

Filed
Superior Court of California,
Sacramento
04/10/2024
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24VMD00064

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EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF SACRAMENTO

18 CITRUS HEIGHTS WATER DISTRICT and
19 FAIR OAKS WATER DISTRICT,

20 Plaintiffs and Petitioners,

21 v.

22 SAN JUAN WATER DISTRICT, ALL
23 PERSONS INTERESTED IN THE MATTER
OF THE SAN JUAN WATER DISTRICT
24 ADOPTING INCREASES TO WHOLESALE
WATER RATES; and DOES 1 through 100,

25 Defendants and
26 Respondents.

Case No.
**VERIFIED PETITION FOR WRIT OF
MANDATE; COMPLAINT FOR
REVERSE VALIDATION,
DECLARATORY AND INJUNCTIVE
RELIEF, REFUND, AND DAMAGES**

BY FAX

1 Plaintiffs and Petitioners, CITRUS HEIGHTS WATER DISTRICT and FAIR OAKS
2 WATER DISTRICT, allege as follows:

3 **I. INTRODUCTION**

4 1. Citrus Heights Water District (“Citrus Heights”) and Fair Oaks Water District (“Fair
5 Oaks”) (hereinafter referred to collectively as “Plaintiffs” or “Districts”) are public agency
6 Irrigation Districts organized under Division 11 of the California Water Code. They each maintain
7 a complex water distribution system to provide retail water supplies to customers within their
8 respective service areas.

9 2. Citrus Heights has been providing water service for over 100 years, since 1920, and
10 currently serves approximately 70,000 people in portions of Citrus Heights, Fair Oaks, Orangevale,
11 Carmichael, and Roseville. Its total service area consists of 12.8 square miles and over 20,300
12 water service connections. Through this infrastructure, Citrus Heights serves in excess of
13 approximately 10,000 Acre Feet (“AF”) of water to customers each year.

14 3. Fair Oaks has served water to its customers for over 100 years, since 1917, and
15 currently provides retail water to approximately 37,000 people across roughly 6,053 acres. The
16 Fair Oaks service area spans portions of Fair Oaks and Orangevale, and comprises 14,251 water
17 service connections, and 120 miles of pipelines. Through this infrastructure, Fair Oaks provides in
18 excess of 8,000 AF of water to customers each year.

19 4. Citrus Heights meets a significant portion of customers’ water needs – up to 31% in
20 recent years – from its own groundwater resources. Fair Oaks provides slightly more – 37% – of
21 its total volume of service water from its own groundwater production.

22 5. At this time, Citrus Heights and Fair Oaks cannot serve all their customers’ needs
23 solely with their current groundwater production. Rather, Citrus Heights and Fair Oaks must rely
24 on surface water from the American River to provide the bulk of the water delivered to their
25 customers. These American River surface water supplies are delivered to Citrus Heights and Fair
26 Oaks by San Juan Water District (“San Juan”). Indeed, Citrus Heights and Fair Oaks, and their
27 customers, helped establish these American River water supplies since as far back as the late 1800s.
28

1 6. Both Citrus Heights and Fair Oaks have invested millions of dollars in drilling and
2 equipping wells, and in associated capital projects to reach these levels of groundwater production.
3 Citrus Heights and Fair Oaks have invested in groundwater, in part, based on requests from San
4 Juan to ensure regional reliability in droughts and other periods during which San Juan may have
5 less available surface water. During such periods, Citrus Heights and Fair Oaks increase
6 groundwater production to ensure San Juan can meet the water demands of its other wholesale
7 customers, including San Juan's own retail department, that have no or only limited access to
8 groundwater. Consistent with state and regional policy and agreements, including agreements
9 signed by Citrus Heights, Fair Oaks and San Juan, these investments are also designed, in part, to
10 decrease local reliance on surface water in dry years so that available surface supplies can remain
11 in the American River for the benefit of the environment. Each of the two Districts intend to
12 continue these investments to increase the amount of groundwater they will be able to produce in
13 the future.

14 7. San Juan sells and delivers treated surface water on a wholesale basis to Citrus
15 Heights and Fair Oaks who, in turn, serve that water, or a blend of groundwater and surface water,
16 to their retail customers. San Juan establishes and charges wholesale water rates for the delivery of
17 surface water to Citrus Heights, Fair Oaks and three other members of the San Juan wholesale
18 "family." The wholesale water rates charged by San Juan have a direct financial impact on Citrus
19 Heights, Fair Oaks, and all the customers in their respective service areas who purchase water.
20 Since Citrus Heights and Fair Oaks do not receive any property tax funds, they must charge water
21 rates to their residents to cover their costs of service, which includes the costs to purchase treated
22 surface water from San Juan. This means that when San Juan increases its wholesale water rates,
23 Citrus Heights, Fair Oaks, and all their customers must pay more for water, whether or not the rates
24 charged by San Juan are lawful.

25 8. In theory, and generally speaking, San Juan's ability to set or increase the price of
26 wholesale water should be limited by at least two legal constraints.

27 9. First, under Article XIII C, Section 1 of the California Constitution ("Proposition
28 26"), San Juan cannot charge Citrus Heights or Fair Oaks more than it costs San Juan to provide

1 water to Citrus Heights and Fair Oaks. And San Juan cannot allocate costs to Citrus Heights and
2 Fair Oaks that are not directly and proportionally related to the benefits (e.g., amount of water)
3 provided to Citrus Heights and Fair Oaks. These Proposition 26 limitations are generally known
4 as “cost of service” principles.

5 10. Second, San Juan is a Community Services District governed by Government
6 Code §§ 61000, *et seq.*, and according to those provisions, San Juan can *only* impose or increase
7 water rates by ordinance or resolution. The requirement of an ordinance or resolution preserves
8 the democratic process, procedurally protects purchasers like Citrus Heights and Fair Oaks from
9 unlawful rate increases, and ensures that San Juan has documented and explained the reasoning for
10 its action.

