Nos. D081099 & D081606

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT, DIVISION ONE

MARK COZIAHR
Plaintiff and Respondent,

vs.

OTAY WATER DISTRICT
Defendant and Appellant.

Appeal from the Superior Court of the State of California
County of San Diego, Honorable Eddie C. Sturgeon
Superior Court Case No. 37-2015-00400000-CU-MC-CTL

APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF; AMICUS CURIAE BRIEF

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CERTIFICATE OF
INTERESTED ENTITIES OR PERSONS

There are no entities or persons that must be listed in this certificate under California Rules of Court, rule 8.208(d)(1).

DATED: May 28, 2024

DANIEL S. HENTSCHKE,
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APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE

To the Honorable Presiding Justice:

Pursuant to California Rules of Court, rule 8.200(c), Association of California Water Agencies ("ACWA"), the California Association of Sanitation Agencies ("CASA"), the California Special Districts Association ("CSDA"), and the League of California Cities ("CalCities") (collectively, "Local Government Amici") respectfully request permission to file an amicus curiae brief in support of Appellant Otay Water District.

STATEMENT OF INTEREST OF LOCAL GOVERNMENT AMICI

Local Government Amici represent cities, counties, and special districts throughout California. ACWA is a California nonprofit public benefit corporation of over 460 water agencies, including cities, municipal water districts, irrigation districts, county water districts, California water districts, and special purpose public agencies. ACWA's members are collectively responsible for about 90% of the water supplied for domestic, agricultural, commercial, and industrial use in California. CalCities is an association of 476 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and enhancing the quality of life for all Californians. CASA is a nonprofit mutual benefit corporation composed of over 125 public agencies that collect, treat, and recycle wastewater generated by use of water by millions of residents, businesses, industries, and institutions throughout California. CSDA is a nonprofit corporation with a membership of over 1,000 special districts throughout California that was formed to promote good governance and improve core local services through professional development, advocacy, and other services for all types of independent special districts.

The agencies that are members of Local Government Amici fund essential public services, such as water and sewer service, to millions of Californians through user and other fees subject to the requirements of California Constitution articles XIII C & D.[1] Most Local Government Amici members rely on property related fees like those at issue here — fees subject to article XIII D, section 6.

Each Local Government Amici has a process for identifying cases, such as this one, that warrant their participation. For example, ACWA has a Legal Affairs Committee, composed of attorneys from each of its regional divisions throughout the state. The Legal Affairs Committee monitors litigation of significance to ACWA's members, such as this case. CalCities is advised by its Legal Advocacy Committee, composed of 25 city attorneys from all regions of the State. The Legal Advocacy Committee monitors litigation of concern to municipalities and identifies those cases that have statewide or national significance; the Committee has identified this case as having such significance. CASA and CSDA also have processes for determining participation in cases of importance to their respective members. Each of the Local

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[1] Further references to articles and sections of articles in this brief are to the California Constitution.

Government Amici entities determined this case to be of significance to their members. Accordingly, the Local Government Amici respectfully request leave to file the brief combined with this application.

The Local Agency Amici certify that no person or entity other than Amici and their counsel authored or made any monetary contribution intended to fund the preparation or submission of the proposed brief. (See Cal. Rules of Court, rule 8.200(c)(3).)

DATED: May 28, 2024

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Attorneys for Local Government Amici

AMICUS CURIAE BRIEF

INTRODUCTION

The Local Government Amici write to address two issues of major public significance raised by this appeal – (1) when justifying service fees ("rates"), is it sufficient for local agencies to demonstrate reasonable attribution of the proportional cost of providing the service for which the fee is charged? and (2) is an award of damages an available remedy when an agency's rates inappropriately attributed the cost of providing service thereby "overcharging" some customers? As to the first question, Local Government Amici believe the answer is yes, but the trial court answered no. As to the second question, Local Government Amici believe the answer is no, but the trial court answered yes.

