Case No. A172760

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT, DIVISION TWO

COUNTY OF SONOMA,

Appellant,

v.

RUSSIAN RIVERKEEPER and
CALIFORNIA COASTKEEPER ALLIANCE,

Respondents,

Appeal from the Superior Court of the State of California for the County of Sonoma, Honorable Bradford DeMeo, Case No. SCV-273415

CALIFORNIA STATE ASSOCIATION OF COUNTIES' APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT COUNTY OF SONOMA

DOWNEY BRAND LLP
Austin C. Cho, SBN 307145
621 Capitol Mall, 18th Floor
Sacramento, California 95814
Telephone: (916) 444-0000
Facsimile: (916) 444-2100
acho@downeybrand.com

Attorneys for Amicus Curiae
CALIFORNIA STATE ASSOCIATION OF COUNTIES

APPLICATION TO FILE AMICUS CURIAE BRIEF

INTRODUCTION

The California State Association of Counties ("CSAC") respectfully applies for leave to file the accompanying amicus curiae brief in support of Appellant County of Sonoma ("Appellant"). This application is timely, mailed within fourteen (14) days after the last appellant's reply brief was or could have been filed. (Cal. Rule of Court 8.200(c)(1).)

STATEMENT OF INTEREST

The California State Association of Counties (CSAC) is a non-profit corporation, whose membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties. CSAC's members have a vital interest in effective administration of the common law public trust doctrine and the protection of groundwater resources.

CSAC's brief addresses the application of the common law public trust doctrine to a county's adoption of an ordinance regulating the issuance of groundwater well permits. An adverse ruling on appeal would impose significant new administrative burdens and liabilities on counties, which have historically been tasked with regulating the installation of groundwater wells under their respective police powers.

CSAC is uniquely situated to comment on the need for the State of California to consider the common law public trust doctrine, as its members administer local programs and entitlements under their police powers to protect the health of local surface water and groundwater. CSAC's

perspective will aid the Court's consideration of the many practical and legal implications of imposing new liabilities against local agencies, particularly those like Sonoma County, which has gone above and beyond to adopt a comprehensive ordinance for its well permitting process with express consideration of the public trust, even though it had no affirmative obligation to do so.

CERTIFICATE OF INTERESTED PARTIES

No party or counsel for a party in this appeal authored this proposed amicus brief, in whole or in part, or made a monetary contribution intended to fund the preparation or submission of this brief. No other person or entity has made a monetary contribution intended to fund the preparation or submission of this brief. There are no interested entities or persons that must be listed in this certificate under California Rule of Court 8.208.

DATED: January 6, 2026 DOWNEY BRAND LLP

By: /s/ Austin C. Cho
AUSTIN C. CHO
Attorneys for Amicus Curiae
CALIFORNIA STATE
ASSOCIATION OF COUNTIES

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Federal Cases

State Cases

TABLE OF AUTHORITIES
(Continued)

Page

TABLE OF AUTHORITIES
(Continued)

Page

State Statutes

Rules

Constitutional Provisions

AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT

I. INTRODUCTION

CSAC respectfully urges this Court to reverse the trial court's August 21, 2024 Order After Hearing ("Order"), which found Appellant County of Sonoma violated its obligations under the common law public trust doctrine[1] when it amended a preexisting ministerial groundwater well ordinance without adequately considering unspecified "relevant factors." The trial court's ruling should be reversed because it incorrectly assumes the public trust doctrine encompasses all groundwater decisions, and misuses traditional mandamus to interfere with the County's exercise of discretion.

