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10
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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 ORANGE COUNTY WATER
DISTRICT; CITY OF ANAHEIM; EAST
16 ORANGE COUNTY WATER
DISTRICT; CITY OF FULLERTON;
17 CITY OF GARDEN GROVE; IRVINE
RANCH WATER DISTRICT; CITY OF
18 ORANGE; CITY OF SANTA ANA;
SERRANO WATER DISTRICT; CITY
19 OF TUSTIN; YORBA LINDA WATER
DISTRICT; CITY OF HUNTINGTON
20 BEACH; CITY OF NEWPORT BEACH;
CITY OF WESTMINSTER; and CITY
21 OF BUENA PARK,

Case No. 8:24-cv-00820

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

22 Plaintiffs,

23 v.

24 AGC CHEMICALS AMERICAS, INC.;
ARCHROMA U.S., INC.; ARKEMA,
INC.; BUCKEYE FIRE EQUIPMENT
25 COMPANY; CHEMGUARD, INC.;
DYNAX CORPORATION, NATIONAL
26 FOAM, INC.; and TYCO FIRE
PRODUCTS LP (successor-in-interest to
27 the ANSUL CO.).

28 Defendants.

1
2 Plaintiffs ORANGE COUNTY WATER DISTRICT, CITY OF ANAHEIM,
3 EAST ORANGE COUNTY WATER DISTRICT, CITY OF FULLERTON, CITY
4 OF GARDEN GROVE, IRVINE RANCH WATER DISTRICT, CITY OF
5 ORANGE, CITY OF SANTA ANA, SERRANO WATER DISTRICT, CITY OF
6 TUSTIN, YORBA LINDA WATER DISTRICT, CITY OF HUNTINGTON
7 BEACH, CITY OF NEWPORT BEACH, CITY OF WESTMINSTER, and CITY
8 OF BUENA PARK hereby allege, based on information and belief and investigation
9 of counsel:

10 **SUMMARY OF THE CASE**

11 1. Plaintiff Orange County Water District (“OCWD”) is a special water
12 district that was formed by the California Legislature in 1933 and is charged with
13 managing the Orange County Groundwater Basin (“Basin”), which is a groundwater
14 aquifer underlying portions of central and northern Orange County, California.
15 OCWD manages three of Southern California’s greatest water supplies: the Santa
16 Ana River, the Basin, and the Groundwater Replenishment System (“GWRS”).
17 OCWD captures surface water from the Santa Ana River, then recharges the
18 captured flows into the Basin. The GWRS treats wastewater that OCWD obtains
19 from the Orange County Sanitation District, then recharges the treated flows into the
20 Basin. OCWD possesses rights to draw water from, and valuable rights to, inter alia,
21 recharge and store water in, one or more contaminated local aquifers, including, but
22 not limited to, aquifers within the Basin. OCWD has legally protected interests in
23 the groundwater at issue in this Complaint, and in recharge and storage capacity in
24 the contaminated aquifers. OCWD maintains an appropriative right to reclaim or re-
25 appropriate water it has recharged into the Basin. OCWD works to ensure a reliable
26 supply of high-quality water for more than 2.5 million residents in northern and
27 central Orange County, while protecting environmental habitats and natural
28 resources.

1 2. Plaintiffs City of Anaheim, East Orange County Water District, City of
2 Fullerton, City of Garden Grove, Irvine Ranch Water District, City of Orange, City
3 of Santa Ana, Serrano Water District, City of Tustin, Yorba Linda Water District,
4 City of Huntington Beach, City of Newport Beach, City of Westminster, and City of
5 Buena Park (the “Producers”) are municipal corporations and special districts that
6 own and operate public water systems that provide drinking water to residents and
7 businesses within their respective service areas. Collectively, the Producers and
8 OCWD are referred to as the “Plaintiffs.”

9 3. Plaintiffs bring this action in order to address widespread
10 contamination of surface water and groundwater within the Basin with the synthetic
11 per- and polyfluoroalkyl substances (“PFAS”) perfluorooctanesulfonic acid
12 (“PFOS”), perfluorooctanoic acid (“PFOA”), perfluorobutanesulfonic acid
13 (“PFBS”), and perfluorohexane sulfonate (“PFHxS”) to recover costs associated
14 with the contamination of drinking water, surface water and groundwater with
15 PFAS, and further seek abatement of the ongoing nuisance these chemicals
16 constitute in the environment, and for such other action as is necessary to ensure that
17 the PFAS that contaminate the surface water and aquifers supplying source drinking
18 water for OCWD and the Producers do not present a risk to the public. In this
19 Complaint, the terms PFAS are intended to include those compounds themselves
20 (including all of their salts and ionic states as well as the acid forms of the molecules)
21 and their chemical precursors.

22 4. PFAS are persistent, toxic, and bioaccumulative compounds when
23 released into the environment. PFAS have impacted surface water and groundwater,
24 and now contaminate the water pumped from the Producers’ water supply wells.
25 Because of the risks that PFAS pose to human health, the State of California
26 regulates PFOA, PFOS, PFBS, and PFHxS in drinking water at very low levels. The
27 State of California has established notification levels for PFOS of 6.5 parts per
28 trillion (“ppt”), for PFOA of 5.1 ppt, for PFBS of 500 ppt, and for PFHxS of 20 ppt,

1 with response levels for PFOS of 40 ppt, for PFOA of 10ppt, 5,000ppt for PFBS,
2 and 3 ppt for PFHxS.¹

3 5. On April 10, 2024, the United States Environmental Protection Agency
4 issued maximum contaminant levels (“MCLs”) for PFOA and PFOS in public
5 drinking water supplies at 4 ppt each and established a “Hazard Index” of 1 ppt for
6 perfluorononanoic acid (“PFNA”), PFHxS, PFBS, and another form of PFAS,
7 known as “HFPO-DA,” combined.

8 6. Defendants in this case are companies that designed, manufactured,
9 marketed, distributed, and/or sold PFAS, their chemical, and/or products containing
10 PFAS, and/or their chemical precursors (collectively, “Fluorochemical Products”).

11 7. Defendants’ Fluorochemical Products made with PFAS include, but are
12 not limited to waterproofing compounds, stain-proofing compounds, waxes, paper
13 and cloth coatings, and aqueous film-forming foam (“AFFF”), a firefighting agent
14 used to control and extinguish Class B fuel fires.

15 8. Plaintiffs file this lawsuit to seek abatement of an ongoing nuisance, to
16 recover compensatory and all other damages and relief, including all necessary funds
17 to compensate Plaintiffs for the costs of investigating and remediating the
18 contamination of surface water and groundwater impacted by PFOA, PFOS, PFBS,
19 PFHxS (and other PFAS compounds that may subsequently be regulated), designing,
20 constructing, installing, operating, and maintaining the treatment facilities and
21 equipment required to remove PFOA, PFOS, PFBS, PFHxS (and other PFAS
22 compounds that may subsequently be regulated) from public water supplies, and for
23 such other damages and relief the Court may order.

24 _____
25 ¹ The State of California has been tracking and is likely to regulate additional PFAS,
26 including PFHxA, PFNA, PFDA, and ADONA. Since suit was filed, the State of
27 California established notification and response levels for PFBS and PFHxS.
28 Everywhere this Complaint identifies PFOS, PFOA, PFBS, PFAS, or PFHxS, these
references should be read to also include, as applicable, any other analytes as
California begins to regulate them.

1 municipal water agencies and special districts that serve more than 2.5 million
2 Orange County residents. The Producers own and maintain systems that supply
3 water, much of which is extracted by the Producers from the Basin, directly to their
4 customers with certain assistance and oversight from OCWD.

