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EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

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11 Attorneys for Respondent and Cross-Complainant
12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15 SANTA BARBARA CHANNELKEEPER, a
16 California non-profit corporation,

17 Petitioner,

18 v.

19 STATE WATER RESOURCES CONTROL
20 BOARD, etc., et al.,

21 Respondents.

Case No. 19STCP01176

Judge: Hon. William F. Highberger

DECLARATION OF PATRICK D.
SKAHAN IN SUPPORT OF
RESPONDENT AND CROSS-
COMPLAINANT CITY OF SAN
BUENAVENTURA'S OPPOSITIONS TO
(1) CASITAS MUNICIPAL WATER
DISTRICT'S MOTION FOR ORDER
GRANTING LEAVE TO SERVE
UNTIMELY EXPERT WITNESS
DISCLOSURES AND (2) THE LOA E.
BLISS 2006 REVOCABLE TRUST'S EX
PARTE MOTION FOR EXTENSION OF
TIME AND DISCLOSURE OF EXPERTS

Date: November 23, 2021
Time: 9:00 a.m.
Dept: SS10

27 CITY OF SAN BUENAVENTURA, etc.,
28

Action Filed: Sept. 19, 2014
Trial Date: Feb. 14, 2022

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Cross-Complainant,

v.

DUNCAN ABBOTT, an individual, et al.,

Cross-Defendants.

DECLARATION OF PATRICK D. SKAHAN

I, Patrick D. Skahan, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am an associate with Best Best & Krieger LLPP, attorneys of record for the City of San Buenaventura (“City of Ventura”) in this action. I am one of the attorneys responsible for handling this case and I am familiar with the proceedings and the files maintained in my office in connection therewith. This declaration is submitted in support of the City of Ventura’s (1) Opposition to Casitas Municipal Water District’s Motion for Leave to Serve Untimely Expert Witness Disclosures and (2) Opposition to the Loa E. Bliss 2006 Revocable Trust’s Ex Parte Motion for Extension of Time and Disclosure of Experts. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could competently testify to all matters set forth herein.

2. On or about February 2, 2021, the Bliss Trust filed its status conference report in advance of the Status Conference scheduled for February 9, 2021. Attached as **Exhibit A** hereto is a true and correct copy of the Bliss Trust’s status conference report in this matter. The document is retained in my law firm’s internal file for this case. I have personally reviewed it and know its contents. On November 16, 2021, I reviewed my law firm’s internal file for this case, obtained copies of the document therefrom, and caused it to be attached as a PDF hereto.

3. On April 12, 2021, Casitas filed its status conference report in advance of the Status Conference scheduled for April 19, 2021. Attached as **Exhibit B** hereto is a true and correct copy of Casitas’ status conference report in this matter. The document is retained in my law firm’s internal file for this case. I have personally reviewed it and know its contents. On November 16, 2021, I reviewed my law firm’s internal file for this case, obtained copies of the document therefrom, and caused it to be attached as a PDF hereto.

4. Following its April 12, 2021 status report Casitas did not oppose or otherwise file a response seeking to clarify or express concerns with the City of Ventura’s motion to bifurcate, which the Court heard and granted on June 21, 2021. The Court granted the City’s Motion to Bifurcate and Partial Lifting of the Discovery Stay for matters relevant to the Phase 1 trial on the basin and watershed boundaries and interconnectivity, and set a further status conference to

1 address a pre-trial discovery and a law and motion schedule, and ordered the parties to meet and
2 confer. Attached as **Exhibit C** hereto is a true and correct copy of the City of Ventura's Notice of
3 Ruling from the June 21, 2021 hearing. The document is retained in my law firm's internal file
4 for this case. I have personally reviewed it and know its contents. On November 16, 2021, I
5 reviewed my law firm's internal file for this case, obtained copies of the document therefrom, and
6 caused it to be attached as a PDF hereto.

7 5. On July 23, 2021, the Court approved a discovery and pre-trial schedule for the
8 Phase 1 trial pursuant to Code of Civil Procedure section 843. Attached as **Exhibit D** hereto is a
9 true and correct copy of the City of Ventura's Notice of Ruling from the July 23, 2021 hearing
10 that was served on the parties in this matter on August 9, 2021.¹ The document is retained in my
11 law firm's internal file for this case. I have personally reviewed it and know its contents. On
12 November 16, 2021, I reviewed my law firm's internal file for this case, obtained copies of the
13 document therefrom, and caused it to be attached as a PDF hereto.

14 6. Attached as **Exhibit E** hereto is a true and correct copy of the following pages of
15 the certified transcript from the July 23, 2021 hearing: pp. 9, 19-20, 24-32. The document is
16 retained in my law firm's internal file for this case. I have personally reviewed it and know its
17 contents. On November 16, 2021, I reviewed my law firm's internal file for this case, obtained
18 copies of the document therefrom, and caused it to be attached as a PDF hereto.

19 7. On August 31, 2021, the City disclosed the four expert witnesses it may call in
20 Phase 1: (1) Claire Archer, Ph.D. (hydrogeology); (2) Tamara Klug (ecologist and habitat
21 restoration specialist sub-expert providing supporting analysis and opinions for Dr. Archer); (3)
22 Douglas R. Littlefield, Ph.D (expert historian); and (4) Charles H. Hanson, Ph.D. (expert fisheries
23 biologist).

24 8. On September 24, 2021, a number of parties made their expert witness disclosure,
25 including Cross-defendants California Department of Parks and Recreation, California
26 Department of Fish and Wildlife, State Water Resources Control Board, City of Ojai, East Ojai

27 _____
28 ¹ It has recently come to the City's attention that while the notice was served on the parties on
File and Serve Express on August 9, 2021, it was apparently not filed with the Court. The City is
correcting this to ensure a copy is filed with the Court.

1 Group, and Andrew K. Whitman et al. Casitas did not designate any expert on the September 24,
2 2021 court-ordered date, and Casitas did not move *ex parte* for modification of the disclosure
3 dates prior to September 24, 2021 deadline.

4 9. On October 13, 2021, which at that point was a full six weeks after City of
5 Ventura had exchanged its experts' reports, and three weeks after Casitas' deadline to submit
6 expert reports of its own, or at least move *ex parte* to modify the schedule, Casitas filed a status
7 conference report wherein it raised concerns about the scope of Phase 1 trial. Attached as
8 **Exhibit F** hereto is a true and correct copy of the status conference report. The document is
9 retained in my law firm's internal file for this case. I have personally reviewed it and know its
10 contents. On November 16, 2021, I reviewed my law firm's internal file for this case, obtained
11 copies of the document therefrom, and caused it to be attached as a PDF hereto.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct. Executed this 16th day of November, 2021, at Los Angeles,
14 California.



PATRICK D. SKAHAN

EXHIBIT A



1 LOA. E BLISS
2 DAVID A. GILBERT
3 9030 Ojai Santa Paula Rd.
4 Ojai, CA 93023

5 Trustees,
6 Loa E. Bliss 2006 Revocable Trust

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF LOS ANGELES

9 SANTA BARBARA CHANNELKEEPER,
10 a California non-profit corporation,

11 Petitioner,

12 v.