II. BACKGROUND PRINCIPLES GOVERNING THE CALIFORNIA PUBLIC TRUST DOCTRINE

The common law public trust doctrine, at its core, imparts to the sovereign a duty to manage navigable waters and underlying lands for the common benefit of the people. (*Illinois Central Railroad Co. v. Illinois* (1882) 146 U.S. 387, 452 ("*Illinois Central*") ["It is a title held in trust for the people of the state that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein freed from the obstruction or interference of private parties."].) Upon its formation as a state in 1850, California acquired title as trustee to manage and administer its tidelands and navigable waters for the benefit of its people. (*People v. California Fish Co.* (1913) 166 Cal. 576, 584; *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 521; see also *Pollard v. Hagan* (1845) 44 U.S. 212, 230 [explaining the equal footing doctrine:

[1] The Order also finds Appellant violated the California Environmental Quality Act (CEQA). (Order at 26-40.) CSAC's amicus curiae brief focuses on the trial court's public trust doctrine findings.

"[T]he shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States, but were reserved to the states respectively…. [T]he new states have the same rights, sovereignty, and jurisdiction over this subject as the original states."].) A sovereign state's control of those lands for trust purposes cannot be lost, "except as to such parcels as are used in promoting the interests of the public therein, or can be used without any substantial impairment of the public interest in the lands and waters remaining." (*Illinois Central*, *supra*, 146 U.S. at 452.)

Public trust purposes were traditionally confined to "commerce, navigation, and fisheries." (*Mallon v. City of Long Beach* (1955) 44 Cal.2d 199, 205.) As the common law doctrine developed in California, courts recognized new purposes, including the right to hunt, bathe, and swim, the right to use the bottom of navigable waters for anchoring and standing, and the right to enjoy tidelands in their preserved and natural state. (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259–260.) The trust res expanded in kind to include navigable freshwater lakes and predominantly navigable streams. (See, e.g., *State of California v. Superior Court* (1981) 29 Cal.3d 240, 246 [Lake Tahoe's non-tidal shoreline]; *Hitchings v. Del Rio Woods Recreation & Park Dist.* (1976) 55 Cal.App.3d 560, 570-571 [Russian River, even if not navigable in fact all year].)

In the landmark decision *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 ("*National Audubon*"), the California Supreme Court held that the public trust doctrine applies not just to navigable waters, but also to the actions that could directly affect them, such as the approval of diversions from the non-navigable tributaries of a navigable lake. (*National Audubon*, *supra*, 33 Cal.3d at 447-448.) Importantly, *National Audubon* did not expand the trust res to include non-navigable tributaries. (*Id.* at 424-425.) But where diversion of the non-navigable tributary harms a trust resource, the state has a duty to "take the public trust into account in

the planning and allocation of water resources" and, when feasible, preserve trust resources for public use. (*Id*. at 446.)

The California Supreme Court identified the State Water Board as the responsible trustee agency because of the broad, plenary authority that the Legislature had delegated it to carry out the "comprehensive planning and allocation of waters." (*Id.* at 444.) In stark contrast, the Court assigned no trust duty to the water right permittee in the case—the City of Los Angeles and its Department of Water and Power.

In *Environmental Law Foundation v. State Water Resources Control Bd.* (2018) 26 Cal.App.5th 844 ("*ELF*"), the Third District Court of Appeal extended the Supreme Court's treatment of non-navigable tributaries in *National Audubon* to hold, for the first time, that counties—as subdivisions of the state—have a duty to consider the public trust when approving well permits under a specific set of stipulated facts. (*Id.* at 851.) The court made clear, however, that the scope of its holding in *ELF* was "extraordinarily narrow" because the parties only presented two questions of law: (i) whether a common law fiduciary duty to consider the common law public trust arises in a county's decision to approve a groundwater well permit, where groundwater extraction would harm a navigable waterway's trust values; and if so, (ii) whether the Sustainable Groundwater Management Act "on its face obliterates that duty." (*Id*. at 852.) Neither question is posed in the instant case, which does *not* involve the issuance of a groundwater well permit, and where the requisite harm to a trust resource has *not* been established. The trial court's reliance on *ELF* is misplaced.