5 12. Under its enabling legislation, OCWD has the power to “[t]ransport,
6 reclaim, purify, treat, inject, extract, or otherwise manage and control water for the
7 beneficial use of persons or property within the district and protect the quality of
8 groundwater supplies within the district.” OCWD Act § 2, subd. (6)(j).) In
9 furtherance of these goals, OCWD may “commence, maintain, intervene in, defend,
10 and compromise . . . any and all actions and proceedings . . . to prevent . . . diminution
11 of the quantity or pollution or contamination of the water supply of the district.” (*Id.*
12 at subd. (9).)

13 13. The Legislature expressly granted OCWD the right and duty, among
14 other things, to conduct any investigations of the quality of the groundwater within
15 the Basin to determine whether that water is contaminated or polluted, to perform
16 any necessary investigation, cleanup, abatement, or remedial work to prevent, abate,
17 or contain any threatened or existing contamination or pollution of the surface or
18 groundwater within its territorial jurisdiction, and to recover the costs of any such
19 activities from the persons responsible for the contamination or threatened
20 contamination. (OCWD Act § 8.)

21 14. The Legislature also expressly granted OCWD the right and duty,
22 among other things, to litigate in order to protect groundwater resources and to
23 represent the rights of water users within its territorial jurisdiction. (OCWD Act §
24 2.) OCWD has protectable legal interests in the surface water and groundwater
25 within its territorial jurisdiction, including the right to extract and appropriate surface
26 water and groundwater, replenish the Basin, and to recover the costs of performing
27 these services from anyone who contaminates surface and groundwater in OCWD’s
28 territorial jurisdiction.

1 15. OCWD has protectable legal interests in the groundwater within the
2 Basin, including the right to extract groundwater, replenish the aquifer, and to
3 recover the costs of performing these services from anyone who appropriates
4 groundwater in OCWD's service area.

5 16. Specifically, OCWD has (i) invested in the GWRS and recharges up to
6 100 million gallons of water per day into the Basin; (ii) acquired and initiated
7 litigation to establish and protect water rights to well over one hundred thousand
8 acre feet of water per year; (iii) purchased tens of thousands of acre feet of water per
9 year from the Metropolitan Water District of Southern California ("MWD"); (iv)
10 stored and delivered water under contract for a fee charged to the MWD; and (v)
11 recharged and stored in the Basin the water it has acquired, reclaimed, and recycled.

12 17. OCWD is the exclusive owner of water rights, including water rights
13 set forth in Permit 21243 issued by the California State Water Resources Control
14 Board on or about June 30, 2009, which permit allows OCWD to appropriate up to
15 362,000 acre feet per year from the Santa Ana River for underground storage and/or
16 surface storage for municipal, industrial, and other beneficial uses and designates
17 the place of use of that water as anywhere "within the Area overlying the Orange
18 County Groundwater Basin."

19 18. By storing water in the Basin, for itself and under contract, OCWD does
20 not intend to abandon it. OCWD intends that the water recharged into the Basin will
21 be recaptured for further beneficial use solely by authorized users (who pay the
22 OCWD a replenishment fee for each acre-foot of water extracted) and buyers for
23 authorized uses, and intends to retain the right to prevent contamination,
24 unauthorized extractions, or other interference with the water while it is stored in the
25 Basin. In addition, OCWD intends that the water in the Basin be used to augment
26 and preserve groundwater levels necessary to maintain the Basin as a long-term
27 water source.

28

1 19. OCWD is also the fee owner, lease holder, and/or easement holder of
2 real property contaminated with PFAS throughout the Basin and outside the Basin
3 including, but not limited to, approximately six miles of the Santa Ana River, land
4 and mineral rights in the cities of Anaheim, Orange, Yorba Linda and elsewhere.

5 20. OCWD has conducted, and will continue to conduct, investigations of
6 the quality of the groundwater within the Basin, to perform any necessary
7 investigation, cleanup, abatement, or remedial work to prevent, abate, or contain any
8 threatened or existing contamination or pollution of the surface water or
9 groundwater within its territorial jurisdiction; to further delineate the contamination
10 within the Basin; to design and implement remedial systems to clean up the
11 contamination; to acquire access and property rights necessary to install wells and
12 other equipment to extract and convey the contaminated water; to construct
13 treatment systems to remove the contaminants; and to operate and maintain those
14 extraction and treatment systems until the cleanup is complete. OCWD seeks to
15 protect the surface water and groundwater resources from the threat of further
16 pollution by taking response actions aimed at stopping the horizontal and vertical
17 migration of and remediating the contaminants.

18 21. Plaintiff City of Anaheim is a municipal corporation organized and
19 existing under the Constitution and laws of the State of California, with its primary
20 address at 200 South Anaheim Boulevard, Anaheim, California 92805. Anaheim
21 owns, operates, and maintains a public water system with over 64,000 connections.
22 One or more of Anaheim's potable water wells have exceeded regulatory limits for
23 PFOS and/or PFOA and/or PFBS and/or PFHxS. For purposes of this Complaint,
24 relevant regulatory limits include the notification and reference levels governed by
25 the State Water Resources Control Board, Order DW 2020-0003-DDW.

26 22. Plaintiff East Orange County Water District ("EOCWD") is a special
27 water district that was established in 1961 serving Central Orange County, California
28 with its primary address at 185 North McPherson Road, Orange, California 92869.

1 EOCWD owns, operates, and maintains a public water system with over 1,200
2 connections. One or more of EOCWD's potable water wells have exceeded the
3 regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

4 23. Plaintiff City of Fullerton is a municipal corporation organized and
5 existing under the Constitution and laws of the State of California, with its primary
6 address at 303 Commonwealth Avenue, Fullerton, California 92832. Fullerton owns,
7 operates, and maintains a public water system with approximately 32,000
8 connections. One or more of Fullerton's potable water wells have exceeded
9 regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

10 24. Plaintiff City of Garden Grove is a municipal corporation organized and
11 existing under the Constitution and laws of the State of California, with its primary
12 address at 11222 Acacia Parkway, Garden Grove, California 92840. Garden Grove
13 owns, operates, and maintains a public water system with over 34,000 connections.
14 One or more of Garden Grove potable water wells have exceeded regulatory limits
15 for PFOS and/or PFOA and/or PFBS and/or PFHxS.

16 25. Plaintiff Irvine Ranch Water District ("IRWD") is a California Water
17 District that was established in 1961 serving Central Orange County, California with
18 a primary address at 15600 Sand Canyon Ave, Irvine, California 92618. IRWD
19 owns, operates, and maintains a public water system with over 115,000 connections.
20 One or more of IRWD's potable water wells have exceeded regulatory limits for
21 PFOS and/or PFOA and/or PFBS and/or PFHxS.

22 26. Plaintiff City of Orange is a municipal corporation organized and
23 existing under the Constitution and laws of the State of California, with its primary
24 address at 300 East Chapman Avenue, Orange, California 92866. Orange owns,
25 operates, and maintains a public water system with over 36,000 connections. One or
26 more of Orange's potable water wells have exceeded regulatory limits for PFOS
27 and/or PFOA and/or PFBS and/or PFHxS.