11 11. The importance of these legal restrictions cannot be overstated. They are statutory
12 and constitutional. And the reason they are so vital, especially in this case, is because wholesale
13 water is not a fungible good. To continue to be able to serve their customers, Citrus Heights and
14 Fair Oaks have virtually no option but to purchase water from San Juan, such that San Juan
15 effectively operates as a monopoly.

16 12. For example, a person who needs vegetables can buy them at Safeway, but if
17 Safeway’s prices are too high, the person can shop at Grocery Outlet instead. This is not the case
18 for Citrus Heights and Fair Oaks in the search for surface water. San Juan holds water rights to the
19 nearby surface water of the American River and perfected these rights through funding and
20 partnership from Citrus Heights, Fair Oaks, and their customers for more than seventy years. And
21 practically speaking, even if this were not the case, there is no other nearby water source from
22 which Citrus Heights and Fair Oaks can realistically purchase surface water and transport it back
23 to their customers with existing infrastructure. The only realistic choice is San Juan.

24 13. But San Juan abused its monopoly standing by dramatically increasing wholesale
25 water rates at the end of 2023 in violation of statutory and constitutional protections.

26 14. San Juan increased wholesale water rates at the end of 2023 resulting in increased
27 yearly costs of over one million dollars to Citrus Heights and Fair Oaks. San Juan can only take
28 this government action by properly passing an ordinance or resolution. San Juan did neither, and

1 charging rates that are not effective is a violation of statute.

2 15. The increased wholesale water rates also violate the Constitution of this State. The
3 increased rate structure requires Citrus Heights and Fair Oaks to pay what amounts to a “privilege
4 tax” for the privilege of being able to buy water from San Juan. It does not reflect the amount of
5 water that Citrus Heights and Fair Oaks actually purchase, but is instead a flat rate that is charged
6 four times a year, even if Citrus Heights and Fair Oaks purchase little or no water from San Juan.

7 16. Citrus Heights and Fair Oaks, and their ratepayers, have been directly injured. In
8 January 2024, San Juan invoiced Citrus Heights and Fair Oaks under the increased rates, and has
9 wholly failed to respond to Citrus Heights’ and Fair Oaks’ efforts to resolve the legal and
10 constitutional infirmities of the wholesale rates.

11 17. Plaintiffs therefore bring this litigation to procure relief from San Juan’s
12 unconstitutional actions, both on behalf of themselves and their ratepayers.

13 **II. THE PARTIES**

14 18. Plaintiff, Citrus Heights Water District, is an Irrigation District formed under
15 Division 11 of the Water Code (Water Code §§ 20500, *et seq.*), located in Sacramento and Placer
16 Counties, with a principal place of business at 6230 Sylvan Road, Citrus Heights, California 95610.

17 19. Plaintiff, Fair Oaks Water District, is an Irrigation District formed under Division
18 11 of the Water Code (Water Code §§ 20500, *et seq.*), located in Sacramento County, with a
19 principal place of business at 10326 Fair Oaks Boulevard, Fair Oaks, California 95628.

20 20. Defendant, San Juan Water District, is a Community Services District formed under
21 Division 3, Title 6 of the Government Code, located in Sacramento and Placer Counties, with its
22 principal place of business at 9935 Auburn Folsom Road, Granite Bay, California 95746.

23 21. Because this action is brought under the Validation Statutes of California Code of
24 Civil Procedure sections 860, *et seq.*, Defendants are also referred to herein as “ALL PERSONS
25 INTERESTED IN THE MATTER OF THE SAN JUAN WATER DISTRICT ADOPTING
26 INCREASES TO WHOLESALE WATER RATES.”

27 **III. JURISDICTION AND VENUE**

1 22. The Court has subject matter jurisdiction over this matter pursuant to California
2 Government Code § 53759; California Code of Civil Procedure §§ 860, *et seq.*; California Code of
3 Civil Procedure §§ 1060, *et seq.*; California Code of Civil Procedure §§ 1084, *et seq.*; and California
4 Constitution, Article XIII C.

5 23. The Court has personal jurisdiction over Defendant, San Juan, because it operates
6 in Sacramento County, and regularly does business in Sacramento County, including collecting
7 monies from agencies such as Citrus Heights and Fair Oaks who are in Sacramento County.

8 24. The Court’s personal jurisdiction over Defendants, “ALL PERSONS
9 INTERESTED IN THE MATTER OF THE SAN JUAN WATER DISTRICT ADOPTING
10 INCREASES TO WHOLESALE WATER RATES,” depends on publication of summons pursuant
11 to Government Code section 6063 in a newspaper of general circulation, and filing proof thereof,
12 as required by California Code of Civil Procedure sections 861, 861.1, and 862. Upon issuance of
13 summons by the Clerk, Citrus Heights and Fair Oaks will promptly file an ex parte motion with
14 this Court seeking an order for publication, and pursuant to such an order, publish summons and
15 file proof thereof.

16 25. Venue is proper in this Superior Court of Sacramento County because San Juan’s
17 actions and omissions leading rise to the present dispute occurred in Sacramento County, and San
18 Juan regularly operates and does business in Sacramento County.

19 **IV. SAN JUAN HAS LEVIED AND COLLECTED WATER RATES**
20 **THAT VIOLATE STATUTORY AND CONSTITUTIONAL**
21 **PROHIBITIONS**

22 **A. SAN JUAN ENJOYS A VIRTUAL MONOPOLY ON THE SALE OF**
23 **WHOLESALE WATER TO CITRUS HEIGHTS AND FAIR OAKS**

24 26. San Juan not only exists as an entity because of Citrus Heights’ and Fair Oaks’
25 customers, but also, San Juan is able to access *free water* due to the cooperation and historic water
26 use of Citrus Heights’ and Fair Oaks’ customers.

27 27. Around the turn of the 20th Century, properties now within Citrus Heights and Fair
28 Oaks were utilizing surface water diverted from the American River for “beneficial uses,” such as
irrigation and farming, by purchasing water from the neighboring North Fork Ditch Company

1 (“North Fork”), a private entity. These uses lasted without interference for more than 50 years.
2 Then, shortly after the end of World War II, the federal government decided to build Folsom
3 Reservoir.