The trial court's answers to these questions, if upheld, will have material, negative impacts on Local Government Amici and their service customers. Requiring "perfect" data for rates that fund essential services will result in rates being too-easily reversed in litigation, which will lead to a multiplicity of suits, fiscal uncertainty, and ultimately impairment of governments' ability to provide the services paid for by the rates. Requiring payment of damages will increase the cost of providing service, shift the cost from one class of users to another (in this case from profligate water users to conserving water users), further encourage meritless litigation, and unbalance local agency budgets. Except when expressly established by law, for example when an agency has chosen to enact fees under the provisions of Health and Safety

Code §§ 5470-5474.10, a refund remedy for alleged violations of Proposition 218's article XIII D, section 6 is unavailable under existing law, because a writ of mandate, declaratory relief, or injunctive relief can adequately remedy any such violation.

California Constitution, article XIII D, section 6, adopted by 1996's Proposition 218, specifies certain "cost of service" requirements for property related fees, including water, sewer and refuse removal rates, but does not address every detail. As to points it does not address, it preserves earlier law under the canon of construction disfavoring implied repeals. Thus, long-standing utility ratemaking practices which reasonably (but not perfectly) allocate costs among customers are preserved and "perfect data" is not required or even possible. *Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892 ("*Morgan*"). Veering from established law and sound public policy, the trial court here rejected the routine ratemaking practice of establishing a rate structure, based on professional estimates and available data, that (i) identifies the total revenue requirement, (ii) allocates the revenue requirement according to functions needed to provide the service, and (iii) apportions the costs associated with each function proportionate to the extent that a function is attributable to the service provided to customers according to classifications of use. Thus, for example, a cost-of-service study, for a particular agency may:

- assign relatively inexpensive water supplies to efficient water uses and more expensive sources to less efficient use to make best use of scarce supplies — without tracing water molecules from source to tap; or,

- rely on peaking factors to assign infrastructure costs among customer classes using seasonal demand/usage and other data reflecting system usage to reasonably establish rate tiers without time-of-use data.

The nature of judicial review of legislative ratemaking contemplates that local agencies justify water rates only by a preponderance of the evidence and judicial review is for reasonableness, not perfection. Our Supreme Court emphasizes the need for flexibility because providing water and sewer services is complicated, as is establishing a rate structure that proportionately allocates the cost of providing service among customers. Flexibility is necessary so the wide variety of local agencies – whether large or small, municipal or agricultural – that provide property related services, such as water and wastewater (i.e. sewer) service and local legislative bodies may reasonably apportion costs among their respective customers, subject to the procedural and substantive requirements of California's Constitution.

Unlike, for example, gas or electric companies (e.g., San Diego Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, Pacific Gas and Electric Company), local public agencies like the members of Local Agency Amici are not profit-making. The amount of revenue derived from rates for a property related service, such as water or sewer, cannot exceed the funds required to provide the service. Cal. Const. art. XIII D, § 6 (b)(1), see also, Cal. Const art. XIII C, § 1. Thus, rate structures are developed to meet, not exceed, an agency's revenue requirement. Rates are established to reasonably allocate the revenue requirement among customers, usually by customer class, based upon a reasonable attribution of the costs of providing service to the various users. If damages are awarded, there is no pool of general revenues from which they can be paid, and the award will simply increase the revenue requirement for a future time period or reduce the amount of current funds available to fund the provision of services. There is nothing in the language of Proposition 218 authorizing or requiring payment of refunds or damages. Accordingly, public policy is against availability of a damage remedy for alleged violation of Proposition 218's proportionality requirement.

The Local Agency Amici respectfully request this Court to reverse the trial court and protect their member entities and their ratepayers from needless litigation challenging long-standing, reasonable, ratemaking practices and discourage shifting rate-making authority away the chambers of legislative bodies, where it belongs, and into the chambers of judges, where it does not.

STATEMENT OF CASE

The Local Agency Amici incorporate by reference the statement of facts and procedural history of Appellant and Cross-Respondent Otay Water District's City of San Diego's opening brief.

ARGUMENT

I. RATES MAY DISTINGUISH AMONG CUSTOMERS BASED ON PEAK USE WITHOUT TIME-OF-USE DATA

Water is heavy; a gallon weights about 8.34 pounds.[2] It is bulky and requires substantial infrastructure to move it around. Use of water throughout California varies. Some areas have high indoor water use compared to use for outdoor irrigation. Other areas are the opposite. Water in California is not evenly distributed. Some areas have plentiful local supplies, others depend exclusively on water imported from other regions of the State. Some others have multiple sources that include both local and imported water. And water service involves more than simply building and operating facilities for water production, storage, and delivery.[3] It also involves managing water to assure sufficient supply to meet demands from day to day, year to year, and for generations to come – an increasingly difficult task in the face of

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[2] https://www.worldatlas.com/articles/how-much-does-a-gallon-of-water- (last visited, April 13, 2024.)

