1 2	JENNIFER T. BUCKMAN, STATE BAR NO BARTKIEWICZ, KRONICK & SHANAHAI A PROFESSIONAL CORPORATION	D. 179143 N ELECTRONICALLY FILED
3	1011 22 nd St., Sacramento, CA 95816-4907 Telephone: (916) 446-4254	Superior Court of California, County of Orange
4	Fax: (916) 446-4018 E-mail: jtb@bkslawfirm.com	05/27/2016 at 12:43:00 PM
		Clerk of the Superior Court By e Clerk,Deputy Clerk
5	Attorneys for Amicus Curiae ASSOCIATION OF CALIFORNIA	
6	WATER AGENCIES	
7	SUPERIOR COURT OF T	HE STATE OF CALIFORNIA
8	COUNTY OF ORANGE, O	CENTRAL JUSTICE CENTER
10	KENT EBINGER, an individual; and) Case No. 30-2016-00829548
11	YORBA LINDA TAXPAYERS	Assigned For All Purposes to:
12	ASSOCIATION, a California mutual benefit corporation,) Hon. Robert Moss) Department: C-14
13	Petitioners,) NOTICE OF FILING AMICUS
14	VS.	CURIAE LETTER IN SUPPORT OF RESPONDENTS
15	YORBA LINDA WATER DISTRICT, a public	
16	entity; YORBA LINDA WATER DISTRICT BOARD OF DIRECTORS in their respective	Petition Filed: January 12, 2016 Hearing Date: June 13, 2016
17	official capacities; and DOES I -X, inclusive,	Time:
	Respondents.	
18)
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20	TO ALL DADTIES AND THEIR ATT	CODNEYS OF RECORD.
21	TO ALL PARTIES AND THEIR ATT	
22	PLEASE TAKE NOTICE THAT the A	Association of California Water Agencies
23	("ACWA") and the League of California Citie	s hereby file and serve the attached Amici
24	Curiae letter in support of Respondents Yorba	Linda Water District and Yorba Linda Water
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26	<i>//</i>	
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- 1		
1	District Board of Directors.	Amici Curiae respectfully requests that this Court review and
2	consider the attached letter.	
3		
4	Dated: May 16, 2016	BARTKIEWICZ, KRONICK & SHANAHAN A Professional Corporation
5		2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
6		By: Junfu & Bond
7		Jennifer T. Buckman
8		Attorneys for Amicus Curiae Association of California Water
9		Agencies
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910 K Street, Suite 100 Sacramento, CA 95814 916.441.4545

May 16, 2016

Hon. Robert Moss
Department C-14
Orange County Superior Court
700 Civic Center Dr.
Santa Ana, CA 92701

RE: Ebinger v. Yorba Linda Water District (Case No. 30-2016-00829548)

Amici curiae the Association of California Water Agencies and the League of California Cities respectfully submit this letter in support of Respondents Yorba Linda Water District and Yorba Linda Water District Board of Directors' Opposition to Petition for Writ of Mandate.

Interests of Amici in This Case

Amici are organizations whose members are local governmental entities (including cities and special districts) and regulated public utilities that provide water services to their customers. Specifically, the Association of California Water Agencies ("ACWA") is the largest coalition of public water agencies in the nation; ACWA represents 430 public water suppliers that provide water for urban and agricultural use. ACWA's member agencies range in size from small irrigation districts to the largest water wholesalers in the country.

ACWA is joined in this amici brief by the League of California Cities ("League"), an association of 474 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhancing the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, comprised of 24 city attorneys from all regions of the State. The committee monitors litigation of concern to municipalities and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance for California cities, because many of the League's members operate municipal utilities that provide water service to their residents.

Both amici are concerned about this case due to its potential to disrupt the fiscal stability of California's water suppliers and to threaten their ability to provide safe and reliable water within their communities.