13 STATE WATER RESOURCES
14 CONTROL BOARD, etc., et al.,

15 Respondents.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

STATUS CONFERENCE REPORT

Date: February 9, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set

16 CITY OF SAN BUENAVENTURA, etc.,

17 Cross-Complainant

18 v.

19 DUNCAN ABBOTT, an individual, et al.

20 Cross-Defendants.

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1 request by the City for the Court to lift the stay of discovery on March 1, 2021 is also premature.

2 b. Similarly, the dates proposed by the City in its Exhibit A are premature.

3 c. In light of the foregoing and given that the Bliss Trust has been informed that
4 additional reports relevant to the status of the Upper Ojai basin are purportedly forthcoming, the
5 Bliss Trust believes the meet and confer process needs to run its course and the imposition of all
6 the foregoing deadlines is unnecessary and should be revisited at a later time.

7
8 2. OUTSTANDING ISSUES

9 In addition to the specific issues raised above, the Bliss Trust also asserts the following
10 facts, observations, and issues:

11 The City has stated neither remotely compelling facts nor law that would bring the Upper
12 Ojai basin under the umbrella of SGMA.

13 The City has stated neither remotely compelling facts nor law that would bring the Upper
14 Ojai basin under the umbrella of the public trust doctrine.

15 There is no present controversy concerning extraction of the Upper Ojai basin waters, nor
16 any stated concern over any human consumption interfering in the natural flow of Upper Ojai
17 surface waters (Lion Creek).

18 The imposition of a Physical Solution for the Upper Ojai basin is not necessary or
19 required. (See Code Civ. Proc. § 849.)

20 Certainly, the litigation process should start with a required clear factual and legal
21 statement or pleadings by the City to explain the necessity. This, to date, is nowhere to be found.
22 The Parties need to know the exact parameters of the litigation, if it comes to that, before being
23 burdened with the considerable expense and time that litigation or negotiation would require.

24 Simply put, any Proposed Physical Solution opens the door indefinitely to the unnecessary
25 control and management of both surface water and ground water in the Upper Ojai and allows the
26 City to have these rights to the Upper Ojai basin waters in perpetuity, including the City's rights
27 for domestic use, without the necessity of the City proving any such rights.

28 The Bliss Trust restates its concerns as originally set out in correspondence to City

1 counsel on November 5, 2020 and provided to the Court for the November 16, 2020 status
2 conference. Specifically, that correspondence raised issues of subject matter jurisdiction, serious
3 issues with applying the Proposed Physical Solution to the Upper Ojai, the burden and
4 complexity of Upper Ojai individuals to organize, and the public unavailability of certain reports,
5 findings, and opinions held by the City.

6 In accordance with the City's statement to identify areas of dispute, and in the present
7 absence of facts or law to justify imposition of a Proposed Physical Solution, the Bliss Trust
8 offers the following to the best of its knowledge and belief:

- 9 1. The Upper Ojai basin is a stand-alone basin.
- 10 2. The Upper Ojai basin is a stable basin—no overdraft. (Bulletin 118.)
- 11 3. There is no alleged or actual adverse impact on the fishery or elsewhere based on
12 any extraction of waters from the Upper Ojai basin.
- 13 4. Lion Creek, a non-navigable waterway when it flows (rarely), flows as a narrow
14 stream over the basin (about 5.5 miles), exits the basin and then traverses Lion Canyon (4-5
15 stream miles), at the end of which it joins/meets San Antonio Creek. San Antonio Creek meets
16 the Ventura River 5-6 stream miles farther.
- 17 5. There is no diversion or damming of Lion Creek.
- 18 6. There is no movement of water in Lion Creek unless there is heavy rainfall and,
19 even then, the movement is *de minimis* except perhaps in the immediate aftermath of
20 extraordinary rainfall (and the City has offered no facts or measurements of any kind, as it must,
21 to support its assertion). Absent significant rainfall, Lion Creek is dry and/or stationary.
- 22 7. Any alleged seepage of groundwater into Lion Creek does not create flow.
- 23 8. Any alleged seepage has not been measured or proved.
- 24 9. The sporadic flow of Lion Creek has not been measured where it exits the Upper
25 Ojai basin and enters Lion Canyon, nor at the junction of Lion Canyon and San Antonio Creek.
- 26 10. The seepage of groundwater, if it indeed it exists, is insignificant.
- 27 11. Whatever seepage may enter Lion Creek is most likely lost and/or diminished as
28 the seepage exits the Upper Ojai basin and flows in its bed down Lion Canyon.

12. There is no negative impact on any navigable waterway from the continued natural operation of Lion Creek.

Any Proposed Physical Solution, if applicable, needs to be written to take into account the above or otherwise exclude entirely the Bliss Trust and Upper Ojai basin. Any provision of a PPS that (i) assumes the City has proven water rights that have not, in fact, been established, or (ii) relieves the City of any obligation to prove its rights is not acceptable and turns “due process” on its head. Further, a “take it or leave it” stance with respect to any PPS leaves too many unaddressed concerns with respect to the Upper Ojai basin. Such a PPS would ignore the City’s preliminary responsibility to prove even the fundamentals of the City’s case—scientifically or otherwise. There is no reason to impose any PPS on the Upper Ojai basin or the Bliss Trust.

The VenturaWatershed.Org website reports that 2.83 inches of rain fell on the Upper Ojai during the five (5) days ending at 3:00 PST on Monday, February 1, 2021. Notwithstanding this substantial rainfall during this 5-day period and based on careful observation by the Trustees of the Bliss Trust at approximately 1:00 pm PST on both Saturday, January 30, 2021 and Monday, February 1, 2021, there was barely a trickle of water moving in Lion Creek. Based on several observations by the Trustees in the weeks prior to the recent rain event, no water was moving in Lion Creek. The City’s unsupported claims to the contrary bear no relevance to reality.

3. CONCLUSION AND SUMMARY OF REQUESTS

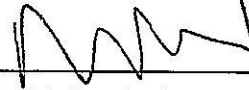
Based on the above Report, the Bliss Trust request that the Court consider taking the following actions:

- Maintain the current stay of the discovery.
- Order the parties to continue to meet and confer regarding the terms of the Proposed Physical Solution.
- Allow any site visit to include Lion Creek.
- Recognize that there is no reason to expedite the resolution of the Upper Ojai basin since there is no adverse effect on the fishery.

1 Dated: February 2, 2020

2 By:



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5 LOA E. BLISS
6 DAVID A. GILBERT
7 Trustees,
8 The Loa E. Bliss 2006 Revocable Trust
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EXHIBIT B



*Exempt From Filing Fees
to Government Code §6103*

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22 CASITAS MUNICIPAL WATER DISTRICT,
23 a California special district

24 SUPERIOR COURT OF THE STATE OF CALIFORNIA

25 FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

26 SANTA BARBARA CHANNELKEEPER, a
27 California non-profit corporation,

28 Petitioner,

29 v.