[3] This brief focuses on water service, i.e., the management, production, storage, treatment, conveyance, conservation, and distribution of water up to the point of beneficial use by customers. Simplified, sewer service, then, is generally the handling of water after domestic, commercial, or industrial use. But, the reality is more complicated. For example, recycled water involves aspects of both water production and sewage treatment. Some Local Government Amici agencies provide both water and sewer services. Others provide one or the other. Regardless, the water cycle, especially in a state as diverse as California, is complicated.

climate change. Local agencies providing other property related services face similar, complicated issues. And as enterprise operations, they all must raise revenue to pay the cost of providing their service primarily through service fees in the form of rates charged for services.

Local agencies have long relied on so-called "peaking factors" to allocate costs among customers. (See American Water Works Association, Principles of Water Rates, Fees and Charges, 6th ed. (2012) ("AWWA"), p. 313-321.) Peaking factors (which generally relate to the size of facilities need to meet a water system's highest demands) are derived from an agency's own data or from national and regional data regarding the peaking characteristics of particular classes of water users, such as residential, commercial, industrial and irrigation. Agencies may vary in their manner of determining the peaking factors applicable to their individual circumstances, but generally, it is much more expensive to deliver a volume of water instantaneously at times of peak demand than it would be to deliver that same volume over time. Meeting peak demand requires more storage, greater supplies, bigger pipes, bigger pumps, larger treatment facilities, and more electricity to run the pumps and treatment facilities, than does meeting average demand. (AWWA, *supra*, at pp. 62, 83, 112) These larger facilities require more capital to acquire and build, and more labor to maintain and operate. Therefore, it is appropriate for an agency to allocate operating and capital costs associated with meeting its peak demands differently from those required to meet its average demands. (AWWA, *supra*, at pp. 62, 83.) The "cost causation" ratemaking principle holds that it is appropriate to assign a cost to the customer, or class of customers, who or which causes the utility to incur it. (AWWA, *supra*, at pp. 129, 130, 137, 138, 255.) This "cost causation" principle is captured in the Constitutional requirement that a rate paid by a particular customer or class of customers "shall not exceed the proportional cost of the service attributable" to the customer. Cal. Const. art. XIII D, § 6(b)(3).)

Peak demand and "peaking factors" (i.e., the ratio of a class's peak water use to its average use) are widely used in the water industry to allocate capital and other costs. (AWWA, *supra*, at pp. 3, 314, 319.) For example, industrial use of water tends to be consistent over time and less affected by weather than other uses. (AWWA, *supra*, at p. 115.) Outdoor residential use varies with weather, especially water used to irrigate landscapes. And agricultural and other irrigation uses are seasonal. As residential and irrigation uses have higher peaking characteristics, a rate maker can reasonably determine they should bear a larger share of peaking costs. (AWWA, *supra*, at p. 76, 100.)

Of course, there are other factors that go into rate making. The costs associated with various service functions may be allocated differently. For example, costs of providing customer services may be more appropriately attributed to domestic (i.e., residential) customers than, say, commercial or industrial customers. Costs of expensive, imported water supplies may be allocated more to higher quantity water users while cheaper, local supplies may be allocated to lower quantity consumers. But how this is done will depend on the characteristics of the local agency and its services, and the reasonable legislative judgment of the local agency's governing body. This is true of **all** utility costs — customer classes impose those costs on utilities to different degrees and are therefore allocated different shares of various costs. (AWWA, *supra*, at p. 76, 94–95.) This is why local rate setting is appropriately left to the determinations of the local agency, which should be judicially supported so long as the agency has a reasonable basis for its determinations and demonstrates that reasonable basis by a preponderance of evidence. There is no one right way to set rates as the trial court seems to assume.