28 27. Plaintiff City of Santa Ana is a municipal corporation organized and

1 existing under the Constitution and laws of the State of California, with its primary
2 address at 20 Civic Center Plaza, Santa Ana, California 92701. Santa Ana owns,
3 operates, and maintains a public water system with approximately 45,000
4 connections. One or more of Santa Ana’s potable water wells have exceeded
5 regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

6 28. Plaintiff Serrano Water District (“Serrano”) is a special water district
7 that was established in 1876 and provides potable water to the City of Villa Park and
8 a small portion of the City of Orange. Serrano has a primary address at 18021
9 Lincoln Street, Villa Park, California 92861 and owns, operates, and maintains a
10 public water system with over 2,200 connections. One or more of Serrano’s potable
11 water wells have exceeded regulatory limits for PFOS and/or PFOA.

12 29. Plaintiff City of Tustin is a municipal corporation organized and
13 existing under the Constitution and laws of the State of California, with its primary
14 address at 300 Centennial Way, Tustin, California 92780. Tustin owns, operates, and
15 maintains a public water system with over 14,000 connections. One or more of
16 Tustin’s potable water wells have exceeded regulatory limits for PFOS and/or PFOA
17 and/or PFBS and/or PFHxS.

18 30. Plaintiff Yorba Linda Water District (“YLWD”) is a special water
19 district that serves residents of Yorba Linda and portions of Placentia, Brea,
20 Anaheim, and areas of unincorporated Orange County. Its primary address is 1717
21 East Miraloma Avenue, Placentia, California 92870. YLWD owns, operates, and
22 maintains a public water system with over 25,383 connections. One or more of
23 YLWD’s potable water wells have exceeded regulatory limits for PFOS and/or
24 PFOA and/or PFBS and/or PFHxS.

25 31. Plaintiff City of Huntington Beach is a municipal corporation organized
26 and existing under the Constitution and laws of the State of California, with its
27 primary address at 2000 Main Street, Huntington Beach, California 92648.
28 Huntington Beach owns, operates, and maintains a public water system with over

1 54,000 connections. One or more of Huntington Beach’s potable water wells have
2 exceeded regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

3 32. Plaintiff City of Newport Beach is a municipal corporation organized
4 and existing under the Constitution and laws of the State of California, with its
5 primary address at. Newport Beach owns, operates, and maintains a public water
6 system with over 26,000 connections. One or more of Newport Beach’s potable
7 water wells have exceeded regulatory limits for PFOS and/or PFOA and/or PFBS
8 and/or PFHxS.

9 33. Plaintiff City of Westminster is a municipal corporation organized and
10 existing under the Constitution and laws of the State of California, with its primary
11 address at. Westminster owns, operates, and maintains a public water system with
12 over 20,000 connections. One or more of Westminster’s potable water wells have
13 exceeded regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

14 34. Plaintiff City of Buena Park is a municipal corporation organized and
15 existing under the Constitution and laws of the State of California, with its primary
16 address at. Buena Park owns, operates, and maintains a public water system with
17 over 19,000 connections. One or more of Buena Park’s potable water wells have
18 exceeded regulatory limits for PFOS and/or PFOA and/or PFBS and/or PFHxS.

19 35. Each of the Producers are fee owners, lease holders, and/or easement
20 holders of real and personal property contaminated with PFAS, including but not
21 limited to, fee, lease and/or easement interests in real property where public water
22 supply extraction wells, distribution systems, and reservoirs are located.

23 36. Defendant Tyco Fire Products LP (“Tyco”) is a limited partnership
24 formed in the State of Delaware with its principal place of business at 1400
25 Pennbrook Parkway, Lansdale, PA 19446. Tyco is an indirect subsidiary ultimately
26 wholly owned by Johnson Controls International PLC, an Irish public limited
27 company listed on the New York Stock Exchange [NYSE: JCI]. Tyco is the
28 successor in interest of The Ansul Company (“Ansul”), having acquired Ansul in

1 1990. (Ansul and Tyco, as the successor in interest to Ansul, will hereinafter be
2 collectively referred to as “Tyco/Ansul.”) Beginning in or around 1975, Ansul
3 manufactured and/or distributed and sold AFFF that contained fluorochemical
4 surfactants containing PFOA. After Tyco acquired Ansul in 1990, Tyco/Ansul
5 continued to manufacture, distribute, and sell AFFF that contained fluorocarbon
6 surfactants containing PFOA. Tyco does business throughout the United States and
7 is registered to do business in the state of California.

8 37. Defendant Chemguard, Inc. (“Chemguard”) is a Wisconsin corporation
9 with its principal place of business at One Stanton Street, Marinette, Wisconsin
10 54143. Beginning in or around 1994, Chemguard began manufacturing AFFF that
11 contained PFOA. Upon information and belief, Chemguard manufactured,
12 distributed, and/or sold AFFF foam containing PFOA.

13 38. Defendant Buckeye Fire Equipment Company (“Buckeye”) is a foreign
14 corporation organized and existing under the laws of the State of Ohio, with its
15 principal place of business at 110 Kings Road, Kings Mountain, North Carolina
16 28086. Beginning in or around 2004, Buckeye manufactured, distributed, and/or sold
17 AFFF containing PFOA. Buckeye does business throughout the United States and is
18 registered to do business in California.

19 39. Defendant National Foam, Inc. (a/k/a Chubb National Foam)(“National
20 Foam”) is a Pennsylvania corporation, having a principal place of business at 350
21 East Union Street, West Chester, Pennsylvania 19382. National Foam manufactures
22 the Angus brand of products and is the successor-in-interest to Angus Fire Armour
23 Corporation (collectively, “National Foam/Angus Fire”). At all relevant times,
24 National Foam manufactured fire suppression products, including AFFF that
25 contained PFAS compounds.

26 40. Defendant Arkema, Inc. (“Arkema”) is a corporation organized and
27 existing under the laws of Pennsylvania, having a principal place of business at 900
28 First Avenue, King of Prussia, PA 19406. Arkema and/or its predecessors

1 manufactured fluorosurfactants used in AFFF. Arkema is a successor in interest to
2 Atochem North American, Inc., Elf Atochem North America, Inc., and Atofina
3 Chemicals, Inc. and does and/or has done business throughout the United States and
4 is registered to business in the state of California.

5 41. AGC Chemicals Americas Inc. (“AGC”) is a corporation organized and
6 existing under the laws of Delaware, having a principal place of business in 5 East
7 Uwchlan Avenue, Suite 201, Exton, PA 19341. AGC and/or its affiliates
8 manufactured fluorochemicals used in AFFF. AGC does and/or has done business
9 throughout the United States. On information and belief, AGC is the North American
10 subsidiary of AGC Inc. (f/k/a Asahi Glass, Co., Ltd.) and does business throughout
11 the United States and is registered to do business in the state of California.

12 42. Defendant Dynax Corporation (“Dynax”) is a corporation organized
13 and existing under the laws of Delaware, having a principal place of business at 79
14 Westchester Avenue, Pound Ridge, New York 10576 and an address for service of
15 process at 103 Fairview Park Drive Elmsford, New York 10523-1544. Dynax
16 manufactured fluorosurfactants used in AFFF and does and/or has done business
17 throughout the United States.

18 43. Defendant Archroma U.S., Inc. (“Archroma”) is a Delaware
19 corporation with its principal place of business located at 5435 77 Center Dr., #10,
20 Charlotte, North Carolina 28217. Upon information and belief, Archroma U.S., Inc.
21 is a subsidiary of Archroma Management, LLC, and supplied Fluorochemical
22 Products for use in AFFF sold throughout the United States, including in California
23 where it is registered to do business. On information and belief, Archroma is a
24 successor to Clariant Corporation, which manufactured fluorochemicals used in
25 AFFF and was formerly known as Sandoz Chemicals Corporation and as Sodeyeco,
26 Inc.