III. ARGUMENT

A. The Adoption of a Groundwater Well Ordinance Does Not Trigger Public Trust Duties.

1. The Public Trust Doctrine Does Not Apply Directly to Groundwater.

The trial court's summary of the development of the common law public trust doctrine in California fundamentally misstates the holding in *ELF* by claiming "[t]he Doctrine also encompasses groundwater." (Order, at 11:26, citing *ELF*, generally.) Although the doctrine has grown to encompass a broader set of trust purposes than originally envisioned, it has never been held to apply directly to groundwater. (*See Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689, 709 ("*Santa Teresa*") [the public trust doctrine "has no direct application to groundwater sources"].) In *Santa Teresa*, plaintiffs challenged a plan to extend recycled water service to a natural-gas-fired power plant, arguing the contaminated water would infiltrate to groundwater in violation of the public trust doctrine. (*Id.* at 709.) The Court of Appeal rejected that argument on its face, holding definitively that the activity at issue had no impact on any trust "res." (*Ibid*.)

Careful to distinguish *Santa Teresa*, the court in *ELF* clarified that the public trust does not apply directly to groundwater itself; "[t]o the contrary, the water subject to the trust is the Scott River, a navigable waterway." (*ELF*, *supra*, 26 Cal.App.5th at 859.) Similarly, *National Audubon* does not stand for the notion that non-navigable tributaries, themselves, are part of the public trust res. (*National Audubon*, 33 Cal.3d at 437, fn.19.) Rather, the Supreme Court focused its analysis on the *activity* causing harm to the trust—the diversion of connected surface waters, over which the Legislature delegated plenary supervision and control to the State Water Board. (See *Id*. at 446; see also, *ELF*, *supra*, 26 Cal.App.5th at 859

["Rather, the determinative fact is the impact of the activity on the public trust resource."].)

While it may be necessary at times to protect public trust interests by regulating properties that are not themselves within the public trust, "this does not mean that such properties are deemed to be added to the public trust, nor that all incidents of the public trust are applicable to such properties." (*Golden Feather Community Assn. v. Thermalito Irrigation Dist.* (1989) 209 Cal.App.3d 1276, 1286.) Instead, the public trust doctrine's applicability "depends upon the interest for which protection is sought and the manner in which that interest is to be protected." (*Ibid.*)

The trial court's assumption that a public trust duty applies to the adoption of a groundwater well ordinance as a matter of course is not supported by precedential authority. Appellant Sonoma County has not allocated or managed any water resources through the adoption of an ordinance, and Respondents Russian Riverkeeper and California Coastkeeper Alliance ("Respondents") never established a specific harm to a trust resource. (See, e.g., *Santa Teresa*, *supra*, 114 Cal.App.4th at 708 [trust claim not ripe because failure to show harm to trust resource].) To hold that the County violated a public trust duty by simply adopting a regulatory framework for analyzing potential trust impacts of groundwater wells, the Order turns the public trust doctrine on its head and severs the necessary link to navigability that lies at the doctrine's core.

2. Public Trust Liability Requires a Causal Connection Between Agency Action and Trust Impacts.

The Order misapplies the public trust doctrine by requiring consideration of "impacts on various public trust interests" and "feasible attempts to avoid or mitigate recognized harm to those interests," without first establishing harm to a public trust resource resulting from a trustee

agency's allocation of water resources. (See Order at 12:21-25 [suggesting *National Audubon* requires consideration of effects upon public interests before *any* approval of groundwater "diversions."].) What's more, harm to the public's right of access to navigable waters and their submerged beds remains the central basis for determining an agency's authority and responsibilities relating to public trust waters. (See *National Audubon*, *supra*, 33 Cal.3d at 445 [the sovereign duty to protect the public's interest in the state's navigable waters and the lands beneath those waters is "fundamental to the concept of the public trust."].) The principle that navigability is the core measure and basis of the public trust doctrine is rooted in California's Constitution, which provides:

> No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

(*Illinois Central*, *supra*, 146 U.S. at 1285, quoting Cal. Const., art. X, § 4.) California courts have reinforced the crucial importance of navigability in the preservation and administration of the trust. (*See Eldridge v. Cowell* (1854) 4 Cal. 80, 87 [the state "holds the complete sovereignty over her navigable bays and rivers … for the purpose of preserving the public easement, or the right of navigation."]; *People ex rel. Younger v. County of El Dorado* (1979) 96 Cal.App.3d 403, 407 [a waterway usable only for recreational boating was nonetheless a navigable waterway and thus protected by the public trust].)