30 STATE WATER RESOURCES CONTROL
31 BOARD, a California State Agency;
32 CITY OF SAN BUENA VENTURA, a
33 California municipal corporation, incorrectly
34 named as CITY OF BUENA VENTURA,

35 Respondents.

36 CITY OF SAN BUENA VENTURA, a
37 California municipal corporation,

38 Cross-Complainant,

39 v.

40 DUNCAN ABBOTT, et al.

41 Cross-Defendants.

Case No. 19STCP01176

Hon. William F. Highberger; Dept: 10

**FURTHER STATUS CONFERENCE
REPORT OF CROSS-DEFENDANT
CASITAS MUNICIPAL WATER DISTRICT**

Further Status Conference Hearing:

DATE: April 19, 2021

TIME: 1:30 p.m.

DEPT.: 10

Date Action Filed:

September 19, 2014

Trial Date:

None Set

1 **FURTHER STATUS CONFERENCE REPORT**

2 Cross-Defendant CASITAS MUNICIPAL WATER DISTRICT, a California special
3 district (“Casitas”), submits this Status Conference Report (“Report”) in advance of the Status
4 Conference scheduled for April 19, 2021.

5 **I. PHYSICAL SOLUTION ISSUES**

6 As is the case with the other parties who briefed physical solution issues, Casitas stands
7 ready to address any issues or questions the Court may have with the background law it has
8 presented on this point. Casitas agrees with those who understood such briefing has been
9 presented as a type of “hornbook” legal overview, and Casitas affirms it is not at this juncture
10 seeking advance determination of specific issues related to the specific facts of this lawsuit. .

11 Casitas’ direct discussions with the City of Ventura on physical solution issues continue.
12 The Proposing Parties have recently shared a revised draft of the stipulation for the physical
13 solution, which Casitas is studying. The work to come to some consensus on the structure and
14 specifics of a proposed physical solution continues, but at this juncture, there is no specific
15 agreement on specific issues to report.

16 **II. POTENTIAL BIFURCATION**

17 Obviously, Casitas cannot respond to a future motion, and reserves its rights to do so once
18 such a motion is framed, finished, and filed. That said, Casitas acknowledges that given the
19 number of parties involved who appear to be interested in taking an active role in the conduct of
20 the case, the geographic extent of the areas and different basins involved, and the time it is taking
21 for proposed physical solution issues to get fair airing and consideration among affected parties,
22 some priority of issue determination would appear to be of benefit to all. The suggestion of
23 placing the interconnectedness of groundwater production and surface water flows earlier in the
24 process has logical resonance, both in terms of defining the scope of issues the ultimate judgment
25 will need to encompass, and the parties to be affected by it. Ventura’s suggestion to have a final
26 hearing on this matter by November appears to Casitas to be a bit ambitious, given the level of
27 expert analysis and discovery such issues are likely to consume, and the “at issue” status of the
28 litigation as a whole. Casitas reserves more specifically directed comment on such timing issues

1 until the specific motion is presented

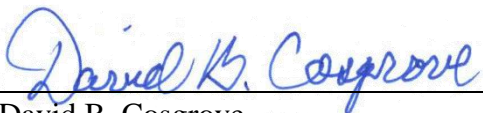
2 **III. SITE VISIT ISSUES.**

3 Casitas welcomes, and supports, the suggestion of providing the Court objective video
4 presentation of the watershed and its operative facilities, gathered through drone technology, to
5 serve as a COVID-aware method of providing a type of dynamic mapping of the interworking of
6 the systems involved. Discussions of how the footage will be edited, and presented in a neutral
7 fashion, have been the subject of the predictable wary and watchful eyes of counsel when there are
8 so many parties and issues involved, but Casitas is confident a workable compromise on this
9 proposal will emerge, and serve at least as a useful platform for the Court's understanding of the
10 basins and watershed. From that base point, the Court can seek additional information from the
11 parties as it deems necessary on further nuances, as opposed to the parties clashing over what may
12 or may not be important, from their own individual perspectives.

13
14 Dated: April 12, 2021

RUTAN & TUCKER, LLP
DOUGLAS J. DENNINGTON
DAVID B. COSGROVE

15
16
17 By:



David B. Cosgrove
Attorneys for Cross-Defendant
CASITAS MUNICIPAL
WATER DISTRICT,
a California special district

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18575 Jamboree Road, 9th Floor, Irvine, CA 92612. My electronic notification address is mslobodien@rutan.com.

On April 12, 2021, I served on the interested parties in said action the within:

**STATUS CONFERENCE REPORT OF CROSS-DEFENDANT
CASITAS MUNICIPAL WATER DISTRICT**

as stated below:

☒ By transmission via E-Service to File & ServeXpress as listed on File & ServeXpress service list.

Executed on April 12, 2021, at Irvine, California.

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

Mia R. Slobodien
(Type or print name)


(Signature)

EXHIBIT C

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8 BEST BEST & KRIEGER LLP
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9 Los Angeles, California 90071
Telephone: (213) 617-8100
10 Facsimile: (213) 617-7480

11 Attorneys for Respondent and Cross-Complainant
12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

15
16 SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,

17 Petitioner,

18 v.

19 STATE WATER RESOURCES CONTROL
20 BOARD, etc., et al.,

21 Respondents.

22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant

24 v.

25 DUNCAN ABBOTT, an individual, et al.

26 Cross-Defendants.
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Exempt From Filing Fees Pursuant to
Cal. Gov't Code § 68093
FILED
Superior Court of California
County of Los Angeles

JUL 02 2021

Sheri R. Carter, Executive Officer/Clerk of Court
By Kristina Vargas Deputy
Kristina Vargas

Case No. 19STCP01176

Judge: Honorable William F. Highberger

NOTICE OF RULING

Date: June 21, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: February 14, 2022

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1. In advance of the Status Conference, the Court issued a tentative ruling the morning of June 21, 2021 through File & Serve Xpress. The Court's June 21, 2021 tentative ruling is attached as Exhibit A.
2. The Court signed the Order regarding the Stipulation for Dismissal between Petitioner Santa Barbara Channelkeeper and Cross-Complainant and Respondent City of San Buenaventura ("City").
3. The Court heard the Order to Show Cause ("OSC") regarding service of City's Third Amended Cross-Complaint ("3ACC") by publication of the summons as to unserved Roe Cross-Defendants behind gates and fences in the *Ventura County Star*. No party opposed, and the Court Ordered service by publication of summons as to 71 unserved Roe Cross-Defendants behind gates and fences.
4. The Court ordered and set an OSC hearing for June 30, 2021, at 10:30 a.m.¹ regarding final service by publication in the *Ventura County Star* of the summons of the City's 3ACC as to the remaining 78 unserved Cross-Defendants, who are evading service, located behind gates, or deceased with no known successor upon

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1 whom service was recently attempted at new addresses, and/or Cross-Defendants
2 that, despite diligent efforts, remain unserved at their tax assessor mailing or
3 physical addresses. The City was ordered to deliver the Notice of the OSC
4 hearing, along with Notices and Acknowledgments of receipt to the final unserved
5 Cross-Defendants, via overnight mail no later than June 23, 2021. Any opposition
6 to the issuance of an order for service by publication must be filed and served no
7 later than June 28, 2021.