4 28. As part of these efforts, the federal government constructed Folsom Dam on the
5 lower American River and engaged pre-existing water rights holders to ensure their water rights
6 were fully protected. In or around 1947, the directors of Citrus Heights and Fair Oaks, as well as
7 other community leaders, organized a committee to study the acquisition of North Fork water rights
8 by the public. To accomplish this purpose, it was decided that a “master” district should be formed.
9 And, in 1954, nearly two-thirds of voters approved the formation of San Juan Suburban Water
10 District, the predecessor of San Juan.

11 29. San Juan ultimately acquired North Fork after raising money through bond issuances
12 approved by local voters, most of whom were Citrus Heights and Fair Oaks customers, that totaled
13 roughly \$850,000, or \$9.8 Million in today’s economy.

14 30. Apart from the money, there was one other essential piece of the puzzle necessary
15 for San Juan to exist and operate. As part of the planning efforts for Folsom Reservoir, the federal
16 government agreed to recognize the priority of North Fork water rights then held by San Juan by
17 entering into a contract with San Juan to deliver 33,000 AF of *free water in perpetuity* from Folsom
18 Reservoir for the benefit of residents living within Citrus Heights, Fair Oaks and others within the
19 San Juan “family” of agencies. As a result of this agreement, San Juan holds in its name pre-1914
20 and 1928 water rights negotiated and secured largely by Citrus Heights and Fair Oaks customers,
21 for the purpose of supplying customers within the San Juan family of agencies in perpetuity.

22 31. Due to the issuance of the bonds to purchase North Fork rights, as well as bonding
23 to support the construction of other San Juan infrastructure, over the ensuing 30 or more years, San
24 Juan wholesale customers, including Citrus Heights and Fair Oaks, and their customers, were
25 required to repay millions of dollars of general obligation bonds to fund San Juan’s infrastructure
26 growth. Citrus Heights and Fair Oaks did fund San Juan’s growth, even apart from the money they
27 also paid to San Juan for the purchase of surface water. What Citrus Heights and Fair Oaks could
28 not realize at the time was that by empowering San Juan to acquire more water and expanding its

1 infrastructure, they would also be strengthening San Juan's monopolistic approach to providing
2 water today.

3 32. In short, Citrus Heights and Fair Oaks funded and empowered San Juan to access
4 and deliver free water, and today, Citrus Heights and Fair Oaks are charged excessively for the
5 privilege of purchasing that water. Their remedy against this ironic monopoly is to invoke the
6 protections of Proposition 26.

7 33. Today, Citrus Heights and Fair Oaks have no feasible or realistic option but to
8 purchase surface water from San Juan. While Citrus Heights and Fair Oaks produce their own
9 groundwater, they cannot produce enough groundwater physically or economically to serve all of
10 their customers' water needs. Any water needs that they are not able to service with their own
11 groundwater production, they offset by purchasing surface water from San Juan.

12 34. San Juan provides two distinct types of water service: a retail service and a
13 wholesale service. San Juan Retail is itself a wholesale water purchaser that serves San Juan's
14 retail customers in the Granite Bay area. The San Juan wholesale arm provides water to the five
15 wholesale agencies that purchase water from San Juan: (1) Citrus Heights; (2) Fair Oaks; (3)
16 Orange Vale Water Company; (4) a portion of the City of Folsom; and (5) San Juan Retail. San
17 Juan also sells surface water in some years to other agencies on an as-needed basis.

18 35. San Juan uses much of the same infrastructure and personnel to provide water to its
19 retail customers and to its wholesale customers. This means that the higher the rates San Juan
20 charges to wholesale customers, the more they can shift their cost recovery to wholesale customers
21 and reduce the amount of retail rates they charge to their own retail customers.

22 36. In early 2023, San Juan began to publish documentation indicating its intent to
23 increase wholesale water rates. The numbers San Juan proposed were shocking. Between June of
24 2023 and February of 2024, Citrus Heights and Fair Oaks sent numerous correspondences to San
25 Juan, met with San Juan representatives, and commented at meetings of the San Juan Board of
26 Directors, all in an attempt to negotiate and resolve their concerns regarding San Juan's intent to
27 increase wholesale water rates.

28 37. San Juan continuously ignored Citrus Heights' and Fair Oaks' concerns about the

1 revised wholesale water rates, and instead, on December 13, 2023, adopted and began to levy the
2 increased rates (the “2023 Rates”). In fact, on or around the time of adoption of the 2023 Rates,
3 San Juan made last minute changes to the rate structure that were never economically analyzed,
4 never validated for compliance with Proposition 26, and that were not presented to the public –
5 including Citrus Heights and Fair Oaks – with sufficient time for review and comment.

6 **B. THE 2023 RATES ARE UNLAWFUL BECAUSE THEY WERE ILLEGALLY**
7 **LEVIED AND COLLECTED, CONTRARY TO THE REQUIREMENTS OF SAN**
8 **JUAN’S AUTHORIZING STATUTES**

9 38. Section 61115 of the Government Code, entitled “Collection and enforcement of
10 rates and charges” governs San Juan’s authority to “[e]stablish rates or other charges for services
11 and facilities that [San Juan] provides” and its authority to “[p]rovide for the collection and
12 enforcement of those rates or other charges.” Critically, the statute instructs that San Juan may
13 only exercise these powers “*by resolution or ordinance.*”

14 39. In January 2024, San Juan began invoicing Citrus Heights and Fair Oaks for water
15 purchases under the increased 2023 Rates. Citrus Heights and Fair Oaks paid the increased 2023
16 Rates prior to initiating this litigation.

17 40. San Juan had no power or authority to charge the increased 2023 Rates. There is no
18 resolution adopting the 2023 Rates. There is no ordinance adopting the 2023 Rates.