The fact that Appellant's ordinance proposes to regulate groundwater well permits is not sufficient to trigger duties under the public trust doctrine. For a public trust duty to arise, there must be an alleged connection between the trust resource (i.e., a navigable water body) and the challenged agency activity (approval of a diversion). (*See Golden Feather*, *supra*, 209 Cal.App.3d at 1284 ["[T]he decisional law has been concerned only with the public trust doctrine as it relates to navigable waterways."].)

In *ELF*, the court found the County of Siskiyou had a duty to consider and protect the public trust when issuing groundwater well permits, but only because there was no dispute, by virtue of an express stipulation by the parties, that the County's permit approvals would result in groundwater extraction that impaired the navigability of a presumptively interconnected river. (See *ELF*, *supra*, 26 Cal.App.5th at 857.) Unlike the trial court in the instant case, the court in *ELF* specifically avoided speculating about any other hypothetical fact scenarios in which a county may or may not possess such a duty. (*Id*. at 852.)

3. An Agency's Trust Duty Necessarily Depends on the Scope of its Authority Over Trust Resources.

Beginning with the Water Commission Act in 1913, the California Supreme Court in *National Audubon* described how the State Water Board transformed from an entity with limited, ministerial responsibilities over unappropriated water, to a comprehensive state agency with oversight over all reasonable and beneficial use. (*National Audubon*, *supra*, 33 Cal.3d at 442-444.) That change "necessarily" determined the scope of the State Water Board's public trust responsibilities. (*Id*. at 444.) While "[t]he board of limited powers of 1913 had neither the power nor duty to consider interests protected by the public trust," the modern State Water Board was empowered and "required by statute to take those interests into account."

(*Id*.) By the same token, a county's inability to allocate trust waters—or otherwise administer water rights of any kind—necessarily means that its trust duties *cannot* be coextensive with those of the state.

Counties are vested by the state with a limited subset of governmental powers, which the state itself may assume or resume and directly exercise. (*County of Los Angeles v. Riley* (1936) 6 Cal.2d 625, 627-628.) The police power is generally understood as "the inherent power of a body politic to enact and enforce laws for the promotion of the general welfare." (*People v. K. Sakai Co.* (1976) 56 Cal.App.3d 531, 535.) For that general welfare purpose, the state constitution provides that a county "may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal. Const. art. XI, § 7.)

A county's police power to regulate the installation and destruction of groundwater wells is not coextensive with a public trust duty in any given situation. Respondents and Amici Curiae Professors neglect to address a key distinction between police powers granted by the constitution and public trust duties imposed on state trustee agencies. Constitutionally granted police powers permit, but *do not require*, a county to adopt an ordinance to regulate the issuance of groundwater well permits in the furtherance of valid governmental purposes. (*See Allegretti & Co. v. County of Imperial* (2006) 138 Cal.App.4th 1261, 1283 [permit condition imposed under county's police power for the purpose of conserving groundwater and preventing undue waste sufficiently connected to valid governmental interest]; *In re Maas* (1933) 219 Cal. 422, 424-425 [general police powers of counties *permit them* to adopt ordinances for the conservation of groundwater when such ordinances do not conflict with any general law of the state]; *Baldwin v. County of Tehama* (1994) 31 Cal.App.4th 166, 173-174 [field of groundwater use is within the municipal

police power].) But importantly, an ordinance requiring conservation does not constitute a taking or otherwise allocate a groundwater right. (*Allegretti*, *supra*, 138 Cal.App.4th at 1276-1280.)