27 44. No claim asserted herein shall be read as asserting any claim against
28 any Defendant that which is currently barred or stayed per Order of the Court in

1 AFFF MDL No. 2:18-mn-2873 (D.S.C.) and shall be read consistent with all such
2 Orders and to give full effect to all such Orders while they are in force. Likewise,
3 no claim asserted herein shall be pursued in contravention of that certain “Order
4 Preliminarily Extending the Automatic Stay and Granting Certain Injunctive Relief
5 Pursuant to §105” (as amended and extended from time to time, the “KFI
6 Bankruptcy Injunction Order”), entered in Adv. Pro. No. 23-50387(LSS), in the U.S.
7 Bankruptcy Court for the District of Delaware.

8 45. Defendants Chemguard, Tyco, Buckeye, and National Foam are
9 companies that manufactured AFFF that entered into the stream of commerce,
10 including in California, and was used by municipal and other fire departments,
11 airports, and other agencies in fire training such that the PFAS it contained ultimately
12 traveled to the water within the Basin. Collectively Chemguard, Tyco, Buckeye, and
13 National Foam are referred to as the “AFFF Defendants.”

14 46. Defendants Arkema, Archroma, AGC, Dynax, and Chemguard
15 manufactured, distributed, and/or sold fluorosurfactants and/or other fluorochemical
16 intermediates for use in the manufacture of AFFF by some or all of the AFFF
17 Defendants. Arkema, Archroma, AGC, Dynax, and Chemguard are referred to
18 collectively in this Complaint as the “Surfactant/Intermediary Defendants.”

19 **JURISDICTION AND VENUE**

20 47. This Court has subject matter jurisdiction over this matter pursuant to
21 28 U.S.C. § 1332 in that Plaintiffs are citizens of the State of California; Defendants
22 are citizens of Pennsylvania, Wisconsin, Ohio, New York, and North Carolina; and
23 as to some or all Defendants, the matter in controversy exceeds, exclusive of interest
24 and costs, the sum specified by 28 U.S.C. § 1332. As to Defendants whose claims
25 individually do not meet the amount-in-controversy threshold of 28 U.S.C. §
26 1332(a), this Court has supplemental jurisdiction over such claims under 28 U.S.C.
27 § 1367 because those claims are so related to claims of parties whose claims do meet
28 the amount-in-controversy threshold of 28 U.S.C. § 1332(a) that they form part of

1 the same case of controversy under Article III of the United States Constitution,
2 because all claims arise out of the same occurrence.

3 48. The United States District Court for the Central District of California
4 has personal jurisdiction over the Defendants because at all times relevant to this
5 lawsuit, the Defendants manufactured, designed, marketed, distributed, released,
6 promoted and/or otherwise sold (directly or indirectly) PFAS-containing
7 Fluorochemical Products, including AFFF, to various locations, such that each
8 Defendant knew or should have known that said products would be delivered to
9 areas in the State of California for active use including, but not limited to, during the
10 course of training and firefighting activities, including areas within the Basin.

11 49. Plaintiffs are informed and believe, and based thereon allege that, at all
12 relevant times, the Defendants engaged in and were authorized to do business in the
13 state of California.

14 50. Plaintiffs are informed and believe, and based thereon allege that, at all
15 relevant times, the Defendants have engaged in substantial, continuous economic
16 activity in California, including the business of researching, designing, formulating,
17 handling, disposing, manufacturing, labeling, using, testing, distributing, promoting,
18 marketing, selling, and/or otherwise being responsible for PFOS, PFOA, and PFBS,
19 and/or products that contain PFOS and/or PFOA and/or PFBS and/or PFHxS, and
20 that said activity by the Defendants is substantially connected to the Plaintiffs'
21 claims as alleged herein.

22 51. Based on information and belief, the Defendants purposefully affiliated
23 themselves with the forum of the State of California giving rise to the underlying
24 controversy. Such purposeful availment and activities within and related to the State
25 of California are believed to include, but are not limited to, 1) the Defendants'
26 contractual relationships with the entities giving rise to researching, designing,
27 formulating, handling, disposing, manufacturing, labeling, using, testing,
28 distributing, promoting, marketing, selling, and/or otherwise being responsible for

1 PFOS, PFOA, PFBS, and/or products that contain PFOS and/or PFOA and/or PFBS
2 and/or PFHxS, and that said activity is substantially connected to the Plaintiffs'
3 claims as alleged herein; 2) agreements between the Defendants and entities,
4 institutions and thought leader academics within State of California regarding the
5 PFOS, PFOA, PFBS, and/or products that contain PFOS and/or PFOA and/or PFBS
6 and/or PFHxS where the Defendants contractually consented to have state courts
7 within the State of California adjudicate disputes; 3) marketing, advertising, selling,
8 and advising third-party sellers of, the PFOS, PFOA, PFBS, and/or products that
9 contain PFOS and/or PFOA and/or PFBS and/or PFHxS, targeted specifically to
10 consumers and businesses within the State of California; 4) lobbying, consulting,
11 and advisory efforts on behalf of the Defendants with regard to the PFOS, PFOA,
12 PFBS, and/or products that contain PFOS and/or PFOA and/or PFBS and/or PFHxS
13 stemming from law firms and other agents in the State of California; and 5) and other
14 actions by Defendants targeted to the State of California to be obtained through
15 discovery and other means. As the location from which the Defendants' suit-related
16 conduct arose, California has a substantial vested interest in the acts of the
17 Defendants which led to the underlying controversy.

18 52. At all times herein mentioned, the Defendants, and each of them, had
19 actual knowledge that each of the other Defendants was going to intentionally and
20 negligently engage in the tortious misconduct and acts alleged in the causes of action
21 set forth in Complaint, including but not limited to the acts, failures to act,
22 misrepresentations and breaches of duties of care owed by each of the Defendants
23 to Plaintiffs.

24 **BACKGROUND AND FACTUAL ALLEGATIONS**

25 53. OCWD manages the Basin in northern and central Orange County in
26 order to support a variety of beneficial uses, including potable and non-potable water
27 supply. Much of the potable water supply currently used within northern and central
28 Orange County is groundwater pumped from the Basin for use by persons and

1 Producers within OCWD's service area. Such groundwater is transported, reclaimed,
2 purified, treated, injected, extracted, and otherwise managed by OCWD. Because
3 Orange County is located in a semi-arid area, it is essential that all reasonable efforts
4 be put forth by OCWD, in cooperation with the Producers, to protect the quality and
5 quantity of groundwater supplies and to facilitate maximum utilization of local
6 groundwater resources within OCWD's boundaries.

7 54. PFAS are a family of chemical compounds containing fluorine and
8 carbon atoms.

9 55. PFAS have been prevalently used for decades in industrial settings and
10 in the production of thousands of common household and commercial products that
11 are heat resistant, stain resistant, long lasting, and water and oil repellent.

12 56. The PFAS family of chemicals are entirely anthropogenic and do not
13 exist in nature.

14 57. PFOA, PFOS, PFBS, and PFHxS are PFAS that are known to have
15 characteristics that cause extensive and persistent environmental contamination.

16 58. Specifically, PFOA, PFOS, PFBS, and PFHxS are persistent, toxic, and
17 bioaccumulative as well as mobile.

18 59. PFOA, PFOS, PFBS, and PFHxS are mobile in that they are soluble
19 and do not easily adsorb (stick) to soil particles.

20 60. PFOA, PFOS, PFBS, and PFHxS are readily transported through the air
21 as well as the soil and into groundwater where they can migrate long distances.

22 61. PFOA, PFOS, PFBS, and PFHxS are persistent in that they do not
23 readily biodegrade or chemically degrade in the environment or in conventional
24 treatment systems for drinking water or wastewater.