- 8
- 9 5. The Court signed the Order Directing Service of Summons by Delivery to the
10 California Secretary of State for 7 unserved Cross-Defendant corporate entities.
- 11
- 12 6. Cross-Defendants Claude and Patricia Baggerly were directed to file and re-serve,
13 without any substantive changes, their Notice of Motion and Motion Requesting
14 the Court to Appoint a Scientific Advisor for Hydrology, with a suggestion to set it
15 for hearing on July 19, 2021. Changes may only be made as set forth in the Court's
16 July 21st tentative ruling regarding signing the Declaration, filing with the Court
17 clerk, and paying the \$60 filing fee. Any previously filed oppositions will stand.
- 18
- 19 7. The Court requested that the City meet and confer with Cross-Defendants Gerrold
20 and Karen Grigsby regarding the issues laid out in their May 26, 2021 letter to the
21 Court, served June 16, 2021.
- 22
- 23 8. The Court ordered the City to file with the Court and to serve on File & Serve
24 Xpress a list of the 10 to 20 most important documents supporting interconnection
25 between groundwater and surface water in the Ventura River Watershed by June
26 25, 2021.
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1 9. The Court granted the City's Motion to Bifurcate and Partial Lifting of the
2 Discovery Stay for matters relevant to the Phase 1 trial on the basin and watershed
3 boundaries and interconnectivity. The Court lifted the discovery stay only as to
4 Phase 1 matters. The Court scheduled a bench trial for 10 to 15 days starting on
5 February 14, 2022 at 10:00 a.m., with a pretrial conference set for February 2,
6 2022 at 10:00 a.m. The Court set a further status conference to address a pre-trial
7 discovery and a law and motion schedule on July 6, 2021 at 2:00 p.m. and ordered
8 the parties to meet and confer. City will serve a joint report on File & Serve
9 Xpress by noon on July 2, 2021 and file it with the Court that day. Unilateral
10 reports may also be filed.

11
12 10. The Court heard argument on initial disclosures regarding those who signed
13 stipulations to the physical solution, and the Court withdrew its tentative ruling
14 requiring initial disclosures. The Court directed the State to explain to the Court
15 why stipulating parties should be required to provide initial disclosures at this
16 time.

17
18 11. The Court did not consent to the lodgment of the proposed physical solution and
19 judgment. Court will hear argument and consider this topic at the July 6, 2021
20 Status Conference. Any objections to the lodgment of the proposed physical
21 solution must be in writing and filed and served no later than July 6, 2021.

22
23 12. The Court modified the time of the further Status Conference on July 19, 2021 and
24 scheduled it for 3:00 p.m. The Court ordered that a joint status report and/or any
25 unilateral status reports be filed and served by July 12, 2021.
26
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1 Dated: July 2, 2021

BEST BEST & KRIEGER LLP

2
3 By:



SHAWN HAGERTY
CHRISTOPHER M. PISANO
SARAH CHRISTOPHER FOLEY
PATRICK D. SKAHAN
Attorneys for Respondent and
Cross-Complainant
CITY OF SAN BUENAVENTURA

EXHIBIT A



19STCP01176 Santa Barbara Channelkeeper v. State Water Resources Control Board

June 21, 2021 Tentative Rulings

Note: While Claude and Patricia Baggerly served a purported “Notice of Motion and Motion Requesting the Court to Appoint a Scientific Advisor, etc.” on May 10, 2021 on File & ServeXpress, the Court has no record of such a document ever being presented for filing and no record of the mandatory \$60.00 filing fee having been paid. Therefore, while a number of Opposition papers were filed and a Reply was filed, there is no motion on calendar to be heard. Further, the purported Motion is not in proper form for filing because it and the purported Declaration are unsigned, and would have been rejected by this Court for this reason even if filed with a fee paid. (Code Civ. Proc., § 128.7(a) (“Every pleading, petition, written notice of motion, or other similar papers . . . if the party is not represented by an attorney, shall be signed by the party.”). Self-represented parties are not excused from complying with the basic rules of procedure.

City of San Buenaventura’s Motion to Bifurcate and to Partially Lift Stay: Grant in part and set Phase I trial for February 2022.

No party has opposed the bifurcation request, as such. The only dispute is the timeline to a Phase I trial. The City of San Buenaventura’s (“Ventura”) trial date of November 2021 is unfair to the most interested cross-defendants. The East Ojai Group’s “end of 2022” trial date for Phase I is too desultory. The Court thinks the State Agencies’ suggestion of a February 2022 trial date is a reasonable compromise of the due process rights to Ventura’s opponents versus the strong public need to move this case forward so that a resolution can be had within our lifetimes. A firm date in February 2022 will be decided at the hearing and the parties will be ordered to meet and confer in the next 30 days to agree upon a discovery and motion schedule.

Ventura’s June 16 Ex Parte Application for Order to Allow Service by Publication: Grant.

The Court is unaware of any opposition filed as to the Ex Parte Application for Order to Allow Service by Publication as to these 92 property owners living behind locked gates. Sufficient notice has been given by alternative means to such persons, and use of publication notice is justified based on the unique circumstances present here. If there is any opposition to issuance of such an Order, file a written Opposition in this docket by June 28, 2021.

Ventura’s June 18 Ex Parte Application for Order to Show Cause re Service by Publication: Grant and Issue OSC Returnable June 30, 2021 at 9:30 a.m.

The Court is unaware of any opposition filed as to the Ex Parte Application for Order to Show Cause. Proper notice has been given and use of publication notice appears justified based on the unique circumstances present here as to the 50 cross-defendants evading service, the 23 cross-defendants living behind locked gates, and the six named cross-defendants who are deceased.¹ If

¹Query as to the deceased: If Ventura tries to get a default and default judgment against a deceased person without going through probate proceedings, does it have a judgment of any value? Also, if Ventura really should be suing the successor in interest or heir, does it obtain a judgment of any value when only the deceased person is named? These concerns do not, however, counsel against giving cross-complainant the benefit of an Order allowing service of a deceased person by publication for whatever good it may do this party.

there is any opposition to issuance of such an Order, file a written Opposition in this docket by June 28, 2021.

Ventura's June 18 Ex Parte Application to Serve Seven Corporate Cross-Defendants via Secretary of State: Grant.

The Court is unaware of any opposition filed as to the Application. Proper notice has been given and use of service via the Secretary of State is justified based on the unique circumstances present here.

Further Status Conference:

1. Ventura is asked to address the concerns expressed in the letter to the Court sent by Karen and Gerrold Grigsby, which this Court served on all parties via File & ServeXpress on June 15, 2021.
2. Why is the Stipulation for Dismissal and [Proposed] Order served June 17, 2021 as between petitioner Santa Barbara Channelkeeper and Ventura signed on behalf of Santa Barbara Channelkeeper by Daniel Cooper as "Attorneys for Cross-Defendants," not as Attorney for Petitioner?
3. The Court has reviewed the State's submission explaining how the modeling process has been underway "[s]ince 2016," with a contractor hired four years ago in June 2017 and with a revised delivery date of December 2021 for an updated draft model with a preliminary draft issued sooner in August 2021. "The perfect is the enemy of the good," per Voltaire, and the State Agencies' approach proves the wisdom of this adage. Please do everything possible to get the preliminary draft deliverable by August 2021 and no later.
4. The Court agrees with the State that ALL parties need to provide initial disclosures of their historic well water usage so that we can determine if Code of Civil Procedure § 850(b) can be invoked by the City and so we know the historic productive capacity of the groundwater basin(s). Having incomplete data caused by lack of responses from those consumptive users who have signed Stipulations and [Proposed] Orders for Entry of Judgment will hinder this process. Time extension requests are legitimate and the Court has signed all such Stipulations and Orders that it has received to date.