The police power is similar to public trust authority, though it serves a distinct and independent purpose. (*See K. Sakai Co.*, *supra*, 56 Cal.App.3d at 538 ["The state's inherent sovereign power includes the so called 'police power' right to interfere with vested property rights whenever reasonably necessary to the protection of the health, safety, morals, and general well being of the people."].) The police power does not, on the other hand, impose any corresponding affirmative duty to protect the public trust. (See *State of California v. Superior Court* (1981) 29 Cal.3d 240, 247 ["The exercise of the police power has proved insufficient to protect the shorezone."]; see also *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, (2008) 166 Cal.App.4th 1349, 1365 ("*FPL Group*") ["The concept of a public trust over natural resources unquestionably supports exercise of the police power by public agencies…. But the public trust doctrine also places a duty upon the government to protect those resources."].) Thus, while a county's exercise of police power may include the protection of the environment as a matter of general concern and interest of the public, it is separate and apart from the state's responsibility to manage trust resources through appropriate trustee agencies.

The trial court's ruling creates confusion among counties and other local agencies, and asks courts to regulate groundwater ahead of the legislatively crafted mechanisms designed to restore and maintain the state's groundwater basins at sustainable levels.

B. A County's Exercise of Discretion to Carry Out a Trust Duty Requires Deference.

1. The Standard for Review for Legislative Acts is Arbitrary, Capricious, or Entirely Lacking in Evidentiary Support.

Respondents challenged Appellant's adoption of the groundwater well ordinance as a traditional mandamus action, pursuant to Code of Civil Procedure section 1085, which states in relevant part:

> A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specifically enjoins, as a duty resulting from an office, trust, or station….

(Code Civ. Proc., § 1085(a).) Mandamus is ordinarily reserved for compelling the performance of a clear, present, and ministerial duty, where the petitioner has a right to the performance of that duty. (*Schwartz v. Poizner* (2010) 187 Cal.App.4th 592, 596-597.) Judicial review of agency actions is appropriate under Section 1085 "[w]here a statute or ordinance clearly defines the specific duties or course of conduct that a governing body must take, that course of conduct becomes mandatory and eliminates any element of discretion. [Citation]." (*Monterey Coastkeeper v. Central Coast Regional Water Quality Control Bd.* (2022) 76 Cal.App.5th 1, 19 ("*Monterey Coastkeeper*"), quoting *Ellena v. Department of Ins.* (2014) 230 Cal.App.4th 198, 205.)

On the other hand, where a petitioner seeks to compel action that is *not* specifically enjoined, or where the desired action involves the exercise of discretionary power or judgment, traditional mandamus will not lie, except to determine whether the agency's action is "arbitrary, capricious, or *entirely* lacking in evidentiary support." (*Monterey Coastkeeper*, *supra*, 76 Cal.App.5th at 21-22, emphasis added; *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 572.) Traditional

mandamus is not available to control the discretion of a public agency, or to compel that discretion is exercised in a particular manner. (See *Gordon v. Horsley* (2001) 86 Cal.App.4th 336, 350-351; see also *US Ecology, Inc. v. State of California* (2001) 92 Cal.App.4th 113, 137–138 ["Mandamus cannot be used to compel the exercise of discretion in a particular manner or to order a specific result when the underlying decision is purely discretionary."], citing *State of California v. Superior Court* (1974) 12 Cal.3d 237, 247.)

As a starting point, "[a] legislative act is presumed valid, and [an agency] need not make explicit findings to support its action. [Citations.] A court cannot inquire into the wisdom of a legislative act or review the merits of a local government's policy decisions. [Citations.]" (*Westsiders Opposed to Overdevelopment v. City of L.A.* (2018) 27 Cal.App.5th 1079, 1086.) The Order acknowledges the trial court's limited scope of review, but proceeds to exceed that scope by exhaustively questioning the sufficiency of the analysis underlying Appellant's consideration and approval of the groundwater well ordinance. (Order, at 10:2-12; but see *id.* at 17:1-26:12.)

