmentation charge until the Agency
9 complies with the law, and halting the collection of the \$18/\$20 management fee until the Agency
10 complies with the law; or

11 2. That the court, alternatively, first issue an alternative writ (1) commanding the Agency to
12 cease collecting the \$80 augmentation charge, and cease collecting the \$18/\$20 management fee, (2)
13 setting aside and declaring the \$80 augmentation charge void, and setting aside and declaring the
14 \$18/\$20 management fee void, and (3) halting the collection of the \$80 augmentation charge until the
15 Agency complies with the law, and halting the collection of the \$18/\$20 management fee until the
16 Agency complies with the law, or, in the alternative, show cause why it should not do so, and thereafter
17 issue a peremptory writ (1) commanding the Agency to cease collecting the \$80 augmentation charge,
18 and cease collecting the \$18/\$20 management fee, (2) setting aside and declaring the \$80 augmentation
19 charge void, and setting aside and declaring the \$18/\$20 management fee void, and (3) halting the
20 collection of the \$80 augmentation charge until the Agency complies with the law, and halting the
21 collection of the \$18/\$20 management fee until the Agency complies with the law.

22 That judgment be entered on all causes of action as follows:

- 23 1. For reasonable attorney fees and costs;
24 2. For such other and further relief as the Court may deem just and proper.

25
26 Date: 10/12/10

JOHNSON & JAMES LLP

By: 

ROBERT K. JOHNSON
Attorney for Plaintiffs