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Unreasonable Use and Waste Complaint Filed Against Fox Canyon Groundwater Management Agency to Balance Water Use in the Oxnard Plain with Ensuring Future Water Supplies and Serving the Needs of Communities and Wildlife along the Santa Clara River

Redress Sought Fills Voids in Governor Brown's April 1, 2015 Executive Order Requiring Statewide Mandatory Water Reductions

VENTURA COUNTY, *Calif.*— Public-interest groups Wishtoyo Foundation, its Ventura Coastkeeper Program, Central Coast Alliance United for a Sustainable Economy (CAUSE), and Center for Biological Diversity have added Fox Canyon Groundwater Management Agency (“FCGMA”) to their complaint before the State Water Resources Control Board. The complaint asks the Water Board to secure Ventura County’s water supply, while allowing for sufficient flows in-stream to protect the Santa Clara River’s wildlife, recreational, and Native American cultural public trust protected uses. The filing amends the groups’ complaint filed in November 2013 against United Water Conservation District (“United”) that seeks to address unreasonable water use and violations of the public trust doctrine, and asks the State Water board to mandate that FCGMA ensure reasonable extraction and use of the groundwater in its basins that is recharged by flow diverted from the Santa Clara River.

United’s diversions of water from the Santa Clara River at the Vern Freeman Diversion Dam, which are wasted and used unreasonably by FCGMA and United end users, is a primary cause of the sharp decline of the river’s ecosystem, including what was once the largest run of steelhead in southern California. Both United and FCGMA have managed flows diverted at the dam in an unsustainable manner to the detriment of the Santa Clara River’s public trust resources and Ventura County’s future water supplies.

A combination of requiring or adequately incentivizing end users to implementing water-efficiency and conservation measures, implementing wastewater reclamation incentives and projects, limiting water use to sustainable agricultural, municipal, and industrial uses for the arid Oxnard Plain region, and constructing economically and technically feasible high flow diversion, transport, storage and infiltration solutions at the Vern Freeman Dam, would allow United to divert Santa Clara River

flows reasonably, and would allow FCGMA and United to use and manage Ventura County's scarce water resources reasonably and legally, while protecting the Santa Clara's in-stream ecological, recreational and cultural uses.

As the California Supreme Court has interpreted the Unreasonable Use and Waste provisions of the California Constitution, "[w]hat is a [reasonable] beneficial use at one time may, because of changed conditions, become a waste of water at a later time," such as in an area experiencing great water scarcity and need."

"While United's and FCGMA's practices may otherwise be reasonable in a region with rivers that contain sufficient year round in-stream flows notwithstanding diversions, and with groundwater basins that recharge at the rate of extraction, United's and FCGMA are operating in the depleted Oxnard Plain Basins in the arid Santa Clara River watershed where United's artificial recharge of FCGMA's over pumped Basins unnecessarily deprives the Santa Clara of in-stream flows needed to sustain its public trust protected resources," said Jason Weiner, Water Initiative Director and General Counsel for Wishtoyo and its Ventura Coastkeeper Program.

"While we praise governor Brown's Executive Order Requiring Statewide Mandatory Water Reductions as a good first step on the municipal level, it still does not adequately incentivize the use of reclaimed water and largely ignores waste and unreasonable use of water by agricultural end users...In Ventura, FCGMA's and United's longstanding disregard for implementing feasible solutions that would allow sustainable agricultural, municipal, and industrial water uses in the Oxnard Plain while protecting the Santa Clara's public trust resources demonstrates that the communities of Oxnard, Saticoy, El Rio, Santa Paula, Fillmore, Piru, and Ventura have been unnecessarily deprived of the benefits a live Santa Clara has to offer," said Jason Weiner, Water Initiative Director and General Counsel for Wishtoyo and its Ventura Coastkeeper Program. "FCGMA's and United's unreasonable and wasteful practices are also mining the Oxnard Plain's groundwater aquifers to a point where sea water intrusion threatens future use."

United's diversion, approximately 10.5 miles from the coast that is used primarily to recharge the groundwater Basin's managed by FCGMA, takes almost all of the water flow from the Santa Clara River, causing a sharp decline in the river's endangered steelhead trout. This water removal also harms native and endangered birds, riparian vegetation, and other wildlife including Pacific lamprey and southwestern pond turtles.

The diversion also hinders fishing, kayaking, summer swimming and inner-tubing. Chumash Native American cultural utilization of the Santa Clara and its natural resources are impeded, and the river's communities, which rely on a live and accessible Santa Clara, also suffer disproportionately from the water draw.

"CAUSE believes that the youth and families in the communities of the Santa Clara River Valley have been unjustly deprived of the Santa Clara's environmental, recreational, and socioeconomic assets that are required to be held in trust by the state for their benefit," said Cameron Yee, staff researcher at CAUSE.

The public trust doctrine establishes that the waters and wildlife of the state belong to its people, and that the state acts as a trustee to manage and protect these resources and their public uses for its people's benefit. Thus the Water Board has a continuing affirmative duty to protect public trust resources associated with the Santa Clara River whenever feasible, as well as the authority to reconsider the terms and conditions of United's water rights — its license and permit — to protect those resources. The State Water Board is also tasked under the California Constitution with taking measures to prevent waste and unreasonable use, when such use harms public trust protected resources or threatens water supplies

“Steelhead used to run in great abundance on the Santa Clara, but are now in danger of extinction,” said John Buse, a senior attorney at the Center for Biological Diversity. “These fish are public trust resources that need access to the good habitat in the river's tributaries, including Sespe, Piru and Santa Paula creeks.”

“It is the birthright of the Chumash, and all of the Santa Clara's residents, to have a healthy river system. The Santa Clara lives and breathes inside of all of us and for us. United's and FCGMA's extraction of water without doing all they can to protect the river is extracting life from our communities,” said Mati Waiya, Chumash ceremonial elder of the Saticoy Turtle Clan and Wishtoyo's executive director.

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*Founded in 1997, **Wishtoyo** is a 501(c)(3) nonprofit grassroots organization with over 700 members consisting of Ventura County's diverse residents and Chumash Native Americans. Wishtoyo's mission is to preserve and protect Chumash culture, the culture of all of Ventura County's diverse communities, and the environment that our current and future generations depend upon. In 2000, Wishtoyo founded its **Ventura Coastkeeper Program** (“VCK”). VCK's mission is to protect, preserve, and restore the ecological integrity and water quality of Ventura County's inland and coastal waterbodies for all beings in the County's diverse community through outreach and education, restoration projects, advocacy, litigation, and community organizing and empowerment. www.wishtoyo.org*

***Central Coast Alliance United for a Sustainable Economy's (CAUSE's)** mission is to build grassroots power to realize social, economic and environmental justice for the people of California's Central Coast Region through policy research, leadership development, organizing, and advocacy. CAUSE's vision is that together we can create a global community where we all contribute to, and benefit from, a sustainable economy that is just, prosperous and environmentally healthy. CAUSE's staff, leaders and constituency work to organize our neighbors to address the systemic policy issues affecting the social, economic and environmental well being of our communities. In the Santa Clara River Valley, CAUSE works with the communities of Piru, Fillmore, Santa Paula, and Oxnard to improve these communities' access to public transportation, healthy food, a clean environment, and recreational opportunities, including in the Santa Clara River. causenow.org*

***The Center for Biological Diversity** is a national, nonprofit conservation organization with more than 625,000 members and online activists dedicated to the protection of endangered species and wild places. www.BiologicalDiversity.org*