Despite the highly deferential standard of review, the trial court improperly substituted its own judgment for Appellant's legislative enactment, imposing a level of scrutiny reserved for actions that are subject to review under a different standard. (See Order, at 21:1-2 ["the record does not show any basis or substantial evidence for determining the areas sensitive to pumping….."]; *id.* at 22:1-6 [holding that a 10-page document analyzing standards for environmental flow protection was "not sufficient to demonstrate that [the County] relied on substantial evidence or analysis."]; *id.* at 23:19 [finding specific evidence was "necessary in order to determine the efficacy of the [ordinance's] terms as well as what is

feasible."]; *id.* at 24:5-7 [finding that evidence was flawed and did not meet substantial evidence standard].) This was improper and should be reversed.

2. The Common Law Public Trust Doctrine is Inherently Discretionary.

Beyond the discretion generally afforded to legislative acts, the amorphous nature of the public trust doctrine warrants further deference to Appellant's decision-making. It is well established that the public trust doctrine is inherently discretionary and "governing case law does not 'impress into the public trust doctrine any kind of procedural matrix.'" (*Monterey Coastkeeper*, *supra*, 76 Cal.App.5th at 21, quoting *Citizens for East Shore Parks*, *supra*, 202 Cal.App.4th at 576.) As the California Supreme Court held in *National Audubon*, where a trust duty applies, the state must, to the extent "feasible, preserve trust resources for public use. (*National Audubon*, *supra*, 33 Cal.3d at 446.) However, what is "feasible" in a particular instance is plainly a matter of discretion for the trustee to determine in the public interest. (*Id.* at 446–447; see also *State Water Resources Control Bd. Cases* (2006) 136 Cal.App.4th 674, 777–778 ("*SWRCB Cases*") [it was within the trustee agency's "discretion and judgment" to balance all "competing interests"].)

Monterey Coastkeeper is directly on point regarding the level of deference required for an agency's purely discretionary actions under the public trust doctrine. There, petitioners contended they were entitled to mandamus relief under Section 1085 to correct the State Water Board's supposed "utter failure of its duty to consider the public trust doctrine" in ensuring that regional water board general agricultural orders (i) considered the impact of agricultural discharges on public trust resources, and (ii) protected public trust resources when feasible. (*Monterey Coastkeeper*, *supra*, 76 Cal.App.5th at 18.) Despite the State Water Board's highest level of trust duties by virtue of its comprehensive authority over general

agricultural discharges, the Third District Court of Appeal rejected the petitioners' challenge. (*Id*.) Because a trustee agency must be free "to approve appropriations despite foreseeable harm to public trust uses," that choice "cannot reasonably be said to be an abuse of … discretion." (*Id.* at 21, quoting *Citizens for East Shore Parks*, *supra*, 202 Cal.App.4th at 577.) Thus, the court held the doctrine "generally does not allow for intervention by the courts other than in the context of judicial review of administrative decisions." (*Id*. at 21–22.) The court also rejected the open-ended remedy requested by petitioners, explaining that:

> ordering the State Board to apply the public trust doctrine would be an empty judgment, while actually determining whether the State Board is properly applying the doctrine would necessarily require the trial court to consider the many decisions within the State Board's mandate, decisions that will typically require the exercise of administrative discretion and will often require technical expertise.

(*Ibid*.; see also *FPL Group*, 166 Cal.App.4th at 1371–1372 ["'Judicial abstention is appropriate when granting the requested relief would require a trial court to assume the functions of an administrative agency, or to interfere with the functions of an administrative agency.'"].)

The trial court's insistence that it limited its review to the permissible "oversight over the administrative process" to ensure "proper standards are applied," is subverted by its recognition in the same paragraph that for the "inherently discretionary" act of consideration of the public trust, "there are no other specific legal standards." (Order, at 14:14-20.) Rather, the so-called "relevant factors" will "fluctuate on a case-by-case basis," arising from the nature of the doctrine itself and "the facts of any given agency decision." (*Id.* at 16:15-18.) Critically, the Order never determined that any of Appellant's actions were arbitrary, capricious, or

entirely without evidentiary support. In applying such a high level of scrutiny and exactitude to second-guess the County's legislative findings, the trial court committed the impermissible judicial interference that cases like *Monterey Coastkeeper* warn against.