Revenue and Cost Impacts of Drought Regulations, and Water Suppliers' Need for Fiscal Stability

In 2015, due to the ongoing and severe drought that California has been experiencing, the State Water Resources Control Board ("State Water Board") adopted mandatory emergency regulations which required all water suppliers within the state to impose certain measures to conserve water supplies and reduce "municipal and industrial" (i.e., urban and suburban) water use. First, in response to Governor Brown's April 1, 2015 Executive Order which called for statewide water use reduction of 25% compared to water use in 2013, the State Water Board adopted an emergency urban water conservation regulation intended to reduce each supplier's water use by 25%. On November 13, 2015, in response to comments received by amici's members and other affected parties who raised concerns about variations in local water supply conditions, the Governor issued an additional Executive Order directing the State Water Board to extend and revise the emergency urban water conservation regulations through October 2016 but no longer mandating the statewide 25% water use reduction goal. On February 2, 2016, the State Water Board adopted an extended emergency urban water conservation regulation, which took effect February 11 and extends through October 2016. These emergency regulations required urban and suburban local water suppliers to meet state-mandated conservation targets ranging from 4% to 36%, as compared to 2013 pre-drought baseline levels of water use.

This letter is intended to provide examples of impacts of the State Water Board's emergency water conservation regulations on local retail water suppliers that are ACWA and League members. Yorba Linda Water District is one such supplier. Most revenues of local water suppliers are generated by water sales. The volume or amount of water sold therefore directly impacts the revenues of a local water supplier.

To be fiscally sound, water suppliers must impose rates that are sufficient to cover the costs of supplying the water. Many of the water suppliers' costs of providing water service are fixed and therefore are not reduced even when less water is sold. Fixed costs include items such as the cost of certified or licensed staff positions (i.e., labor), capital costs and debt service, and costs associated with routine operations and maintenance of the water facilities.

Water suppliers spread these fixed costs among all of their ratepayers. For most suppliers, at least a portion of their fixed costs are recovered through volumetric rates, meaning that the total amount of costs is divided by the volume of water sold to create a per-unit water rate.

Conservation measures are intended to, and do, reduce the volume of water sold.

When less water is sold, there is less volume over which to spread the costs. In other words,

the denominator is reduced. This means that water suppliers must increase the rates per unit of water sold in order to ensure that they are still covering that portion of their fixed costs that are allocated to their volumetric rates. For this reason, water suppliers throughout the state have been financially impacted by the mandatory conservation measures. Water suppliers that recover a greater amount of fixed costs from volumetric rates have experienced a larger drop in revenues than suppliers that recover more of their fixed costs in the fixed portion of water charges.

To assess the regulation's impact on water suppliers to date, the Association of California Water Agencies and the California Municipal Utilities Association (CMUA) authorized an informal survey of their members using survey software; the survey was conducted by ACWA staff in November 2015. Responses to the online survey were received from 85 urban water suppliers representing a 19% response rate. The data were compiled into a summary in table format. Additionally, three wholesale agencies responses to the survey. These responses were calculated separately. However, in assessing the true impact of the regulations, both urban retail and wholesale agencies responses were used. A true and correct copy of the table summarizing responses to the online survey is attached to this letter as Exhibit A.

As shown in the table summarizing the responses to the online survey, the emergency conservation regulation required water suppliers to reduce water use anywhere from 4% to 36%, depending on the specific target. The associated reduction in water sales translated into an estimated combined revenue loss of more than \$528.5 million from June 2015-February 2016 for the suppliers that responded to the survey. If the responses received from respondents are representative of the revenue losses experienced by water suppliers throughout the state, this equates to more than \$3 billion in lost revenue. (This figure does not include any costs experienced by wholesale water agencies, such as the Metropolitan Water District of Southern California, since wholesale water agencies were calculated separately in the survey.)

Expressed as a percentage of a supplier's total budget, the losses represent, on average, more than 13% of a supplier's annual budget. For some suppliers, the losses represented up to 33% of their annual budgets.

While the emergency conservation regulation reduced water suppliers' sales and therefore reduced their revenue, it also imposed additional costs. The emergency conservation regulation required many suppliers to expand conservation enforcement activities, public outreach and education, and incentives. Suppliers that responded to the survey estimated that their additional costs for conservation-related programs totaled more than \$82 million from June 2015-February 2016.

Due to the effects of the drought and the emergency conservation regulation, 59% of survey respondents have adopted or are in the process of adopting rate increases, and another 33% either plan to adopt or are considering adopting rate increases in 2016. Only 2% of respondents said they would not raise rates in 2015 or 2016.

Of the water suppliers that responded that they are raising rates, 25% have imposed or are in the process of imposing drought surcharges, and another 16% are considering imposing drought surcharges in 2016.