EXHIBIT D



Exempt From Filing Fees Pursuant to
Cal. Gov't Code § 6103

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Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,

Petitioner,

v.

STATE WATER RESOURCES CONTROL
BOARD, etc., et al.,

Respondents.

CITY OF SAN BUENAVENTURA, etc.,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

NOTICE OF RULING

Date: July 19, 2021
Time: 3:00 p.m.
Dept: SS10

Date: July 23, 2021
Time: 2:00 p.m.
Dept: SS10

Action Filed: Sept. 19, 2014
Trial Date: February 14, 2022

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1 witness reports, by September 24, 2021. City experts may not be deposed until
2 after the September 24, 2021 expert disclosures. All other parties must serve their
3 expert disclosures, including expert witness reports, by October 22, 2021. The
4 revised, court-ordered Pre-Trial Schedule is attached as Exhibit A. The Court also
5 ordered that after the City provides its expert disclosure and report, parties may
6 seek relief from the Court-ordered schedule for good cause shown by ex parte
7 application filed before the respective September 24, 2021 and October 22, 2021
8 deadlines.

9
10 4. The Court continued the hearing on Cross-Defendant Claude Baggerly's motion
11 for a court-appointed scientific advisor to August 16, 2021.

12
13 5. The Court instructed the City to work with Court Staff, particularly Mr. Sanchez,
14 to provide the Court with a complete set of the Proposed Physical Solution fillings,
15 including all objections and replies.

16
17 6. The Court set a further Status Conference for August 16, 2021 at 1:30 p.m. Joint
18 status reports and/or any unilateral status reports are to be filed and served by
19 August 9, 2021.

20
21 Dated: August 9, 2021

BEST BEST & KRIEGER LLP

22
23 By: 

24 SHAWN HAGERTY
25 CHRISTOPHER M. PISANO
26 SARAH CHRISTOPHER FOLEY
27 PATRICK D. SKAHAN
28 Attorneys for Respondent and
Cross-Complainant
CITY OF SAN BUENAVENTURA

EXHIBIT A

**SANTA BARBARA CHANNELKEEPER V. SWRCB, CASE NO. 19STCP01176 -
DISCOVERY AND PRE-TRIAL SCHEDULE FOR PHASE 1 TRIAL**

DATE	
June 21, 2021	Discovery Stay is lifted for the issues to be tried in Phase 1 of Trial
August 31, 2021	City of Ventura's Expert Witness Disclosures, including Expert Witness Reports, pursuant to CCP § 843, due
September 24, 2021	Expert Witness Disclosures, including Expert Witness Reports, pursuant to CCP § 843, for State Water Resources Control Board, California Department of Fish and Wildlife, California State Parks, Casitas Municipal Water District, East Ojai Group, City of Ojai, and Proposing Parties (Ventura River Water District, Meiners Oaks Water District, Wood-Claeysens Foundation (Taylor Ranch), and Rancho Matilija Mutual Water Company) due Depositions of City experts cannot commence before this disclosure
October 15, 2021	Percipient Discovery Cut-Off Date All percipient discovery must be completed by this date
October 22, 2021	All Other Expert Witness Disclosures, including Expert Witness Reports, pursuant to CCP § 843, due
November 3, 2021	Deadline for any party to file a Motion for Summary Judgment or Summary Adjudication
December 10, 2021	Date for exchange of Supplemental Expert Disclosures, including Expert Witness Reports, pursuant to CCP § 843.
January 14, 2022	Expert Deposition Cut-Off. All expert discovery must be completed by this date.
January 21, 2022	Pre-Trial Statements, Exhibit Lists, Witness Lists, Motions in Limine, and Trial Briefs are Due.
January 21, 2022 at 10:00 a.m.	Hearing date for all Motions including Motions for Summary Judgment or Summary Adjudication (excludes Motions in Limine)
January 28, 2022	Responses to Motions in Limine are Due. Parties must exchange all exhibits.
February 2, 2022 at 10:00 a.m.	Final Status Conference, at 10:00 a.m. in Dept. SS10 Motions in Limine will be heard at the Final Status Conference.
February 14, 2022	Phase 1 Trial (First Day), at 10:00 a.m. in Dept. SS10 (10-15 day trial)

EXHIBIT E

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE
4
5 SANTA BARBARA CHANNELKEEPER,)
6 PLAINTIFF,)
7 VS.) CASE NO.
8 STATE WATER RESOURCES CONTROL BOARD,) 19STCP01176
9 ET AL.,)
10 DEFENDANTS.)
11 AND RELATED CROSS-ACTION.)
12

13
14 REPORTER'S TRANSCRIPT OF PROCEEDINGS
15 FRIDAY, JULY 23, 2021
16

17 APPEARANCES:

18 FOR THE PLAINTIFF: ATTORNEY GENERAL OF THE STATE OF
19 CALIFORNIA
20 BY: MARC N. MELNICK, ESQ.
21 1515 CLAY STREET, 20TH FLOOR
OAKLAND, CALIFORNIA 94612
510.879.0750

22 FOR DEFENDANT CITY OF SAN BUENAVENTURA:

23 BEST, BEST, & KRIEGER
24 BY: CHRISTOPHER M. PISANO, ESQ.
SHAWN D. HAGERTY, ESQ.
25 300 SOUTH GRAND AVENUE, 25TH FLOOR
LOS ANGELES, CALIFORNIA 90071
26 213.617.8100

27 (APPEARANCES CONTINUED ON FOLLOWING PAGE.)

28 KAREN VILICICH, CSR NO. 7634, CRR
OFFICIAL REPORTER PRO TEMPORE
CCROLA JOB NO. 163893

Original

9

1 APPEARS THAT YOUR TENTATIVE HAS TWO DIFFERENT SORT
2 CHARACTERISTICS FOR THE PARTIES THAT WILL BE EXCHANGING, ONE
3 IS A MINOR OR MAJOR PLAYER AND THE OTHER IS EXPERT-RETAINED
4 OR NOT. CASITAS FALLS ON BOTH SIDES OF THAT. I THINK WE
5 WOULD HAVE A HARD TIME CHARACTERIZING OURSELVES AS A MINOR
6 PLAYER, BUT WE HAVEN'T RETAINED AN EXPERT. SO I WONDERED IF
7 YOU MIGHT CLARIFY WHICH OF THOSE TWO CHARACTERISTICS IS
8 GOING TO BE THE DETERMINATE ONE.

