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8	Attorneys for Respondent State Water Resources Control Board	5
9	SUPERIOR COURT OF TH	IE STATE OF CALIFORNIA
10	COUNTY OF I	LOS ANGELES
11		
12	SANTA BARBARA CHANNELKEEPER,	Case No. 19STCP01176
13	Petitioner,	SWRCB'S RESPONSE TO CITY OF SAN
14	v.	BUENAVENTURA'S MOTION FOR APPROVAL
15	۷.	
16	STATE WATER RESOURCES CONTROL BOARD, a California State Agency; CITY	Date: October 2, 2019 Time: 10 a.m. Dept.: 10
17	OF BUENAVENTURA, a California municipal corporation,	Judge: Honorable W. Highberger Trial Date: None Set
18	Respondents.	Action Filed: September 19, 2014
19	I	
20	CITY OF SAN BUENAVENTURA, a California municipal corporation,	
21	Cross-Complainant,	
22	V.	
23 24	DUNCAN ABBOTT, an individual; et al.,	
24 25	Cross-Defendants.	
23 26		
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27 28		

Although respondent State Water Resources Control Board (the "SWRCB") has no
objection to the Court approving a notice and form answer pursuant to Code of Civil Procedure
section 836 for this action, those documents must have the appropriate content. The SWRCB
believes that the notice proposed by cross-complainant City of San Buenaventura (the "City") is
misleading.

6 The SWRCB is the agency established "to provide for the orderly and efficient 7 administration of the water resources of the state." (Wat. Code, § 174; see generally 62 Cal.Jur 8 3d (2018) Water, § 45.) The SWRCB has regulated all appropriative water rights acquired since 9 1914 through a permit system. (Calif. Farm Bureau Fed. v. State Water Resources Control 10 *Board* (2011) 51 Cal.4th 421, 429; see also Wat. Code, §§ 1200-851.) In doing so, the SWRCB 11 considers the public interest. (United States v. State Water Resources Control Board (1986) 182 12 Cal.App.3d 82, 103-04.) The SWRCB has the power to prevent waste or unreasonable use. 13 (Wat. Code, § 275.) And it has the authority to determine water rights. (*Id.*, § 2501; see also *id.*, 14 §§ 2500-868 [provisions related to such a statutory adjudication].) In fact, the Legislature has 15 provided that courts adjudicating water rights may make a reference to the SWRCB to determine 16 legal and factual issues. (Id., §§ 2000-48.) As to the City's cross-complaint, the SWRCB's 17 interest is in ensuring a fair, equitable, and legally correct determination of the water rights at 18 issue, and working to ensure an outcome consistent with the public interest.

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ARGUMENT

I. THE NOTICE SHOULD BE LIMITED TO GROUNDWATER

The City's motion seeks approval for a notice under Code of Civil Procedure section 836, a provision in the Streamlined Comprehensive Groundwater Adjudication Statute. That statute applies just to "actions that would comprehensively determine rights to extract groundwater in a basin." (Code Civ. Proc., § 833, subd. (a).) The Court can include those who divert surface water *only* "[i]f the Court finds that including an interconnected surface water body or subterranean stream flowing through known and definite channels is necessary for the fair and effective determination of the groundwater rights in a basin." (*Id.*, § 833, subd. (c).) The City has not

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1	sought such a finding in its motion. And it has not explicitly stated it is not seeking such a	
2	finding with this motion.	
3	Yet the City includes surface water diverters in its notice. These references include: (1) the	
4	words "AND WATERSHED" in the caption and the title; (2) the words "and/or any rights you	
5	claim to divert or store surface water from the Ventura River Watershed" in the first, second, and	
6	third paragraphs (in all capitals in the first paragraph); and (3) the words "and/or surface water	
7	use" in the fourth paragraph. This language is misleading and inappropriate, and should be	
8	deleted.	
9	The language for the notice under Code of Civil Procedure section 836 is provided for in	
10	the statute. (Code Civ. Proc., § 836, subd. (a).) That language is limited to groundwater. (Ibid.)	
11.	The City's notice should be limited to the groundwater adjudication piece of this case.	
12	CONCLUSION	
13	For all these reasons, the SWRCB respectfully requests that the Court order that the City's	
14	proposed notice be changed to limit itself to the groundwater adjudication part of this case.	
15	Dated: September 17, 2019 Respectfully Submitted,	
16	XAVIER BECERRA Attorney General of California	
17	MyUNG J. PARK Supervising Deputy Attorney General	
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19	Mitte Bullock for	
20	MARC N. MELNICK	
21	Deputy Attorney General Attorneys for Respondent State Water	
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