In sum, the survey results show that the emergency conservation regulation imposed costs of more than \$610 million on the 85 agencies that responded to the survey. That total includes both revenue losses and additional costs for conservation-related programs.

Water suppliers need sufficient funding to cover necessary costs associated with operating, maintaining and upgrading their water systems, such as investing in local resources development. Losses of revenues of the magnitude water suppliers experienced during the drought are unsustainable and must be offset by increases in water rates, or the ability of the water suppliers to operate and maintain their systems and credit ratings could be compromised.

Conclusion

Amici thank the Court for its consideration of their members' interests and the important public policy questions presented by this case. For all the reasons set forth above, amici support Respondents Yorba Linda Water District and Yorba Linda Water District Board of Directors' Opposition to the Petition for Writ of Mandate.

Sincerely,

Jennifer Persike

Deputy Executive Director,

External Affairs/Member Services, Association of California Water Agencies on behalf of Association of California Water

Agencies and League of California Cities

EXHIBIT A

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	25 face in Casing and the Empirical on terroristy control of 25 face in Casing 25 fa	budgshed an additional \$100,000 bit water conservation programs to a ball of \$500,000 for new far replacement program, participation in BockWhateffmett program, and to arkharch customer connectivities and backface customer connectivities and backface.	Daws was beneficious and continuous conservation for the follow. Who have specimentally dayled from a settler, party variable, sinked man taken, a thorse haven, party main from settler, party maint from the following party and the continuous following and the continuous for the following maintainers to be settlered from the continuous for the continuous forth for the continuous forth for the continuous forth for	stations and anymatery pleas in our local resuppoper spaces, califications. It all loss have asset short \$23,000. Activities included appressive make anywayers, carbonar subsequent and advantage, water seited to enhance searchines.		In March 2016 are against implemented a lasted drought rate storates, For progrem come - \$1,153.740 including staff time, 758,800 anclaring rate flow, and time couls include him to design, manage, and sholone program.	The recovery over pattern to Many and the State of the St	The program continues and program and prog	Additional express from execution and additional and additional express the additional express from execution and additional additio	This and indicates the second as a second	lest their backscaping when then cloth to be the resilies with order the fibrative freelia bits, recont mentagings.	NA	The city also spect a total of \$450,000 in additional costs agriculted to	NOTATION.			Approximately \$1.2 million relate for landscape and integrals impatible for commercial and residential for some extractions. Considerate forces from a necessary reviews the condition of the	Certaintee sarrega again representa sarrega sincega Ucaciar como, Ratariosa Africa especial 2016, and constall may. Additional autosach materials increased landounce sections as	ishtatta, additional staff, home within use report propert, low recome till an exclusionment consum. I hostilitated 45(0,00).	Biorings Teak Faton, Community Coteach and other laters balans Stage 3 was celled.		Use of stored water in an amount 10,000 of inhigh will cost 15 fm to self.				Van en extensional case also as consent by extensional processing. When en extensional case are consented by extensional consenses, and the extensional case are consented as in the extensional content.		14th 952 with 52 DOG located as an addition to nates program Does not include secular that loss on discussed error are not bracked it.	\$38,000 furt removal at tacificas.	Lowerted bowis at all well sites 100 test to meat district needs -its are collected to allowin-		Staff linta: \$7200 (Aska-Fab)
	D00'0424	\$100,000	\$23.600 \$23.000	8415.870	\$16.602	\$1,163,240	1007 844			\$10,500 \$10,500		\$20,000 \$0 \$46,500	\$413,000	\$20,000	\$1,562,000	20702	\$1,085,000	246000	11 104 000		\$3,500,000	400'000'5	2144,000	145,000	\$1,300,000	000000	10-401	\$742,559 \$148,682	\$75,000 \$49,000		5240,000	12,000
	9746	and the same of th	2	6	unthorn	0 4,738	cellence		6	2.450		Linkston	triguosis	2.874	86,222	a	Uninows 2402	9	$\neg T$		13,997	0	unknown		24.084	en histories		1979	90	uzistanı	0	0
			25 50 50 50 50 50 50 50 50 50 50 50 50 50 5			1,183	9		2	188	- 1	3,200		4.223			3,500	T	3371		19.107	6.127	6,084		34,064	2	10,404	1,069	2.636	H	2,882	2
1			23,250%			25%	Š	3		SA.		20.40%		I	28%	32.74%	33%	38	3000		27%	41%	244	425	28%	4115	2104	14/2	S a	20.00	542	5,67%
		CINUA. 20%	(S)	CRUA 28%	SE SE	CMUA 20%	Collak		- 1	a fi		CMIA 15% 20%	CMM 24%	CALLIA 35%	CMUA 28%		CALLA 12%				CAULA 36%	2874	T I		SMUA. 1896	CHEAN	WE 23W	24%	CALLA 25%	244	20%	**
	ACMA	ACMA	ACMA	1	ACWA	AGWA		ACMA	u de la composition della comp	VCWA VCWA		CWA		ACWA			ACWO.		AGWA			ACWA	ACWA			ACTION	ACWA	ACWA	ACWA	ACWA	ACOM	ACMA
		100-641-2440 451-145-1541	\$20.241-1085 bress \$256.5	816-238-3548	760-438-2723	714-715-4271	620,258-6505	041,234,3477	1	707-414-595		/// // // // // // // // // // // // //	650-328-2214	530-224-6042	0553 825-8850	10,12,74,5564	714447-3378	4056162006	105-652-4550		700-386-2051	925-688-9034	100	1177-110-1	10-287-0231	09 10044239	1-026-3777 X4162	640-627-7010 ×240	316-551-3023 816-551-3023	081-831-0089	619-667-6258	34435014
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100000000000000000000000000000000000000	District years years the state of the state	Area Light & Weber Area Light & Weber Beaumon Chem Voller Waler Danier	Bath Visia Visia (1) fig Saar Cay CSD	Burbank Water and Power	Cartabad Municipal Water District	Colo of Anabalm Public Upilities	Optibusés	Cay all Corosa Datamental Water and Found	On a Photocophic Diffusion	Coy of Furthers Coy of Furthers		City of New York Water United Department Oly of Department Water United Department	City of Palo Alba	Gas of Power City of Redding	City of Riverside, Public Utilises	Cay of Reservition	Cay of Sacrements Cay of Sacta Ana	City of Santa Clara	City of Venture		Cozohalla Valley Water District	Contra Costa Walar District DesertWate Assesse	Dolla See Benne Resident	A STATE OF THE STA	Eastling Municipal Utility District	East Valve Valve Careat	Enises Vaniopal Water Diahris Proceeds also francia	fil Ten Waler Dietrica	Charles Water & Power	Onescheld water	Help: Wither District Name of the State of Market States	Herbeit day Apanoph veen paess