Rate setting under Proposition 218 is "zero sum" activity, meaning that the rates must be structured to generate sufficient revenues to recover the cost of providing the property related service while assuring that each class of customer pays only the portion of costs reasonably attributed to them. In other words, when costs attributed to one class of customers goes up, the costs attributed to others goes down. (*See Plantier v. Ramona Municipal Water Dist.* (2019) 5 Cal. 5th 372, 385 ["A methodological change in the allocation of costs among fee payors will almost always result in some parcels paying a higher fee to offset those that will now be required to pay less."].) Thus, Local Agency Amici members will comply with Proposition 218's robust requirements by implementing expensive and time-consuming legislative procedures to impose new or increased existing property related fees, including:

- retention of legal and financial advisors, including professional ratemaking consultants and cost-of-service experts;
- preparation of cost-of-service analyses;
- preparing and mailing detailed notices to property owners;
- responding to public comments; and
- inviting a majority protest and holding at least one public hearing at which written protests may be submitted and are counted and all protests are considered.

When the agency does so, consideration of both the rate structure and the amount of the fees should not be overturned for the lack of "perfect" evidence. In *Moore v. City of Lemon Grove* (2015) 237 Cal.App.4th 363, 368, this Court upheld sewer rates even though the allocation of labor costs between sewer service and other City services was supported only by a supervisor's informal estimate of how workers spent their time. In *Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892, 923, this Court upheld water rates despite a dispute as to the quality of the data used to allocate costs, stating, "While it is clear the District's water measurement system is not perfect, [article XIII D,] section 6 does not require perfection."

There can be no one right answer to the legislative task of ratemaking. The law requires only reasonable judgments supported by evidence demonstrating proportionality. It does not mandate only one result, instead it allows flexibility and a variety of approaches.

The trial court's demand for time-of-use data is error because it is unsupported by the language of article XIII D, underestimates the complexity of ratemaking, and oversteps the court's role in evaluating the substantive requirements of Proposition 218. It imagines an easy solution to the difficult task of judicial review of legislative ratemaking — it demands the "perfect data" *Morgan* deems unnecessary and acknowledges does not exist. (*Morgan*, *supra*, 223 Cal.App.4th at p. 918; *Griffith v. Pajaro Valley Water Management Agency* (2013) 220 Cal.App.4th 586, 600–601 [rejecting contention that Proposition 218 requires a "finely calibrated apportionment" of costs], disapproved on other grounds by *City of San Buenaventura v. United Water Conservation Dist.* (2017) 3 Cal.5th 1191.) Instead of focusing on the basic tools of judging — burdens of proof and standards of review – the trial court demanded a quality of evidence that does not exist. Courts review rates only for reasonableness, allowing flexibility to the local rate-setting body given the inherent complexity and variability of the task.

Further, requiring absolute precision when setting tiered rates sacrifices the achievable "good" for the non-existent "perfect." If agencies are prohibited from establishing tiered rates unless such rates are based on precise and perfect data, many agencies will be forced to abandon any attempt to allocate costs based on use characteristics and resort to uniform rates. While some agencies may desire uniform rates, that result should be a legislative choice for the governing body of the local agency based upon reasonable evidence justifying the cost allocation to customers of that agency, not the consequence of an impossible time-of-use data standard imposed by judges. Local agencies, especially those with expensive supplemental water supply or infrastructure and capital costs driven by large water users, should not be forced to subsidize large water users by uniform rates on large and small alike. This Court found in *Capistrano Taxpayers Association v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493 ("*Capistrano*") that Proposition 218 is intended to protect "lower-than-average users from having to pay rates that are higher than the cost of service for them because those rates cover capital investments their levels of consumption do not make necessary." (*Capistrano*, *supra*, at p. 1503.) In other words, the court in *Capistrano* suggests that peaking is an appropriate consideration when setting water rates. Otay supported its use of peaking by reasonable evidence, but the trial court demanded perfect, unobtainable time-of-use data. In short, the trial court's demand for time-of-use data is error this Court should correct.