25 62. PFOA, PFOS, PFBS, and PFHxS are thermally, chemically, and
26 biologically stable in the environment and resistant to biodegradation, atmospheric
27 photo-oxidation, direct photolysis, and hydrolysis.

28 63. Once these PFAS compounds are applied, discharged, disposed of, or

1 otherwise released onto land or into the air, soil, sediments, or water, they migrate
2 through the environment and into groundwater and surface water.

3 64. These compounds resist natural degradation and are difficult and costly
4 to remove from soil and water.

5 65. PFOA, PFOS, PFBS, and PFHxS bioaccumulate, biopersist, and
6 biomagnify in the food web including in people and other organisms.

7 66. Exposure to certain PFAS has been associated with several negative
8 health outcomes in both humans and animals, including, but not limited to, the
9 following:

- 10 a. Altered growth, learning, and behavior of infants and older
11 children;
- 12 b. Lowering a woman's chance of getting pregnant;
- 13 c. Interference with the body's natural hormones;
- 14 d. Increased cholesterol levels;
- 15 e. Modulation of the immune system;
- 16 f. Increased risk of certain cancers; and
- 17 g. Increased risk of ulcerative colitis.

18 67. Contamination from PFOS and/or PFOA and/or PFBS and/or PFHxS
19 presents a threat to public health and the environment.

20 68. In addition to drinking contaminated water, humans can be exposed to
21 PFOA, PFOS, PFBS, and PFHxS through inhalation, ingestion of contaminated
22 food, and dermal contact.

23 69. PFOA, PFOS, PFBS, and PFHxS enter the environment from industrial
24 facilities that use PFAS in the manufacture or production of other products.

25 70. Releases to land, air, and water from industrial sites are known
26 pathways to the environment.

27 71. PFOA, PFOS, PFBS, and PFHxS may also enter the environment from
28 wastewater treatment facilities and also when released from PFAS-containing

1 consumer and commercial products during their use and after they have been
2 disposed to landfills or in any other manner.

3 72. PFOA, PFOS, PFBS, and PFHxS may also enter the environment when
4 released from PFAS-containing consumer and commercial products during their use,
5 and after they have been disposed.

6 73. On information and belief, contaminated water resources within the
7 Basin have been impacted by use and discharge of AFFF, such that AFFF has
8 traveled via surface, groundwater, and recharge water to contaminate wells within
9 the Basin, as well as from other Fluorochemical Products, PFAS sources, and
10 pathways, including but not limited to the use of recycled water and stormwater
11 contaminated with PFAS for groundwater recharge in the Basin, and impacts from
12 nearby landfills.

13 74. On information and belief, ordinary stormwater flows transport PFAS
14 that have been released into the environment from these various pathways of
15 contamination to surface and groundwater in and around the Basin, including from
16 discharge to wastewater, disposal to landfills, and other avenues of disposal in any
17 other manner.

18 75. The California State Water Resources Control Board has concluded
19 that, among the “major sources of PFAS” are: industrial sites, landfills, and
20 wastewater treatment plants/biosolids. It elaborates: “PFAS can get into drinking
21 water when products containing them are used or spilled onto the ground or into
22 lakes and rivers. Once in groundwater, PFAS are easily transported large distances
23 and can contaminate drinking wells. PFAS in the air can also end up in rivers and
24 lakes used for drinking water.”

25 (<https://www.waterboards.ca.gov/pfas/background.html#collapseFour>) (last
26 accessed Feb. 1, 2021).

27 76. For example, the State Water Resources Control Board has investigated
28 landfills as potential sources of PFAS contamination, concluding that “investigation

1 is necessary at and around landfills statewide to determine the presence of PFAS,
2 their respective levels in leachate and groundwater, and to evaluate the impact of
3 current and historic discharges from these facilities on groundwater quality,” clearly
4 indicating that within California, PFAS contamination is of concern near landfills,
5 prompting the State to sample the same.²

6 77. In the same way that PFAS are released from consumer products
7 through their disposal in landfills, PFAS are also released from consumer products
8 directly into the wastewater stream, e.g., by laundering PFAS-coated clothing,
9 through use of PFAS-containing home care products, like Scotchgard®,
10 Stainmaster®, Polartec®, and Gore-tex® fabric coatings and cleaners, and through
11 use of PFAS-containing cook wear, including Teflon®.

12 78. Also, on information and belief, the Defendants, sold PFAS and/or
13 PFAS-containing products to companies with California locations that Defendants
14 knew or should have known would be used and/or disposed of in California.

15 79. This includes retail sales of products resulting from Defendants’
16 intentional marketing activities aimed at California markets as well as Defendants’
17 sales to third parties who ultimately incorporated PFAS compounds into a finished
18 product, which the Defendants knew or should have known would be used and/or
19 disposed of in California.

20 80. In each of these circumstances, Defendants have directed PFAS or
21 PFAS-containing products and intermediates to California consumers or businesses
22 for consumption and disposal in California.

23 81. All the while, the Defendants have known of health and environmental
24 risks associated with PFAS compounds for decades but concealed that knowledge
25 until it was exposed through litigation and regulatory action in relatively recent
26 years.

27 _____
28 ² https://www.waterboards.ca.gov/pfas/docs/landfill_pfas_13267_go_03202019.pdf
(last accessed Feb. 2, 2021).

1 90. Defendants knew or should have known that such releases from the use
2 or disposal of AFFF would make groundwater and surface water unfit for drinking.

3 91. Defendants knew or should have known that PFAS would be released
4 into the environment from the use or disposal of AFFF.

5 92. Defendants' products were defective in design in a manner that was
6 unreasonably dangerous to users or consumers including Plaintiffs.

7 93. The defective products were sold by the Defendants who are in the
8 business of selling such products.

9 94. The use of the products by Plaintiffs and others was reasonably
10 foreseeable by the Defendants.

11 95. The losses, damages, and harms suffered by Plaintiffs described herein
12 would not have occurred but for the conduct of Defendants, and the Defendants'
13 conduct was a substantial factor in causing the losses, damages and harms.

14 96. The Defendants failed to warn of the dangers of their products.

15 97. To enhance their profits, the Defendants knowingly and deliberately
16 failed to remedy the known defects in their AFFF-related products and failed to warn
17 the public, including Plaintiffs, that the subject products were inherently dangerous,
18 and that there was an extreme risk of injury and harm occasioned by the inherently
19 dangerous nature of the products and defects inherent in the products. Defendants
20 and their individual agents, officers, and directors intentionally proceeded with the
21 manufacturing, sale, distribution and marketing of the subject products knowing that
22 the public, including Plaintiffs, would be exposed to harm and danger in order to
23 advance Defendants' own pecuniary interest.

24 98. Based on information and belief, Plaintiffs allege that, at all relevant
25 times alleged herein, the Defendants' conduct was despicable, wanton, reckless,
26 malicious, and oppressive, and was carried on by the Defendants with willful and
27 conscious disregard for safety, entitling Plaintiffs to enhanced compensatory
28 damages.

FIRST CAUSE OF ACTION

**Strict Product Liability Based on Design Defect
(By Plaintiffs against AFFF Defendants)**

1
2
3 99. Plaintiffs repeat and restate the allegations set forth in all previous
4 paragraphs of this Third Amended Complaint as if fully set forth herein .

5 100. At all times relevant herein, AFFF Defendants were engaged in the
6 business of researching, designing, manufacturing, testing, marketing, distributing,
7 and/or selling AFFF containing PFAS. By doing so, AFFF Defendants impliedly
8 warranted that AFFF was merchantable, safe, and fit for ordinary purposes for which
9 it was used, including for fire- fighting training exercises.