Young	ACWA C	CMUA Coer	Conservation C	Cumulative water	Additional Commission water Commission water for conservations assimise water for conservations assimise water for conservations assimise the seat future use?	Retained water future use?	Additional for conservation programs cost?	Additional Details in this section?	calculated revenue foss: total dollars	calculated revenue loss: % of 8 budget 8	Raise Ra	Raise Rates Other	Drought aurchans2	Drought surcharge other answers	Drought Drought Additional details in this arction?	Received conservation order 2	Additional actions required as a result of the conservation properties	Fines or Total penalties on dollars in customens? fines 2
Metropolitian Weder District of Scullern CA ACWA		CMUA 16%		25%	177.000	177,606	\$410.600.000	Corevrent re conservation mandate: Metropolitan via not audigend a mandated amount. Metropolitan's board adopted a Water Supply Alicondon Plan that would result in approximately a 15% enduction in pagency demands.	\$139,300,000		1 \$				cellion plan. If are agency exceeds.	2		
Shasta County Water Agency	ACWA	20%		29%	77	0	30	e revising drought ordinances, and ones, staff time educating public on phts.	\$4,200	28%	Other W (please co specify) as	Water wholesaler, direct costs pass to customers automatically.	Yes		Transferred water to fill difference between demand and CVP affectation. Transferred water cods. 55x more and requires additional management. Transferred water "take or pay;" will be paralized for unused weter.	2	- N	
Rontoray Peninsula Water Managament District	ACWA	%0		17.70%	5,401	some	\$220,000	ch, rebates, etc.	not the retailer	n/a		not the retailer	Other (please specify)	not the retailer	we have an investor owned retail provider which gets the revenue impacts.	No		Yes \$400
	1	1	1		467.476		-				1							