9 THANK YOU.

10 THE COURT: WELL, GIVEN THAT YOU WILL SEE THE CITY OF
11 VENTURA'S REPORT AT THE END OF AUGUST AND HAVE A MONTH TO
12 RETAIN AN EXPERT, WOULD YOU EXPECT TO BE RETAINING AN EXPERT
13 BY SEPTEMBER 24TH TO RESPOND TO WHAT YOU VIEW TO BE AS A
14 SUSPECT EXPERT REPORT BY THE CITY OF VENTURA?

15 MR. COSGROVE: AT THIS POINT, WE DON'T KNOW THAT WE DO
16 CONSIDER IT SUSPECT AND WE WOULD RESERVE JUDGMENT ON THAT
17 UNTIL WE SEE IT.

18 THE COURT: WELL, I THINK THE SORT OUGHT TO BE MAJOR
19 VERSUS MINOR AND NOT RETAINED OR NOT. SO YOU NEED TO PUT
20 YOUR CARDS ON THE TABLE ON THE 24TH OR RISK ONLY BEING ABLE
21 TO OFFER A BONA FIDE REBUTTAL EXPERT.

22 MR. COSGROVE: I HAVE THE CLARIFICATION I REQUESTED.
23 THANK YOU.

24 THE COURT: OKAY. OTHERS WISH TO BE HEARD?

25 MS. JACOBSON: YES, YOUR HONOR. THIS IS HOLLY
26 JACOBSON FOR THE CITY OF OJAI.

27 THE COURT: YES, MA'AM.

28 MS. JACOBSON: I HAVE A SIMILAR HOUSEKEEPING QUESTION

Original

19

1 MR. MELNICK: HOW ARE YOU, SIR?

2 THE COURT: PRETTY GOOD.

3 MR. MELNICK: I HAVE A -- I DON'T HAVE ANY CONCERNS
4 WITH WHAT YOU HAVE RULED ALREADY. I HAVE ONE CLARIFYING
5 QUESTION, AND/OR I GUESS TWO CLARIFYING QUESTIONS. THE
6 FIRST IS I THOUGHT THAT YOU HAD SAID THAT THE MINOR PLAYERS
7 WERE TO DISCLOSE ON OCTOBER 22ND, WHICH IS A FRIDAY, NOT
8 OCTOBER 24TH, WHICH IS A SUNDAY.

9 THE COURT: I PROBABLY DID BECAUSE THERE IS NO REASON
10 TO MAKE A SUNDAY A DEADLINE.

11 DID YOU CATCH A DATE, JOHN?

12 THE CLERK: SEPTEMBER 24TH AND OCTOBER 22ND.

13 THE COURT: YEAH. THE JUDICIAL ASSISTANT GOT IT AS
14 OCTOBER 22. YOU ARE CORRECT, MR. MELNICK.

15 MR. MELNICK: THANK YOU, YOUR HONOR.

16 AND THEN MY SECOND QUESTION IS: IS THE COURT
17 INCLINED TO ORDER THE OTHER PRETRIAL DATES THAT THE CITY
18 PROPOSED OR DO WE NEED TO TALK ABOUT THOSE?

19 THE COURT: BEAR WITH ME.

20 MR. MELNICK: BECAUSE --

21 THE COURT: THE BRIEFS I LOOKED AT WERE THE ONES
22 FOCUSED ON THIS QUESTION. SO I GUESS I HAVE TO BACK UP TO
23 SOME DIFFERENT STATUS REPORT. GIVE ME THE DATE OF THE
24 STATUS REPORT AND I WILL TRY TO PULL IT UP ELECTRONICALLY.

25 MR. MELNICK: I AM ACTUALLY NOT SURE WHAT DOCUMENT
26 MR. PISANO ATTACHED THIS TO.

27 MR. PISANO: YOUR HONOR, IT WAS -- IT IS THE REPORT
28 THAT THE CITY SUBMITTED FOR THE JULY 6TH STATUS CONFERENCE,

Original

20

1 IT WAS FILED ON JULY 2ND.

2 THE COURT: HANG ON.

3 ON A DIFFERENT NOTE, I WOULD ASK THE CITY OF
4 VENTURA TO WORK WITH COURT STAFF, PARTICULARLY
5 MR. SANCHEZ -- WE WILL DO OUR PART TO TRY TO PULL TOGETHER
6 WHAT WE HAVE IN TERMS OF HARD COPIES OF OBJECTIONS TO THE
7 PHYSICAL SOLUTION AND WE MAY NOT HAVE ALL OF THEM, EITHER
8 BECAUSE YOU CAME SO EARLY WHEN PEOPLE WERE COMPLAINING ABOUT
9 A DOCUMENT I HAVE NOT SEEN, WE LET IT BASICALLY BE CAST
10 ASIDE AFTER IT WAS SCANNED. BUT TO TRY TO BE SURE I HAVE A
11 COMPLETE RECORD WITHOUT REGARD TO THE DATE ON WHICH THESE
12 ITEMS WERE SERVED AND FILED, BUT SO THAT I HAVE A FULL SET
13 OF THE CRITIQUES OF THE PHYSICAL SOLUTION THAT HAD BEEN
14 LODGED OR FILED WITH THE COURT -- THEY SHOULD ALL BE FILED,
15 FRANKLY -- BUT THEY HAVE BEEN FILED WITH THE COURT UP UNTIL
16 NOW, SO THAT I COULD HAVE THEM AS A READING STACK BECAUSE I
17 DON'T WANT TO TAKE THE TIME TO TRY TO GO BACK THROUGH ALL
18 THE RECORDS. IF YOU COULD SEND A PARALEGAL HERE TO WORK
19 WITH MR. SANCHEZ TO BE SURE THAT BETWEEN WHAT WE CAN FIND IN
20 OUR WORKING PAPERS VERSUS WHAT YOU ARE GOING TO ADD IN, IT
21 BECOMES A COMPLETE PHYSICAL SET OF ALL THE PAPERS.

22 IS THAT A FAIR REQUEST, MR. PISANO?

23 MR. PISANO: THAT IS FAIR, YOUR HONOR.

24 THE COURT: LET ME FIND THE DOCUMENT IN QUESTION.
25 JULY 2 IS THE SERVICE DATE. STATUS CONFERENCE REPORT.
26 OKAY.

27 PROPOSED DISCOVERY AND PRETRIAL SCHEDULE. SO
28 JUNE 21, DISCOVERY STAY IS LIFTED.

Original

24

1 DOWN FOR OCTOBER 22?

2 MR. PISANO: YEAH.

3 THE COURT: SO I AM ACTUALLY ADVANCING YOUR NOVEMBER
4 12TH DATE, HYPOTHETICALLY, TO OCTOBER 22. DO YOU LIKE THAT
5 I ADVANCE IT OR DO YOU SUGGEST I PUSH IT BACK TO YOUR DATE
6 OF NOVEMBER 12TH AND MAKE IT SUBJECT TO THIS VERBIAGE?