19 41. Instead, San Juan’s Board of Directors, as if vested with the power of fiat, simply
20 made a motion to increase water rates during a regular Board meeting on December 13, 2023 (the
21 “Rate Motion”):

22 ***President Rich moved to approve the Five-Year Wholesale Water Rate***
23 ***Schedule based on a 10-year average. Director Costa seconded the motion and***
24 ***it carried with 5 Aye votes and 1 No vote (Director Tobin).***
25

26
27
28 ¹ On information and belief, the meeting minutes reflecting the Rate Motion are incorrect; the
vote was in fact four aye votes, and one no vote.

1 42. It is and was unlawful for San Juan to increase water rates in this manner, and not a
2 mere procedural formality, because a motion is substantively and statutorily distinct from an
3 ordinance or resolution. By increasing water rates by the Rate Motion, San Juan avoided mandatory
4 legal safeguards.

5 43. A motion is merely a proposal or suggestion made by a governing body during a
6 meeting to take an action that does not require the authority of an ordinance or resolution. For
7 example, it may be appropriate to utilize a motion to authorize staff to enter into a contract.

8 44. On the other hand, a resolution is a formal decision or action that implements a
9 ministerial or administrative act and is used to document in writing a governing body's decision,
10 especially when a governing body is required to provide reasoning and support for its decision. An
11 ordinance is even more formal than a resolution because it typically constitutes a legislative action,
12 such as the adoption of a permanent rule, and remains in force until it is repealed.

13 45. San Juan's authority to set or increase water rates is legislative in nature and vested
14 and constrained by the laws of this State, which specifically require that it invoke this authority by
15 ordinance or resolution.

16 46. San Juan acted through the Rate Motion and without authority, and in doing so,
17 unlawfully increased water rates. San Juan has illegally levied the 2023 Rates against Citrus
18 Heights and Fair Oaks and illegally collected monies pursuant to those rates.

19 47. The 2023 Rates are unlawful because they were not properly adopted or voted upon,
20 not supported by any findings, and not compliant with the mandatory requirements of San Juan's
21 enabling statutes.

22 **C. THE 2023 RATES ARE UNCONSTITUTIONAL UNDER PROPOSITION 26**

23 48. In 1996, the voters passed Proposition 218 which added Article XIII C to the
24 California Constitution and prohibited local governments from imposing, increasing, or extending
25 taxes without voter approval. (Art. XIII C, § 2.) Fourteen years later, in 2010, voters passed
26 Proposition 26 which expanded the definition of state or local taxes to include various payments
27 which had previously been considered fees or charges.
28

1 49. Article XIII C's governing principle is that all taxes imposed by any local
2 government are subject to voter approval. Proposition 26 amended Article XIII C in 2010 and
3 expanded the definition of a "tax" to include "any levy, charge, or exaction of any kind imposed
4 by a local government."

5 50. There are exceptions when a levy, charge, or exaction imposed by a local
6 government is not considered a "tax" under Proposition 26, such as "a charge imposed for a specific
7 government service or product provided directly to the payor that is not provided to those not
8 charged, and which does not exceed the reasonable costs to the local government of providing the
9 service or product." (Art. XIII C, § 1, subd. (e)(2).)

10 51. However, the local government bears the burden of proving that charge qualifies for
11 an exception, and is therefore not a tax subject to voter approval. The local government must show
12 by a preponderance of the evidence that **(1) a charge "is not a tax, that the amount is no more
13 than necessary to cover the reasonable costs of the governmental activity"; and (2) that the
14 manner in which those costs are allocated to a payor bear a fair or reasonable relationship to
15 the payor's burdens on, or benefits received from, the governmental activity.**" (Art. XIII C, § 1,
16 subd. (e), final par.)

17 52. The 2023 Rates are not compliant with Proposition 26 because they require Citrus
18 Heights and Fair Oaks to pay to San Juan vastly more than it costs San Juan to provide Citrus
19 Heights and Fair Oaks service. The inequities of the rates as applied to Citrus Heights and Fair
20 Oaks are numerous and stark, and Plaintiffs herein provide three data points demonstrating the
21 Proposition 26 violation, but which are not intended to be exhaustive.

22 i. The 2023 Rates "Fixed Costs" Component Is a Monopolistic Privilege Tax
23 that Violates Proposition 26

24 53. Generally speaking, the 2023 Rates include a "fixed cost" and a "variable cost"
25 component.

26 54. While it may not be unconstitutional in and of itself to adopt a rate structure that
27 allocates a portion of fixed cost, that allocation must not result in rates that exceed the provider's
28 cost of service, and must not result in rate demands that do not bear a fair and reasonable

1 relationship to the payor's use.

2 55. As alleged in detail below, San Juan's rate structure, including the fixed cost
3 component, violates Proposition 26 because it unreasonably magnifies the fixed costs, regardless
4 of the amount of water a payor uses, and it magnifies those costs in a manner that does not
5 reasonably relate to the benefit conferred on the payor, or the burden imposed by the payor.

6 56. In simpler terms, San Juan is imposing a fixed cost that does not accurately or
7 reasonably reflect its fixed costs, but that instead essentially requires Citrus Heights and Fair Oaks
8 to pay for the privilege of buying water from San Juan, and San Juan attempts to justify the charges
9 based on facially and mathematically unsupportable figures and reasoning.

10 57. A fixed cost component is meant to compensate a seller, not for the commodity
11 being purchased, but instead for the infrastructure and investment needed to provide the good. In
12 the case of water, this can encompass things like maintenance costs, equipment costs, staffing costs,
13 and administrative costs.

14 58. The variable cost component is more directly tied to the commodity itself, and in
15 the case of water, can be understood as the cost of the water itself.

16 59. The example of gasoline at a filling station is helpful to understand these concepts.
17 If gasoline at a filling station costs \$10.00 per gallon, and 60% is variable, and 40% is fixed, this
18 means that for each gallon pumped, \$6.00 goes to the actual cost to the seller of procuring the
19 gasoline, and \$4.00 goes to the maintenance and upkeep of the pumps, hoses, amenities, etc. . . .