10 101. It was reasonably foreseeable that the AFFF containing PFAS that
11 AFFF Defendants manufactured and/or distributed and sold would be used on in
12 proximity to wells within the Basin.

13 102. It was reasonably foreseeable that the AFFF containing PFAS that
14 AFFF Defendants manufactured and/or distributed and sold would contaminate
15 wells within the Basin and the groundwater and cause damages.

16 103. AFFF Defendants' AFFF products were manufactured for placement
17 into trade or commerce.

18 104. AFFF Defendants marketed and sold AFFF for use in controlling and
19 extinguishing aviation, marine, fuel, and other shallow spill fires.

20 105. As manufacturers, AFFF Defendants owed a duty to all persons whom
21 its products might foreseeably harm, including Plaintiff, not to market any product
22 which is unreasonably dangerous in design for its reasonably anticipated use.

23 106. By manufacturing and selling AFFF containing PFAS, AFFF
24 Defendants warranted that such AFFF was merchantable, safe, and fit for ordinary
25 purposes.

26 107. On information and belief, the AFFF as manufactured and/or sold by
27 AFFF Defendants reached the Basin without substantial change in its condition and
28

1 was used by local fire training academies, local fire departments, and airports in a
2 reasonably foreseeable and intended manner.

3 108. The AFFF, as manufactured and/or sold by the AFFF Defendants, was
4 “defective” and “unreasonably dangerous” when it left the AFFF Defendants’
5 control, entered the stream of commerce, and was received by two local firefighting
6 training academies and a fire department because it was dangerous to an extent
7 beyond that which would be contemplated by the ordinary user of AFFF.

8 109. The AFFF manufactured and/or sold by AFFF Defendants was
9 defective in design because, even when used as intended and directed by AFFF
10 Defendants, it can result in the contamination of soil and groundwater with PFAS,
11 creating a significant threat to groundwater and drinking water supplies.

12 110. The AFFF manufactured and/or sold by AFFF Defendants did not meet
13 a consumer’s reasonable expectation as to its safety because of its propensity to
14 contaminate soil and groundwater when used as intended.

15 111. AFFF Defendants failed to develop and make available alternative
16 AFFF products that were designed in a safe or safer manner, even though such
17 products were technologically feasible, practical, commercially viable, and
18 marketable at the time AFFF Defendants introduced AFFF containing PFAS into the
19 stream of commerce.

20 112. AFFF Defendants failed to develop and make available alternative
21 AFFF products that were designed in a safe or safer manner, even though such
22 products were technologically feasible, practical, commercially viable, and
23 marketable at the time AFFF Defendants introduced AFFF containing PFAS into the
24 stream of commerce.

25 113. The specific risk of harm in the form of soil, groundwater, and drinking
26 water contamination from AFFF containing PFAS that AFFF Defendants
27 manufactured and/or sold was reasonably foreseeable or discoverable by AFFF
28 Defendants.

1 114. PFAS are dangerous to an extent beyond that which would be
2 contemplated by the ordinary consumer of AFFF.

3 115. The design, formulation, manufacture and/or distribution and sale of
4 AFFF containing PFAS that were known to be toxic and extremely mobile and
5 persistent in the environment, was unreasonably dangerous.

6 116. AFFF Defendants' introduction of AFFF containing PFAS into the
7 stream of commerce was a proximate cause of Plaintiff's damage requiring
8 investigation, clean-up, abatement, remediation, and monitoring costs and other
9 damages in an amount to be determined at trial. AFFF Defendants are strictly,
10 jointly, and severally liable for all such damages.

11 **SECOND CAUSE OF ACTION**

12 **Strict Products Liability Based on Failure to Warn**
13 **(By Plaintiffs against AFFF Defendants)**

14 117. Plaintiffs repeat and restate the allegations set forth in all previous
15 paragraphs of this Third Amended Complaint as if fully set forth herein.

16 118. The use of AFFF in proximity to wells within the Basin, or to the Santa
17 Ana River, for training of fire personnel in the use of AFFF was a reasonably
18 foreseeable use. AFFF Defendants knew or should have known that AFFF used in
19 this manner can contaminate soil and groundwater with PFAS, creating a significant
20 threat to human health and the environment.

21 119. It was foreseeable that PFAS from the AFFF that AFFF Defendants
22 manufactured and sold would enter the and groundwater, resulting in the
23 contamination of drinking water supplies that rely upon the groundwater for the
24 source of drinking water, including within the Basin.

25 120. AFFF Defendants had a duty to warn the users of AFFF of these
26 hazards.

27 121. AFFF Defendants, however, failed to provide adequate warnings of
28 these hazards.

1 122. AFFF Defendants' failure to issue the proper warnings relating to AFFF
2 containing PFAS affected the market's acceptance of AFFF containing PFAS.

3 123. AFFF Defendants' failure to issue the proper warnings relating to AFFF
4 containing PFAS prevented the users of the product from treating it differently with
5 respect to its use and environmental cleanup.

6 124. AFFF Defendants' failure to issue the proper warnings related to AFFF
7 containing PFAS prevented the users of the product from seeking alternative
8 products, including but not limited to, using alternative products for purposes of
9 training in the use of AFFF.

10 125. AFFF Defendants' action in placing AFFF containing PFAS into the
11 stream of commerce was a direct and proximate cause of Plaintiffs' injury.

12 126. As a direct and proximate result of the Defendants' failure to warn,
13 Plaintiffs have suffered damage, requiring investigation, clean-up, abatement,
14 remediation, and monitoring costs and suffered other damages in an amount to be
15 determined at trial. The AFFF Defendants are strictly, jointly, and severally liable
16 for all such damages.

17 **THIRD CAUSE OF ACTION**

18 **Negligence**

19 **(By Plaintiffs against AFFF Defendants)**

20 127. Plaintiffs repeat and restate the allegations set forth in all previous
21 paragraphs of this Third Amended Complaint as if fully set forth herein .

22 128. AFFF Defendants had a duty to Plaintiffs to manufacture and/or market,
23 distribute, and sell their AFFF in a manner that avoided contamination of the
24 environment and drinking water supplies and avoided harm to those who foreseeably
25 would be injured by the PFAS contained in Defendants' AFFF products.

26 129. The use of AFFF Defendants' AFFF products at local fire training
27 academies, fire departments, airports, and military installations was a reasonably
28 foreseeable use. AFFF Defendants knew or should have known that its AFFF used

1 in this manner would contaminate soil and groundwater with PFAS, creating a
2 significant threat to human health and the environment. The AFFF Defendants had
3 a duty to prevent the release of PFAS, in the foreseeable uses of AFFF.

4 130. AFFF Defendants breached their duties when they negligently
5 manufactured a dangerous product (AFFF), negligently marketed, distributed, and
6 sold that product, and/or negligently failed to give adequate warning that such
7 products should not have been used in a manner such as to result in the contamination
8 of soil and groundwater.

9 131. As a direct and proximate result of AFFF Defendants' breaches of their
10 duties, AFFF Defendants caused Plaintiffs to suffer actual losses. Specifically,
11 Plaintiffs suffered damage requiring investigation, clean-up, abatement,
12 remediation, and monitoring costs and suffered other damages in an amount to be
13 determined at trial. AFFF Defendants are strictly, jointly and severally liable for all
14 such damages.

15 **FOURTH CAUSE OF ACTION**
16 **Continuing Trespass**
17 **(By Plaintiffs against AFFF Defendants)**

18 132. Plaintiffs repeat and restate the allegations set forth in all previous
19 paragraphs of this Third Amended Complaint as if fully set forth herein.