7 I AM WILLING TO ADOPT THE WISDOM OF YOUR
8 NOVEMBER 12TH DEADLINE IN LIEU OF WHAT I HAVE BEEN SKETCHING
9 OUT FOR OCTOBER 22. IT SOUNDS CLOSER TO WHAT MR. OSIAS AND
10 SOME OTHERS HOPE TO HAVE HAPPEN.

11 MR. PISANO: I THINK THE OCTOBER 22 IS FINE, YOUR
12 HONOR.

13 THE COURT: THE WAY I HAVE SKETCHED IT OUT?

14 MR. PISANO: THE WAY YOU HAVE SKETCHED IT OUT.

15 THE COURT: SO THEN I DELETE YOUR NOVEMBER 12TH
16 VERBIAGE?

17 MR. PISANO: YES.

18 THE COURT: BUT WE DO ADOPT OCTOBER 15TH AS PERCIPIENT
19 WITNESS CUT-OFF; NOVEMBER 3 FOR SUMMARY JUDGMENT/SUMMARY
20 ADJUDICATION FILING.

21 MR. PISANO: ACTUALLY, YOUR HONOR, ON THAT ONE, I WENT
22 BACK AND COUNTED AFTER THE FACT, NOVEMBER 5 WOULD BE --
23 ACTUALLY, IT'S NOVEMBER 6TH WOULD BE THE 75TH DAY, WHICH IS
24 A SATURDAY. SO I THINK NOVEMBER 5 WOULD BE THE DEADLINE TO
25 FILE AN MSJ OR MSA.

26 THE COURT: WELL, IN THEORY, WITH E-FILING, THERE ARE
27 TWO MORE DAYS FOR CASE ANYWHERE OR FILE&SERVE XPRESS.

28 MR. PISANO: GOOD POINT. THAT IS PROBABLY WHY IT

Original

25

1 ENDED UP AS THE 3RD.

2 THE COURT: LET'S STAY WITH NOVEMBER 3.

3 DO YOU HAVE A HEARING DATE, I DIDN'T SEE ONE IN
4 THERE?

5 MR. PISANO: I DID PUT JANUARY 21 AS A LAW AND MOTION
6 CUT-OFF DATE FOR ALL MOTIONS, OTHER THAN MOTIONS IN LIMINE.

7 THE COURT: SO THAT'S ANOTHER WAY OF SAYING THAT IS
8 YOUR PROPOSED HEARING DATE?

9 MR. PISANO: FOR ANY SUMMARY JUDGMENT MOTIONS, YES.

10 THE COURT: FINE. I WILL RESERVE FRIDAY, JANUARY 21,
11 AT 10:00 A.M. FOR ANY SUMMARY JUDGMENT/SUMMARY ADJUDICATION
12 MOTIONS AND OTHER MOTION PRACTICE. MODIFY YOUR NOTICE
13 ACCORDINGLY.

14 DECEMBER 10, SUPPLEMENTAL EXPERTS. THAT'S OKAY
15 BY ME.

16 SO FAR SO GOOD?

17 MR. PISANO: THAT'S FINE, YOUR HONOR.

18 THE COURT: JANUARY 14, EXPERT DEPO CUT-OFF. FINE.

19 FOR THESE PURPOSES, YOU MEAN THEM NOT JUST TO
20 BE COMMENCED, BUT ACTUALLY TO BE DONE?

21 MR. PISANO: CORRECT, YOUR HONOR.

22 THE COURT: MAKE THAT CLEAR.

23 JANUARY 21, PRETRIAL STATEMENTS, EXHIBIT LIST,
24 WITNESS LIST, MOTIONS IN LIMINE, AND TRIAL BRIEFS, FINE.

25 JANUARY 21, RESERVED FOR HEARING.

26 JANUARY 28, RESPONSES TO MOTIONS IN LIMINE,
27 EXCHANGE EXHIBITS. FINE.

28 FEBRUARY 2, 10:00 A.M., FINAL STATUS

Original

26

1 CONFERENCE, YES.

2 AND FEBRUARY 14, 10:00 A.M., START OF A COURT
3 TRIAL.

4 HOW MANY DAYS SHOULD WE BE RESERVING FOR THIS
5 COURT TRIAL IN YOUR VIEW, MR. PISANO?

6 MR. PISANO: I BELIEVE WE DISCUSSED IT, IT WAS -- I
7 THINK 10 TO 15 IS WHAT WE HAD PREVIOUSLY DISCUSSED.

8 THE COURT: IT GOT ON CALENDAR FOR 10 TO 15 DAYS. SO
9 WE WILL MAKE A NOTE THAT IT IS INTENDED TO BE A 10 TO 15-DAY
10 COURT TRIAL.

11 OKAY. I'M GLAD THIS CAME UP. THANK YOU,
12 MR. MELNICK. IT'S GOOD THAT WE GOT TO THIS POINT.

13 OTHER THINGS WE ARE FORGETTING TO ADDRESS,
14 MR. MELNICK?

15 MR. MELNICK: NOTHING THAT WE HAVE RAISED WITH YOU
16 PRIOR, YOUR HONOR, BUT THERE IS AN ISSUE THAT I THINK WE
17 MIGHT WANT TO TALK ABOUT TODAY WITH YOU, AND THAT'S WHETHER
18 THIS TRIAL IS GOING TO BE LIVE OR WHETHER YOU WOULD PREFER
19 IT TO BE BY DECLARATION. WE DON'T HAVE TO RESOLVE THAT NOW,
20 BUT IT HAS TO DO WITH THE SCHEDULE.

21 THE COURT: THERE ARE SOME PEOPLE WHO THINK TRIALS ON
22 DECLARATION WITH TESTIMONY LIMITED TO CROSS-EXAMINATION IS
23 GENIUS. I HAVE NOT, IN MY EXPERIENCE, FOUND IT ALL THAT
24 HELPFUL, AND PERHAPS JUST BECAUSE I AM A SLOW LEARNER. BUT
25 AT THE MOMENT, I THINK I WOULD PREFER TO BE EDUCATED IN THE
26 COURTROOM BY A WITNESS ON THE STAND.

27 MR. MELNICK: THAT'S WHAT I WANTED TO ASK, YOUR HONOR.
28 THANK YOU.

Original

27

1 THE COURT: OTHER QUESTIONS?

2 MS. BLISS: YOUR HONOR --

3 THE COURT: WHO IS SPEAKING?

4 MS. BLISS: LOA BLISS FOR UPPER OJAI.

5 I MAY BE DISCLOSING MY INCREDIBLE NAIVETE ON
6 THE WAY THESE TRIALS UNFOLD, BUT I AM WONDERING WHY THERE
7 IS -- IF I UNDERSTAND WHAT A PERCIPIENT WITNESS ACTUALLY
8 IS -- WHY IS THERE A CUT-OFF SO EARLY? IT MIGHT BE THAT
9 THERE MAY BE PERSONS WHO CAN'T ACTUALLY HAVE A QUALIFIED
10 EXPERT, BUT WILL BE ABLE TO CALL PEOPLE WHO KNOW A LOT ABOUT
11 THE GEOLOGY OF A PARTICULAR BASIN THAT MAY NOT BE CERTIFIED
12 OR TECHNICALLY QUALIFIED. WHY SO EARLY?