20 60. The important aspect of the gasoline example is that the amount paid in variable
21 costs and fixed costs is directly tied to the amount of gasoline consumed. For example, if a
22 purchaser's tank holds 5 gallons, then the purchaser will pay \$30 in variable costs ($\6×5) and \$20
23 in fixed costs ($\$4 \times 5$). If a purchaser's tank holds only two gallons, the purchaser will only pay
24 \$12 in variable costs ($\6×2) and \$8 in fixed costs ($\4×2). As consumption increases, so too does
25 the contribution to the fixed cost burden.

26 61. Turning to the 2023 Rates, the structure is set to dramatically and substantially
27 increase the portion of the rates that are allocated to fixed costs, as it charges a flat rate for fixed
28 costs regardless of the amount of water consumed.

1 62. Previously, San Juan recovered over 65% of its fixed costs from its wholesale rates.
2 ***The 2023 Rates not only increase rates overall, but also increase the fixed cost portion of the***
3 ***rates to over 80%.***

4 63. The prior rate of over 65% was substantially out of step with public wholesale water
5 provider industry standards, but the current 83% is unheard of. For example, across the industry,
6 and in reference to similar wholesale water agencies, fixed cost recovery is far less:

Agency	Fixed Cost Recovery (%)
Zone 7 Water Agency (Livermore, California)	45%
San Diego County Water Authority (San Diego, California)	22%
West Basin Municipal Water District (Carson, California)	5%
Upper San Gabriel Metropolitan Water District (Monrovia, California)	9%
San Juan Water District (Granite Bay, California)	83%

19
20 64. Even setting aside the exorbitant portion of the rate that accounts for fixed costs,
21 there is an additional problem that fundamentally conflicts with Proposition 26's requirements –
22 ***the fixed cost component of the 2023 Rates bares no relationship to the current amount of water***
23 ***used by Citrus Heights or Fair Oaks, but is instead derived from outdated usage information. It***
24 ***has the effect of a flat rate that wholesale member agencies are forced to pay, regardless of***
25 ***whether they purchase 1 AF of water a year, 100 AF of water a year, or even 0 AF of water a***
26 ***year.***

27 65. In the gasoline example, the fixed rate is static, but the amount paid goes up as more
28 gasoline is purchased. This is because as more gasoline is purchased, there is a corresponding

1 increase of the burden on the operational components that require administration and maintenance.
2 In simple terms, the more gasoline one purchases, the more wear and tear one causes on the fixed
3 components, such as gasoline hoses, parking areas, credit card machines, etc. . .

4 66. Fixed costs in the water context should operate the same way. When appropriately
5 priced, fixed costs are intended to allocate a portion of a provider's fixed cost recovery *in*
6 *proportion* to a purchaser's contribution to the fixed cost burden, and to achieve this, they are often
7 based on the specific amount of water a purchaser uses. This is often accomplished in the same
8 way as gasoline sales – a portion of each unit sold is allocated to fixed cost recovery. This way,
9 high-water users pay a greater portion of fixed costs than low-water users, because the higher
10 volume user places more demands on the provider's water system.

11 67. However, San Juan prices fixed costs as a flat tax under the 2023 Rates, as if for the
12 privilege of being allowed to purchase water from San Juan. This approach to fixed cost allocation
13 violates Proposition 26 because requiring Citrus Heights and Fair Oaks to pay a flat amount
14 regardless of the amount of water purchased does not bear a fair and reasonable relationship to the
15 burden Citrus Heights and Fair Oaks place on the system. Instead, the 2023 Rates merely assign a
16 number regardless of consumption.

17 ii. San Juan's Purported Justification for Assigning a Flat Fixed Cost Does Not
18 Satisfy Proposition 26 Because It Relies on Outdated Usage Metrics

19 68. On information and belief, San Juan is aware that assigning a flat rate for fixed cost
20 recovery, regardless of usage, violates Proposition 26. In an effort to disguise the Proposition 26
21 violation, San Juan purportedly calculates the flat rate based on the average of the user's prior 10
22 years of water purchases.

23 69. In the case of Citrus Heights and Fair Oaks, using a 10-year average to calculate the
24 flat fixed cost rate does not reflect the cost of providing the specific government service to Citrus
25 Heights or Fair Oaks, nor does it bear a reasonable relationship to the benefits received from such
26 service, because Citrus Heights and Fair Oaks have significantly decreased their surface water
27 purchases from San Juan over the past 10 years.

28 70. In fact, San Juan's own data clearly shows that Citrus Heights and Fair Oaks water

1 purchases from San Juan in recent years have decreased by almost 50% from what they were 10
 2 years ago:

3 **Table 1: Historical Annual Water Deliveries by Fiscal Year**

	San Juan Water District (Retail)	Citrus Heights Water District	Fair Oaks Water District	Orange Vale Water Company	City of Folsom	Total
FY 2007	16,482	19,147	12,140	4,312	1,861	53,942
FY 2008	17,226	16,594	10,729	4,796	1,661	51,006
FY 2009	14,943	14,879	10,519	4,154	1,708	46,204
FY 2010	12,686	11,366	10,707	4,363	1,334	40,456
FY 2011	12,700	12,684	10,307	4,215	1,308	41,214
FY 2012	13,569	13,091	10,122	4,506	1,469	42,758
FY 2013	14,743	14,327	10,676	5,023	1,507	46,276
FY 2014	13,142	12,160	8,766	4,586	1,299	39,952
FY 2015	10,552	10,016	7,787	3,671	1,187	33,213
FY 2016	10,213	9,134	7,137	3,190	963	30,637
FY 2017	10,752	9,775	7,288	3,473	1,062	32,349
FY 2018	11,520	11,202	6,400	3,950	1,132	34,204
FY 2019	10,864	9,734*	6,394*	3,822	1,080	31,895
FY 2020	11,920	11,407	7,780	3,790	1,194	36,091
FY 2021	13,690	10,361	8,202	4,141	1,239	37,634
FY 2022	12,143	7,852	6,723	3,883	1,092	31,693

*FY 2018/19 surface water deliveries to CHWD & FOWD were reduced by 1,446 and 1,587 acre feet respectively, due to a groundwater substitution transfer that occurred.