20 133. Each of the Plaintiffs holds possessory property rights and interests in
21 various parcels of land that have been contaminated with PFAS.

22 134. The Producers own, possess, and actively exercise rights to extract and
23 use groundwater drawn from their contaminated wells.

24 135. OCWD appropriates surface and groundwater from multiple sources
25 which is collected and contained, then added to the Basin to recharge it. OCWD
26 maintains an appropriative right to reclaim or re-appropriate water it has recharged
27 into a river or the Basin.
28

1 136. The AFFF Defendants were engaged in the business of researching,
2 designing, formulating, handling, training, disposing, manufacturing, labeling,
3 using, testing, distributing, promoting, marketing, selling, and/or otherwise being
4 responsible for AFFF and knew or should have known that the subsequent and
5 foreseeable use and disposal of AFFF would contaminate the groundwater and
6 drinking water supply wells. Thus, the AFFF Defendants intentionally, recklessly,
7 negligently or as the result of engaging in an extra-hazardous activity, caused
8 noxious and hazardous contaminants and pollutants to enter the surface water,
9 groundwater, replenishment water, and drinking water supply.

10 137. AFFF and PFAS compounds manufactured and/or supplied by the
11 AFFF Defendants continue to be located in the water resources within the Basin,
12 including the groundwater that supplies drinking water within the Basin.

13 138. Plaintiffs did not, and do not, consent to the trespass alleged herein. The
14 AFFF Defendants knew or reasonably should have known that Plaintiff would not
15 consent to this trespass.

16 139. The contamination of surface water, groundwater, and wells within the
17 Basin alleged herein has not yet ceased. PFAS continue to migrate into and enter
18 groundwater within the Basin.

19 140. As a direct and proximate result of the AFFF Defendants' acts and
20 omissions as alleged herein, the surface water, groundwater, replenishment water,
21 and drinking water supply have been, and continue to be, contaminated with PFAS,
22 causing Plaintiffs significant injury and damage.

23 141. As a direct and proximate result of these AFFF Defendants' acts and
24 omissions as alleged herein, Plaintiffs have incurred, are incurring, and will continue
25 to incur, investigation, treatment, remediation, monitoring, and disposal costs and
26 expenses related to the contamination of groundwater within the Basin in an amount
27 to be proved at trial.

28

1 145. The Producers are the owners of land, easements, and water rights
2 which permit them to extract groundwater for use in their respective public water
3 systems.

4 146. The actions of the AFFF Defendants as alleged herein, have resulted in
5 the continuing contamination of the Plaintiffs' contaminated wells, surface water,
6 groundwater and replenishment water with PFAS, and such contamination is a
7 public nuisance as defined in California Civil Code section 3479, California Civil
8 Code section 3480, California Health and Safety Code section 5410, and California
9 Water Code section 13050, and is reasonably abatable and varies over time. Each
10 Manufacturing Defendant has caused, maintained, assisted and/or participated in
11 such nuisance, and is a substantial contributor to such nuisance.

12 147. The actions of the AFFF Defendants constitute a nuisance in that the
13 contamination of groundwater and drinking water is injurious to public health, is
14 indecent or offensive to the senses and is an obstruction to the Plaintiffs' free use of
15 their property, so as to interfere with the comfortable enjoyment of life or property.
16 The contamination of the Plaintiffs' contaminated wells, surface water, groundwater,
17 and replenishment water significantly affects, at the same time, a considerable
18 number of people in an entire community.

19 148. Each AFFF Defendant has caused, maintained, assisted and/or
20 participated in such nuisance, and is a substantial contributor to such nuisance.

21 149. By its design, the AFFF Defendants' AFFF were known by AFFF
22 Defendants to contain compounds that would likely be discharged to the
23 environment in a manner that would create a nuisance and further failed to properly
24 instruct intermediaries and end-users to properly use and dispose of such
25 contaminants in such a manner as to avoid creating or contributing to a nuisance.

26 150. The AFFF Defendants knew, or should have known, of the harmful
27 effects and adverse impacts that exposure to PFAS would have on the environment
28 and human health.

1 151. The AFFF Defendants caused or contributed to the creation of the
2 nuisance at issue by directing and instructing intermediaries and end users of its
3 products to dispose of products and materials containing PFAS in a manner that the
4 AFFF Defendants knew or should have known would result in the contamination of
5 soil and groundwater and ultimately impact drinking water.

6 152. Plaintiffs did not and does not consent to the public nuisance alleged
7 herein. AFFF Defendants knew or reasonably should have known that Plaintiffs
8 would not consent to this public nuisance.

9 153. As a direct and proximate result of the AFFF Defendants' acts and
10 omissions as alleged herein, the contaminated wells within the Basin and the
11 groundwaters that supply them have been, and continue to be, contaminated with
12 PFAS, causing Plaintiff significant injury and damage.

13 154. As a direct and proximate result of these AFFF Defendants' acts and
14 omissions as alleged herein, Plaintiff has incurred, is incurring, and will continue to
15 incur, investigation, treatment, remediation, and monitoring costs and expenses
16 related to the PFAS in an amount to be proved at trial.

17 155. Furthermore, as a direct and proximate result of the AFFF Defendants'
18 acts and omissions as alleged herein, the contamination of groundwater and drinking
19 water supplies constitutes an ongoing public nuisance. The AFFF Defendants are
20 jointly and severally responsible to take such action as is necessary to abate the
21 public nuisance and to take such action as is necessary to ensure that the PFAS that
22 contaminate the aquifer and other water resources supplying water the Basin do not
23 present a risk to the public.

24 156. Plaintiffs have been damaged because the AFFF Defendants' acts and
25 omissions, have unreasonably interfered with, and continue to interfere with,
26 Plaintiff's free use of its water rights and continues to suffer significant damages and
27 injuries, including but not limited to, incurring costs related to the investigation,
28 sampling, treatment system design, acquisition, installation, operations and

1 maintenance, and other costs and damages related to the detection and remediation
2 of the PFAS contamination of its water supply systems.

3 157. The AFFF Defendants knew and/or should have known that it was
4 substantially certain that their alleged acts and omissions described in this Complaint
5 would cause injury and damage, including contamination of drinking water supplies
6 with PFAS.

7 158. The AFFF Defendants knew with substantial certainty at the time of
8 their manufacture and sale of fluorosurfactants, fluorochemicals, and AFFF
9 containing PFAS that their products would result in contamination of drinking water
10 resources within the Basin.

11 159. The AFFF Defendants' acts and omissions were substantially certain to
12 and did result in an unreasonable interference with wells within the Basin.

13 160. As a direct and proximate result of the AFFF Defendants' acts and
14 omissions, the AFFF Defendants caused Plaintiff to suffer actual losses.

15 161. The AFFF Defendants committed each of the above-described acts and
16 omissions knowingly, willfully, and with oppression, fraud, and/or malice. Such
17 conduct was performed to promote sales of AFFF, fluorosurfactants, and
18 fluorochemicals to maximize profits, in conscious disregard of the probable
19 dangerous consequences of that conduct and its foreseeable impact upon health,
20 property, and the environment.

21 162. Specifically, Plaintiffs suffered damage requiring investigation, clean-
22 up, abatement, remediation, and monitoring costs and suffered other damages in an
23 amount to be determined at trial.

24 163. Additionally, Plaintiffs also request an award of exemplary damages in
25 an amount that is sufficient to punish these AFFF Defendants and that fairly reflects
26 the aggravating circumstances alleged herein.