IV. CONCLUSION

Appellant County of Sonoma's groundwater well ordinance does not plan or allocate groundwater or other water resources, as needed to trigger a duty under the public trust doctrine. Yet the trial court's Order imposes an unworkable standard for counties that regulate groundwater wells by requiring the consideration of unspecified public trust factors, which can only be determined by a court, after the fact, and on a case-by-case basis. For the foregoing reasons, CSAC respectfully urges the Court to reverse the trial court's Order.

DATED: January 6, 2026 DOWNEY BRAND LLP

By: /s/ Austin C. Cho
AUSTIN C. CHO
Attorneys for Amicus Curiae
CALIFORNIA STATE
ASSOCIATION OF COUNTIES

CERTIFICATION OF WORD COUNT

Counsel of record hereby certifies that pursuant to Rule 8.204(c)(1) of the California Rules of Court, the brief of Amicus Curiae California State Association of Counties was produced using 13-point Roman type, including footnotes, and contains approximately 3,953 words, according to the word count of the computer program used to prepare the brief.

DATED: January 6, 2026 DOWNEY BRAND LLP

By: /s/ Austin C. Cho
AUSTIN C. CHO
Attorneys for Amicus Curiae
CALIFORNIA STATE ASSOCIATION OF COUNTIES

CERTIFICATE OF SERVICE

I, Deanna Fillon, declare:

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 621 Capitol Mall, Suite 1800, Sacramento, California 95814. On January 6, 2026, I served a copy of the within document(s):

CALIFORNIA STATE ASSOCIATION OF COUNTIES' APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT COUNTY OF SONOMA

X BY ELECTRONIC SERVICE: I electronically filed the document(s) with the Clerk of the Court by using the Truefiling system. Participants in the case who are registered users will be served by the Truefiling system. Participants in the case who are not registered users will be served by mail or by other means permitted by the court rules.

SERVED VIA TRUEFILING

Drevet Hunt, Esq.
CALIFORNIA COASTKEEPER
1100 11th Street, 3rd Floor
Sacramento, CA 95814

ATTORNEYS FOR PETITIONERS AND RESPONDENTS RUSSIAN RIVERKEEPER and CALIFORNIA COASTKEEPER ALLIANCE
Tel.: (415) 606-0864
Email: dhunt@cacoastkeeper.org

Jaime Neary, Esq. RUSSIAN RIVERKEEPER 139 Healdsburg Avenue Healdsburg, CA 95448	ATTORNEYS FOR PETITIONERS AND RESPONDENTS RUSSIAN RIVERKEEPER and CALIFORNIA COASTKEEPER ALLIANCE Tel.: (707) 723-7781 Email: jaime@russianriverkeeper.org
Amy Minteer, Esq. Michelle Black, Esq. CARSTENS, BLACK & MINTEER LLP 700 North Pacific Coast Highway, Suite 200 Redondo Beach, CA 90277	ATTORNEYS FOR PETITIONERS AND RESPONDENTS RUSSIAN RIVERKEEPER and CALIFORNIA COASTKEEPER ALLIANCE Tel.: (310) 798-2400 Email: acm@cbcearthlaw.com mnb@cbcearthlaw.com
Daniel Cooper, Esq. Kristina Hambley, Esq. SYCAMORE LAW, INC. 1004 B O'Reilly Avenue San Francisco, CA 94129	ATTORNEYS FOR PETITIONERS AND RESPONDENTS RUSSIAN RIVERKEEPER and CALIFORNIA COASTKEEPER ALLIANCE Tel. (415) 360-2962 Email: daniel@sycamore.law

Mail Service

I caused a copy of the document to be served by mail on the Sonoma County Superior Court on January 6, 2026, at the following address:

Sonoma County Superior Court Hon. Judge Bradford DeMeo 3035 Cleveland Avenue Santa Rosa, CA 95403	*trial court*

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 6, 2026, at Sacramento, California.

/s/ Deanna Fillon
Deanna Fillon