13 71. The primary reasons for the dramatic reduction are (1) that Citrus Heights and Fair
 14 Oaks have heavily invested in groundwater production *because San Juan has specifically advised*
 15 *Citrus Heights and Fair Oaks to invest millions of dollars to increase their groundwater*
 16 *production*, and thereby decrease reliance on the purchase of wholesale water from San Juan; and
 17 (2) that Citrus Heights and Fair Oaks have diligently planned and implemented their own water use
 18 efficiency measures in accordance with State requirements, thereby dramatically changing their
 19 water usage patterns as compared to the 10-year lookback that form the basis for the 2023 Rates.

20 72. The groundwater investments made by Citrus Heights and Fair Oaks over the last
 21 decade were not made in a vacuum. Rather, San Juan issued planning documentation encouraging
 22 Citrus Heights and Fair Oaks to diversify their water supply portfolios by producing their own
 23 groundwater, to the benefit of all of San Juan's customers. San Juan was concerned about being
 24 able to service its own retail customers' needs, and required assistance in offsetting demand.

25 73. Indeed, as far back as 2007, San Juan recommended Citrus Heights and Fair Oaks
 26 add a *minimum* of 12 million gallons daily ("mgd") of well capacity and 32 mgd of storage capacity
 27 to their groundwater systems.

28 74. Citrus Heights and Fair Oaks have acted in accordance with and in reliance on these

1 recommendations, and commensurately increased their own groundwater production while
2 decreasing demand on San Juan's surface water.

3 75. In 2013, Citrus Heights produced only 465 AF of groundwater, and Fair Oaks
4 produced only 1,320 AF of groundwater. In the ensuing decade, and after significant investment,
5 Citrus Heights has increased its yearly groundwater production and in recent years this increase has
6 amounted to about 3,600 AF, or 31% of its total demand. And Fair Oaks increased its yearly
7 groundwater production to 3,636 AF, or 37% of its total demand.

8 76. By increasing groundwater production, Citrus Heights and Fair Oaks have decreased
9 the cost to San Juan of providing surface water to Citrus Heights and Fair Oaks because the latter
10 rely less on San Juan's infrastructure and thus decrease the burden and maintenance costs on the
11 infrastructure.

12 77. The 10-year average also fundamentally conflicts with Proposition 26 because San
13 Juan uses the prior 10 years to create a flat fixed cost charge ***that will continue unchanged for the***
14 ***next five years.*** In other words, the 10-year average that San Juan uses today to calculate the flat
15 fixed cost charge will not change for the next five years while the 2023 Rates are in effect. This
16 means that in 2028, San Juan will still be levying a rate based on water usage that is outdated by
17 15 years, irrespective of changes in demands driven by conservation measures and increased
18 capacity to deliver groundwater.

19 78. Even if Citrus Heights and Fair Oaks continue to decrease water purchases over the
20 next five years, they will be charged under the 2023 Rates the same fixed cost charge regardless of
21 their decreasing impacts on San Juan's system.

22 79. The wholesale water industry seems to recognize that 10-year average is an
23 unacceptable metric, as is an average that does not adjust (*e.g.* roll) in the future; instead,
24 comparable providers look back between three and five years, and do so on a rolling basis:

25

Agency	Fixed Cost
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1 2 3 4 5 6 7 8 9 10 11 12	Zone 7 Water Agency (Livermore, California)	Allocated based on a 2-year rolling average of historical water use
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	San Diego County Water Authority (San Diego, California)	Allocated in multiple components based on rolling averages between 3 years and 5 years
	West Basin Municipal Water District (Carson, California)	Allocated based on a 3-year historical average of imported water deliveries
	Upper San Gabriel Metropolitan Water District (Monrovia, California)	Allocated based on peak capacity during prior 3 years
	San Juan Water District (Granite Bay, California)	Allocated based on average use during prior 10 years

80. It is unconstitutional to require Citrus Heights and Fair Oaks to pay a flat rate, regardless of the actual amount of water they purchase at present. San Juan cannot justify the flat rate by basing it on outdated usage metrics referencing much higher usage from 10 years prior, that doesn't account for Citrus Heights' and Fair Oaks' groundwater production, and does not update as Citrus Heights' and Fair Oaks' actual purchases of water, and corresponding demand on San Juan's system, decrease.

iii. The 2023 Rates Are an Attempt to Subsidize San Juan's Retail Rates, in Violation of Proposition 26

81. San Juan provides retail water service to its own retail customers through the same agency that it uses to provide wholesale water to wholesale purchasers.

82. Under Proposition 26, the manner in which San Juan allocates its costs to Citrus Heights and Fair Oaks must be reasonably related to the benefits conferred to Citrus Heights and Fair Oaks, or the burden caused by Citrus Heights and Fair Oaks. It is unconstitutional to charge Citrus Heights and Fair Oaks in order to subsidize other water users that San Juan serves.

83. This means that when San Juan allocates a fixed cost, such as the cost to fund an

1 administrative position (*e.g.* finance director), it must assign a portion of that cost to the retail rates,
2 and a portion of that cost to the wholesale rates. Under Proposition 26, this assignment must be
3 reasonable and proportional.

4 84. San Juan has disproportionately assigned costs to the wholesale rates, which has the
5 effect of offsetting and reducing the amount it charges to its retail customers. On information and
6 belief, San Juan is incentivized to reduce retail rates to cater to its retail customers.

7 85. The most illustrative, but not exhaustive, examples of the disproportionate and
8 unconstitutional allocation can be seen by reference to basic data. San Juan services 10,675 retail
9 customers, billed bimonthly, and 5 wholesale customers, billed quarterly. San Juan-Retail
10 customers have the highest water use per customer in the Sacramento Region and one of the highest
11 water use per customer in the State.