II. LOCAL AGENCY RATE SETTING ARE REVIEWED FOR REASONABLENESS BASED ON A PREPONDERANCE OF EVIDENCE

Article XIII D, section 6, subdivision (b)(5), as adopted by Proposition 218, assigns to local government the burden of proof in challenges to the property-related fees to which it applies, including water, sewer and trash rates. It does not, however, state the evidentiary standard. Accordingly, the measure is understood to maintain earlier law. (*Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Com.* (2012) 209 Cal.App.4th

1182, 1197 & fn. 19 ("*Sunset Beach*").) That earlier law is the basic rule of civil litigation that one who bears the burden to prove something need only do so by a preponderance unless some law states otherwise. (Evid. Code, § 115 ["Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence."].) Further, California voters did specify in Proposition 26, adopted in 2010, a government's evidentiary burden as to the fees and charges. Although fees governed by Proposition 218 are not subject to that measure (Cal. Const., art. XIII C, § 1, subd. (e)(7)), the two measures are in pari materia (the later amends the earlier) and the text of each therefore is helpful to construe the other. (*California Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924, 941 & 949; *Kaanaana v. Barrett Business Services, Inc.* (2021) 11 Cal.5th 158, 154 [in pari materia canon].))

For fees not governed by article XIII D, section 6, "The local government bears the burden of proving **by a preponderance of the evidence** that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear[s] a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." (Cal. Const., art. XIII C, § 1, subd. (e) [final par.].) There is good reason for the rule to be the same for fees governed by article XIII D, section 6.

Whether a revenue measure is a lawful fee or charge, or a tax unlawful absent voter approval, is a question of law. (*Silicon*

Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority (2008) 44 Cal.4th 431, 449.) Thus, Otay needed only produce evidence that it reasonably assigned its service costs resulting in rates that reasonably reflect the cost of service. This Court owes no deference to the trial court's conclusion that the challenged rates were, in fact, illicit taxes.

III. DAMAGES ARE NOT AN APPROPRIATE REMEDY FOR VIOLATION OF CALIFORNIA CONSTITUTION ARTICLE XIII D, SECTION 6

Otay Water District has fully and adequately briefed the legal reasons why a damage remedy is not appropriate in cases challenging rates under articles XIII C or XIII D. The Local Agency Amici write to emphasize the policy reasons why this Court should reverse the trial court on this point.

Since Proposition 218 amended the California Constitution in 1996, courts have remedied violations through writs of mandate, declaratory relief, and injunctive relief. These prospective remedies adequately cure the violation by directing the agency to reform its rate approach going forward and are the only remedies that Proposition 218 allows.

A refund remedy, by contrast, operates retroactively. Because a public agency sets its charges to merely recover costs and receives no profit or windfall from the rate structure, it is unclear how a public agency would pay for a refund. Agencies that have general revenues, such as cities, theoretically could use those general funds to pay the additional costs, but those funds are already allocated to pay for general services such as police, fire, parks, and libraries. And special districts like water districts that lack significant—if any— general funds may have no other revenue source. The only option would be to charge future ratepayers more to fund a refund to prior ratepayers. But would that charge—to future ratepayers— also be a non-proportional overcharge? Without a clear and clearly constitutional way to pay for it, a refund to remedy a Proposition 218 violation could threaten the solvency of local public agencies throughout California.

Local agency utilities are not profit-making enterprises. Revenues generated from rates cannot exceed the cost of providing the services and cannot be used for other agency purposes. (Cal. Const. art. XIII D, § 6 (b)(1), (2).) Thus, unlike a private, profit-making entity, if a local agency misidentifies the proportional cost of providing services among its various customers, it does not generate surplus revenue from which damages can be paid and does not have the ability to collect funds retroactively from those ratepayers who may have "underpaid." Any award of damages will simply increase the revenue requirement for a future time period or reduce the amount of current funds available to fund the provision of services. Thus, the appropriate remedy if an agency fails to comply with either the procedural requirements of article XIII D, section 6 (a) or the substantive requirements of article XIII D, section 6 (b) is an order to reset the rate correctly. After all, even if the service provider misallocated the proportional cost of service, all the ratepayers still received the service for which the rates were charged, and the only question is how to re-allocate the cost, which itself is a quasi-legislative endeavor that must be performed consistent with cost of service principles.