27 **SIXTH CAUSE OF ACTION**

1 **Liability of Surfactant/Intermediary Defendants for Counts 1-5**
2 **(By Plaintiffs against Surfactant/Intermediary Defendants)**

3 164. Plaintiffs repeat and restate the allegations set forth in all previous
4 paragraphs of this Third Amended Complaint as if fully set forth herein.

5 165. Plaintiffs assert the same allegations and causes of action described
6 above in counts eleven through fifteen against the Surfactant/Intermediary
7 Defendants to the extent that their manufacture and sale of fluorosurfactants and/or
8 fluorochemicals or the failure to disclose the risks and harms associated with the use
9 of their fluorosurfactants and/or fluorochemicals in the manufacture of AFFF
10 resulted in damages to Plaintiff as described herein.

11 **SEVENTH CAUSE OF ACTION**
12 **OCWD Act Section 8**
13 **(By OCWD against All Defendants)**

14 166. Plaintiffs repeat and restate the allegations set forth in all previous
15 paragraphs of this Third Amended Complaint as if fully set forth herein.

16 167. The OCWD Act authorizes OCWD to “expend available funds to
17 perform any cleanup, abatement, or remedial work required under the circumstances
18 which, in the determination of the board of directors, is required by the magnitude
19 of the endeavor or the urgency of prompt action needed to prevent, abate, or contain
20 any threatened or existing contamination of, or pollution to, the surface or
21 groundwaters of the district. This action may be taken in default of, or in addition
22 to, remedial work by the person causing the contamination or pollution, or other
23 persons.” (OCWD Act § 8(b)).

24 168. The Act further provides “the contamination or pollution is cleaned up
25 or contained, the effects thereof abated, or in the case of threatened contamination
26 or pollution, other necessary remedial action is taken, the person causing or
27 threatening to cause that contamination or pollution shall be liable to the district to
28 the extent of the reasonable costs actually incurred in cleaning up or containing the
contamination or pollution, abating the effects of the contamination or pollution, or

1 taking other remedial action. The amount of those costs, together with court costs
2 and reasonable attorneys' fees, shall be recoverable in a civil action by, and paid to,
3 the district.” (OCWD Act § 8(c)).

4 169. OCWD’s Board of Directors (the “Board”) has determined that
5 investigation and remedial work is required given the magnitude of PFAS
6 contamination and the potential impacts to public health, as described in this
7 Complaint, and that prompt action is needed and legally required to clean up or
8 contain the contamination or pollution, abate the effects of the contamination or
9 pollution, or take other remedial action to prevent, abate, contain, and dispose of
10 threatened and existing contamination. The Board has authorized the expenditure of
11 funds to conduct such investigation and remediation and has authorized action to
12 recover all costs and damages associated with such contamination.

13 170. Defendants caused OCWD to conduct investigations into the quality of
14 the groundwater within OCWD’s territorial jurisdiction to determine whether those
15 waters are contaminated or polluted with PFAS at a substantial cost to OCWD in an
16 amount to be proved at trial.

17 171. Defendants caused OCWD to perform cleanup, abatement, and/or
18 remedial work needed to prevent, abate, and/or contain threatened or existing
19 contamination of, or pollution to, the groundwater, including the aquifer, within
20 OCWD’s territorial jurisdiction, all at a substantial cost to OCWD an amount to be
21 proved at trial.

22 172. As a direct and proximate cause of the Defendants’ acts and omission,
23 OCWD initiated a program to assess, evaluate, investigate, monitor, abate, clean up,
24 correct, contain the contamination of the aquifer and remove PFAS from drinking
25 water being served to citizens and businesses, and/or take other necessary remedial
26 action, all at significant expense, cost, loss, and damage in amounts to be proved at
27 trial.

28

1 173. As a direct and proximate result of the acts and omissions alleged in
2 this Third Amended Complaint, OCWD has and/or will incur substantially increased
3 expenses, all to OCWD's damage, in an amount to be proved at trial. OCWD has
4 and will incur costs and attorney's fees prosecuting this action. OCWD is entitled to
5 recover all such damages, together with court costs and reasonable attorney's fees,
6 in this action.

7 174. As a direct and proximate result of the Defendants' conduct, OCWD is
8 entitled to recover all past, present, and future response costs, together with interest
9 from the Defendants, as well as damages for injury, loss, and damages to natural
10 resources.

11 **EIGHTH CAUSE OF ACTION**
12 **Declaratory Relief**
(By all Plaintiffs against All Defendants)

13 175. Plaintiffs repeat and restate the allegations set forth in all previous
14 paragraphs of this Complaint as if fully set forth herein.

15 176. Defendants knew, or should have known, that PFAS, when used in a
16 foreseeable and intended manner, were dangerous and created an unreasonable and
17 excessive risk of harm to human health and the environment.

18 177. Defendants intentionally, willfully, deliberately and/or negligently
19 failed to properly handle, control, dispose, and release noxious and hazardous
20 contaminants and pollutants, such that Defendants created substantial and
21 unreasonable threats to human health and the environment, which resulted from the
22 foreseeable and intended use and storage of PFAS and products containing those
23 substances.

24 178. Among other things, OCWD must take costly remedial action to
25 remove PFAS contamination which will result in substantial costs, expenses and
26 damages in an amount to be proved at trial.

27 179. These Defendants, and each of them, have failed to reimburse OCWD
28 and the Plaintiffs for OCWD's investigation, remediation, cleanup, and disposal

1 costs and deny any responsibility or liability for these damages and expenses the
2 OCWD will incur in the future.

3 180. An actual controversy exists concerning who is financially responsible
4 for abating actual or threatened pollution or contamination of groundwater
5 resources, including the aquifer, and Plaintiffs' contaminated wells within OCWD's
6 territorial jurisdiction by PFAS.

7 181. In order to resolve this controversy, OCWD seeks an adjudication of
8 the respective rights and obligations of the parties, and other relief to the extent
9 necessary to provide full relief to OCWD.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs respectfully request a trial of this action before a
12 jury, and that, upon a favorable verdict, this Court enter judgment in favor of
13 Plaintiffs and against Defendants, jointly and severally, as follows:

14 A. An award of compensatory damages according to proof;

15 B. An award pursuant to California Civil Code § 3334 of the value of the
16 use of Plaintiffs' property for the time of the wrongful occupation, the reasonable
17 costs of repair or restoration of all of Plaintiffs' property to its original condition,
18 costs associated with recovering the possession, any benefits or profits obtained by
19 Defendants, and all other damages and remedies allowable under California Civil
20 Code § 3334 and California law;

21 C. An award of exemplary and punitive damages according to proof;

22 D. An order declaring that Defendants' actions constitute a nuisance and
23 requiring Defendants to take such action as is necessary to abate the public nuisance,
24 to take such action as is necessary to ensure that the PFAS that contaminate the
25 aquifers supplying water to the Plaintiffs' public water systems do not present a risk
26 to the public, and to award damages to the Plaintiffs caused by the nuisance;

27 E. An order declaring that Defendants are financially responsible for
28 abating actual or threatened pollution or PFAS contamination of groundwater

1 resources, including the aquifer within OCWD's service area and Plaintiffs'
2 contaminated wells;

3 F. An award of Plaintiffs' costs in prosecuting this action, including
4 reasonable attorneys' fees, together with prejudgment interest to the full extent
5 permitted by law; and

6 G. An award of such other further relief as the Court may deem just and
7 proper.

8 Date: April 12, 2024

/s/ Kenneth A. Sansone

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a jury trial of all issues in this action so triable of right.

Date: April 12, 2024

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