12 86. The administrative costs of managing and responding to 10,675 customers are far
13 greater than the administrative costs of managing and responding to 4 customers. Nonetheless, in
14 certain contexts, San Juan has allocated a shocking 85% of these costs to its wholesale arm, and
15 only 15% to its retail arm.

16 87. On information and belief, San Juan allocated this percentage, and other
17 percentages, not based on timesheets or specific recordkeeping, but on the San Juan General
18 Manager's self-serving review of a limited timeframe of data that disregarded critical periods of
19 time that show a much greater cost demand by retail customers as opposed to wholesale customers.
20 The San Juan General Manager's and staff's estimate allocating percentages of costs was often
21 arbitrary, capricious, and unreasonable, to the detriment of wholesale customers like Citrus Heights
22 and Fair Oaks.

23 88. On information and belief, San Juan's General Manager reports to San Juan's Board
24 of Directors. A majority of SJWD's Board of Directors comprises individuals who are SJWD retail
25 customers. On information and belief, San Juan's General Manager and San Juan's Board of
26 Directors are incentivized to estimate costs in a way that favors retail rates and disfavors wholesale
27 rates, and have done so arbitrarily and in a manner that is not reasonable and proportional under
28 Proposition 26.

1 89. In a separate context, related to staffing its Finance Department, San Juan has
2 allocated an arbitrary fifty-fifty split. A fifty-fifty split is not proportional or reasonable in light of
3 the actual data related to the Department's staffing. The Finance Department has eight staff
4 positions, or Full Time Equivalents ("FTEs"). Of these eight FTEs, 7.75 are assigned to manage
5 retail operations, with only .25 assigned to manage wholesale operations. A data-driven allocation
6 based on FTEs results in 3.125% of costs assigned to wholesale, and 96.875% assigned to retail.

7 90. While San Juan may have some discretion to arrive at a reasonable and proportional
8 allocation of costs between retail and wholesale operations, San Juan has not properly exercised
9 this discretion. It has done so arbitrarily and unreasonably and in a manner that results in wholesale
10 rates that exceed the cost to San Juan of providing wholesale water service, and thus violate
11 Proposition 26.

12 iv. San Juan Levies and Will Continue to Levy the Unlawful and
13 Unconstitutional 2023 Rates

14 91. San Juan has levied the 2023 Rates against Citrus Heights and Fair Oaks, and Citrus
15 Heights and Fair Oaks have paid the unlawful and unconstitutional 2023 Rates to ensure that they
16 can continue receiving water that is necessary to serve their customers' needs.

17 92. On information and belief, San Juan will continue to levy and charge the unlawful
18 and unconstitutional 2023 Rates, and Citrus Heights and Fair Oaks will be forced to continue to
19 pay the unlawful and unconstitutional rates in order to ensure that their customers receive sufficient
20 water.

21 **V. PLAINTIFFS HAVE COMPLIED WITH ANY AND ALL PRE-SUIT**
22 **REQUIREMENTS, AND THIS COURT HAS JURISDICTION TO AWARD**
23 **INJUNCTIVE, MONETARY, AND EQUITABLE RELIEF AS ALLOWED BY LAW**

24 93. Generally, no civil suit may be brought against a public entity until the Government
25 Claims Act (Gov. Code §§ 810, *et seq.*) claim presentation requirements have been satisfied, and
26 either the public entity acts on it or it is deemed to have been denied by operation of law. However,
27 pursuant to Government Code section 905(i), the Act's claim presentation requirements do not
28 apply to "[c]laims ... by another local public entity..." In other words, as local public entities,

1 Citrus Heights and Fair Oaks are not required to submit a government claim under the Government
2 Claims Act prior to bringing suit.

3 94. Nonetheless, in order to attempt to resolve the present dispute without litigation and
4 in order to provide San Juan all reasonable notice and opportunity to correct the unlawful 2023
5 Rates, Citrus Heights and Fair Oaks not only transmitted a government claim after San Juan
6 illegally adopted the 2023 Rates by the Rate Motion, but also transmitted hundreds of pages of
7 objections to the 2023 Rates prior to their adoption by the Rate Motion.

8 95. Government Code section 912.4 provides that the governing board of a local agency
9 shall act on a claim within 45 days after the claim has been presented, and if “the board fails or
10 refuses to act on a claim within the time prescribed ... the claim shall be deemed to have been
11 rejected by the board on the last day of the period within which the board was required to act upon
12 the claim.”

13 96. As of the filing of this complaint, more than 45 days have elapsed since San Juan
14 received Citrus Heights’ and Fair Oaks’ government claims. San Juan has not responded, thus
15 rejecting the claims.

16 97. Article XIII, Section 32 of the California Constitution provides that “[n]o legal or
17 equitable process shall issue in any proceeding in any court against this State or any officer thereof
18 to prevent or enjoin the collection of any tax.” However, “[a]fter payment of a tax claimed to be
19 illegal, an action may be maintained to recover the tax paid” (Art. XIII, § 32.) This is
20 commonly known as the “pay first, litigate later” rule.

21 98. Citrus Heights and Fair Oaks do not concede that this provision applies to irrigation
22 districts in the same manner as the State and its officers; nonetheless, they have paid the illegal
23 2023 Rates prior to initiating this litigation.

24 99. The claims, payments, and efforts of Citrus Heights and Fair Oaks satisfy any and
25 all applicable pre-suit procedural requirements, whether by explicit or substantial compliance with
26 those requirements.

27 100. This Court has jurisdiction to award injunctive, monetary, and other equitable relief
28 as allowed by law.

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VI. PETITIONERS BRING THIS ACTION TO VINDICATE AN IMPORTANT PUBLIC INTEREST AND ARE ENTITLED TO ATTORNEY’S FEES UNDER CODE OF CIVIL PROCEDURE 1021.5

101. Citrus Heights and Fair Oaks bring the present action on behalf of themselves as well as their customers, because the unlawful 2023 Rates have increased costs to Citrus Heights, Fair Oaks, and their customers.