In *Bighorn-Desert View Water Agency v. Virgil* (2006) 39 Cal 4th 205, 220, our Supreme Court described local agency rate setting under Proposition 218 as a power-sharing arrangement between the local agency governing board and the local agency's voters. The Court wrote:

> Although this power-sharing arrangement has the potential for conflict, we must presume that both sides will act reasonably and in good faith, and that the political process will eventually lead to compromises that are mutually acceptable and both financially and legally sound. We presume local voters will give appropriate consideration and deference to a governing board's judgments about the rate structure needed to ensure a public water agency's fiscal solvency, and we assume the board, whose members are elected, will give appropriate consideration and deference to the voters' expressed wishes for affordable water service. The notice and hearing requirements of subdivision (a) of section 6 of California Constitution article XIII D will facilitate communications between a public water agency's board and its customers, and the substantive restrictions on property-related charges in subdivision (b) of the same section should allay customers' concerns that the agency's water delivery charges are excessive.

Id. at 220 – 221 (cleaned-up).

Based on this power-sharing arrangement, throughout the state, city councils, boards of supervisors, and boards of directors of the public agencies represented by Local Government Amici hire consultants, prepare rate and cost allocation studies, conduct noticed public hearings, listen to their constituents, consider oral and written protests (and expressions of support), and make vital rate setting decisions to assure Constitutionally sufficient revenues to support their enterprise operations. Sometimes an agency gets it wrong, but the price of getting it wrong should not be an award of damages that ultimately benefits no one, except perhaps the plaintiff bar.

CONCLUSION

Local Agency Amici respectfully ask this court to affirm (1) that when justifying service fees ("rates"), it is sufficient for local agencies to demonstrate reasonable attribution of the proportional cost of providing the service for which the fee is charged by a preponderance of the evidence and that "perfect data" or any particular type of data is not required, and (2) that Proposition 218 does not authorize or require a refund or damage remedy when a local agency's rate setting body fails to adequately support its rate setting actions, but that the proper remedy is an order to correct the error, but is not an award of damages.

DATED: May 28, 2024

DANIEL S. HENTSCHKE,
ATTORNEY AT LAW

/s/ Daniel S. Hentschke
DANIEL S. HENTSCHKE

Attorney for Local Agency Amici

CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rule 8.520(b) and 8.204(c), the foregoing Brief of Amicus Curiae in Support of Petitioner contains 3,899 words, including footnotes, but excluding the caption page, tables, Certificate of Interested Entities or Persons, the Application for Leave to File, and this Certificate. This is fewer than the 14,000-word limit set by rules 8.520(b) and 8.204(c). In preparing this certificate, I relied on the word count generated by Microsoft Word, the computer program used to prepare this brief.

DATED: May 28, 2024

DANIEL S. HENTSCHKE,
ATTORNEY AT LAW

/s/ Daniel S. Hentschke
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PROOF OF SERVICE

Mark Coziahr v. Otay Water District
San Diego Superior Court
Case No. 37-2015-00400000-CU-MC-CTL
Court of Appeal Case Nos. D081099 & D081606

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Diego, State of California. My business address is 411 E. Cliff Street, Solana Beach, California, 92075.

On May 28, 2024, I served true copies of the following document(s) described as:

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on the interested parties in this action as follows:

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BY ELECTRONIC TRANSMISSION: By submitting an electronic version of the document(s) to TrueFiling, who provides e-serving to all indicated recipients through email.

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

Executed on May 28, 2024, at Solana Beach, California.

/s/ Daniel S. Hentschke
DANIEL S. HENTSCHKE

SERVICE LIST

Mark Coziahr v. Otay Water District
San Diego Superior Court
Case No. 37-2015-00400000-CU-MC-CTL
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PROOF OF SERVICE

Mark Coziahr v. Otay Water District
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At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Contra Costa, State of California. My business address is 1676 N. California Blvd., Suite 620, Walnut Creek, CA 94596.

On May 28, 2024, I served true copies of the following document(s) described as:

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on the interested parties in this action as follows:

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BY MAIL: The document named above was placed in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed for collection and mailing, following Hanson Bridgett LLP's ordinary business practices. I am readily familiar with Hanson Bridgett LLP's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on May 28, 2024, at Vallejo, California.

/s/ Melinda S. Less
Melinda S. Less

<u>SERVICE LIST</u>

Mark Coziahr v. Otay Water District
San Diego Superior Court
Case No. 37-2015-00400000-CU-MC-CTL
Court of Appeal Case Nos. D081099 & D081606

Clerk of The Court San Diego Superior Court 1100 Union Street San Diego, CA 92101	*Via U.S. Mail*