102. This action seeks to enforce an important public right – the right to be free from an unlawful and unconstitutional tax – that will confer a significant benefit on Citrus Heights and Fair Oaks customers by relieving them from financial burden caused by the unlawful and unconstitutional 2023 Rates.

103. Citrus Heights and Fair Oaks have incurred and continue to incur financial burdens in vindicating these public rights.

104. The interests of justice require that Citrus Heights and Fair Oaks be awarded their attorney’s fees and costs, apart from any damages recovery.

105. Plaintiffs therefore bring this action as private attorneys general, pursuant to Code of Civil Procedure 1021.5, and seek an appropriate award of attorney’s fees and costs.

VII. REQUEST FOR PRIORITY

106. The Plaintiffs request that this action “be given preference over all other civil actions before the court” pursuant to California Code of Civil Procedure section 867.

VIII. FIRST CAUSE OF ACTION

Writ of Mandate CCP § 1085

107. Plaintiffs re-allege and incorporate by reference all allegations in the paragraphs above.

108. Code of Civil Procedure section 1085, subdivision (a), authorizes this Court to issue a writ of mandate “to compel the performance of an act which the law specifically enjoins.”

109. Defendant has a mandatory duty to comply with the laws of this State and its Constitution.

1 110. Defendant violated the laws of this State by increasing water rates by motion, rather
2 than by ordinance or resolution, and by collecting monies pursuant to the unlawful rates.

3 111. Defendant violated the Constitution, and specifically Proposition 26, by charging
4 Plaintiffs water rates that exceed the cost to Defendant of providing water service to Plaintiffs.

5 112. Defendant violated the Constitution, and specifically Proposition 26, by charging
6 water rates to Plaintiffs that do not bear a fair or reasonable relationship to Plaintiffs' burdens on,
7 or the benefits received from, Defendant.

8 113. Defendant charged Plaintiffs the illegal and unconstitutional rates, and Plaintiffs
9 have paid to Defendants monies illegally and unconstitutionally charged.

10 114. Plaintiffs and their customers, residents, and taxpayers have been harmed.

11 115. Plaintiffs have no speedy or adequate remedy at law for the violations alleged herein.

12 116. Accordingly, Plaintiffs are entitled to a writ of mandate pursuant to Code of Civil
13 Procedure section 1085 and respectfully requests this Court to issue a writ setting aside the Rate
14 Motion and the unlawful and unconstitutional 2023 Rates.

15 **IX. SECOND CAUSE OF ACTION**

16 **(Reverse Validation – CCP § 863)**

17 117. The Plaintiffs re-allege and incorporate by reference all allegations in the paragraphs
18 above.

19 118. Plaintiffs are interested parties pursuant to and in accordance with Code of Civil
20 Procedure section 863.

21 119. Pursuant to California Government Code section 53759, and for the reasons stated
22 herein, Plaintiffs seek to attack, review, set aside, void, and/or annul the Rate Motion and the 2023
23 Rates.

24 **X. THIRD CAUSE OF ACTION**

25 **(Declaratory Relief)**

26 120. The Plaintiffs re-allege and incorporate by reference all allegations in the paragraphs
27 above.
28

1 121. Plaintiffs are interested persons pursuant to and in accordance with California Code
2 of Civil Procedure sections 1060, *et seq.*

3 122. Plaintiffs seek a declaration of rights or duties with respect to Defendant, and with
4 respect to money paid or in the future allegedly owed pursuant to the 2023 Rates and the Rate
5 Motion.

6 123. Plaintiffs seek a declaration that the 2023 Rates and the Rate Motion are unlawful
7 and unconstitutional, and that Plaintiffs are entitled to refund of money paid pursuant to the 2023
8 Rates and the Rate Motion.

9 **XI. FOURTH CAUSE OF ACTION**

10 **(Claim for Refund)**

11 124. Plaintiffs re-allege and incorporate by reference all allegations in the paragraphs
12 above.

13 125. Defendant has unlawfully and unconstitutionally levied and collected monies from
14 Plaintiffs pursuant to the 2023 Rates and the Rate Motion.

15 126. Plaintiffs are entitled to a refund pursuant to the Government Claims Act.

16 **XII. PRAYER**

17 Wherefore, based on the foregoing allegations, Plaintiffs pray for judgment against
18 Defendants San Juan Water District and All Persons Interested as follows:

19 A. Issuance of a writ of mandate to enjoin Defendant San Juan Water District from
20 levying or collecting the 2023 Rates and invalidating the 2023 Rates and the Rate Motion.

21 B. A declaration and judicial determination that 2023 Rates were illegally adopted and
22 levied under the Government Code.

23 C. A declaration and judicial determination that the 2023 Rates are unconstitutional.

24 D. A refund of all moneys collected by San Juan from Citrus Heights and Fair Oaks
25 pursuant to the 2023 Rates.

26 E. Attorney's fees and costs pursuant to Code of Civil Procedure 1021.5, and any other
27 applicable statute or law.
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F. For any other relief that the Court deems just and proper.

Dated: April 9, 2024

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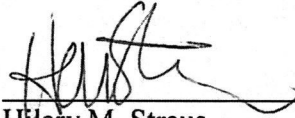
VERIFICATION OF PUBLIC ENTITY – CITRUS HEIGHTS WATER DISTRICT

I am the General Manager of Citrus Heights Water District, a public entity and party to this action. I am authorized to make this verification on behalf of Citrus Heights Water District, and submit this verification for that reason, pursuant to California Code of Civil Procedure section 446.

I have read the above complaint and am informed and believe the matters therein to be true, and on that ground allege that the matters stated therein are true.

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

Executed at Citrus Heights, California on this 8th day of APRIL, 2024.



Hilary M. Straus
General Manager
Citrus Heights Water District

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