13 IT SEEMS TO ME LIKE IT MIGHT BE USEFUL TO BE
14 ABLE TO HAVE THE CUT-OFF DATE AFTER THE SMALL PARTIES HAVE
15 DECIDED WHETHER THEY ARE GOING TO CALL AN EXPERT OR AFTER
16 THEY HAVE IDENTIFIED AN EXPERT BECAUSE SUCH TESTIMONY COULD
17 BE IN TANDEM WITH AN EXPERT OR AN EXPERT MAY RECOMMEND
18 HAVING SOME EXTRA TESTIMONY.

19 THAT'S ALL. IT JUST SEEMED A LITTLE
20 PRECIPITOUS. THAT'S ALL, IF I AM UNDERSTANDING THINGS
21 CORRECTLY, AND I MAY NOT.

22 THE COURT: WELL, YOU RAISED AN INTERESTING POINT,
23 MA'AM. I WOULD, AGAIN, OFFER THIS COMMENT FROM MY
24 EXPERIENCE AS A LAWYER AND A JUDGE AND NOW CANDIDLY, ALL OF
25 MY EXPERIENCE IS OUTSIDE THE CONTEXT OF ADJUDICATING WATER
26 CASES. THIS IS THE FIRST WATER CASE I HAVE HAD AS A JUDGE
27 AND I NEVER HAD A WATER CASE AS A LAWYER. BUT NOW SPEAKING
28 OF ALL THAT OTHER EXPERIENCE IN A SOMEWHAT DIFFERENT

Original

28

1 CONTEXT, NORMALLY SPEAKING, WHETHER IT'S AN AUTO ACCIDENT, A
2 SLIP AND FALL, A WRONGFUL TERMINATION CASE, A BREACH OF
3 CONTRACT CASE, A DEFAMATION CASE, SOME CASES HAVE A FEW
4 EXPERTS, LIKE IN AN INJURY CASE, THEY MAY BE ABOUT MEDICAL
5 DAMAGES OR LOST WAGES. IN A PRODUCT LIABILITY CASE, THEY
6 MAY BE SIMPLY TRYING TO PROVE LIABILITY AND MAY OR MAY NOT
7 BE IMPORTANT TO DAMAGES. IN OTHER KINDS OF CASES, IT'S ALL
8 ABOUT THE EXPERTS AND THE PERCIPIENT WITNESSES DON'T COUNT
9 FOR MUCH OF ANYTHING.

10 BUT GENERALLY SPEAKING, WHAT YOU DO, AND I AM
11 SPEAKING ABOUT LITIGATION GENERALLY, NOT ABOUT WATER CASES,
12 IS YOU GO TALK TO THE PERCIPIENT WITNESSES WHO ACTUALLY SAW
13 THE AUTO ACCIDENT OR TREATED THE PATIENT AFTER HE GOT
14 INJURED OR HEARD THE DEFAMATORY STATEMENTS OR ARE AWARE OF
15 THE CIRCUMSTANCES THAT DO OR DON'T DEMONSTRATE THE TRUTH OR
16 FALSITY OF THE SUPPOSEDLY DEFAMATORY STATEMENT, OR WERE
17 AWARE OF THE CIRCUMSTANCES IN THE WORKPLACE THAT GAVE RISE
18 TO THE WRONGFUL TERMINATION CASE, YOU TALK TO THE PEOPLE WHO
19 SORT OF SAW THE EVENTS AS STEP ONE AND YOU SAVE THE
20 EXPENSIVE EXPERTS TO THE END. IN PART, BECAUSE EXPERIENCE
21 IS MANY OF THOSE KIND OF CASES SETTLE PART WAY THROUGH THIS
22 DISCOVERY PROCESS AND YOU CAN AVOID THE EXPENSIVE EXPERTS,
23 AND, IN PART, IT'S BECAUSE TYPICALLY SOME OR ALL OF THIS
24 DISCOVERY IS NECESSARY TO ASSEMBLE THE FACTS ON WHICH AN
25 EXPERT WILL OFFER THEIR OPINION, WHETHER THEY ARE MEDICAL
26 RECORDS OR HOW LONG SOMEBODY HAD TO STAY AWAY FROM WORK ON
27 ACCOUNT OF THEIR INJURIES, AND SUCH LIKE. AND THEN YOU PUT
28 THE EXPERTS AT THE VERY END.

Original

29

1 INDEED, THE STATUTORY PROVISIONS REALLY ASSUME
2 THAT THE EXPERTS ARE REALLY DONE IN THE LAST 30 DAYS, WHICH
3 PROBABLY WORKS FOR YOUR AVERAGE AUTO ACCIDENT CASE, BUT DOES
4 NOT WORK FOR CASES THAT ARE AS EXPERT INTENSIVE AS THIS.

5 BUT THAT'S HOW WE COME TO THINK THAT WE ARE
6 GOING TO TALK TO ALL THE PERCIPIENT WITNESSES WHO HAVE
7 SOMETHING USEFUL IN THE NEXT EIGHT WEEKS OR THEREABOUTS
8 BECAUSE OCTOBER 15TH IS NOT THAT LONG FROM NOW IN THE GRAND
9 SCHEME OF THINGS. AND THEN TURN OUR ATTENTION TO EXPERTS
10 AND MOTION PRACTICE. IF IT TURNS OUT THAT FOR SOME REASON
11 THERE ARE PARTIES WHO WANT TO OFFER TESTIMONY THAT WILL COME
12 FROM A PERCIPIENT WITNESS FIRST, INsofar AS YOU HAVE A RIGHT
13 TO PARTICIPATE AT TRIAL, WHICH I SUSPECT YOU WOULD AS YOU
14 ARE A PARTY IN THE CASE, WHETHER OR NOT SOMEBODY IS DEPOSED
15 DOESN'T LIMIT WHETHER OR NOT YOU COULD CALL THEM AS YOUR
16 WITNESS AT TRIAL. SO WHO YOU CALL AS A WITNESS AT TRIAL IS
17 A DIFFERENT QUESTION.

18 NOW, IF YOU HAVE A WITNESS WHO IS IN ARIZONA
19 AND THEY WON'T COME TO L.A. TO TESTIFY, YOU WILL REGRET THAT
20 YOU DID NOT DEPOSE THEM BECAUSE IF YOU CAN'T GET THEM INTO
21 COURT PHYSICALLY, THEN YOU HAVE TO USE THE DEPOSITION AS A
22 SUBSTITUTE FOR GETTING THEM TO COME.

23 BUT IF YOU COULD GET THEM TO WALK INTO THE
24 COURTROOM, GET ON THE WITNESS STAND, TAKE AN OATH AND
25 TESTIFY, THEN, IN THEORY, YOU ARE FINE WHETHER OR NOT THEY
26 WERE DEPOSED. AND INDEED, IN SOME WAYS YOU WOULD BE HAPPY
27 IF THEY WERE NOT DEPOSED, BECAUSE NOBODY KNOWS HOW TO CROSS-
28 EXAMINE THEM. GENERALLY SPEAKING, YOU SORT OF LIKE THAT.

Original

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1 SO WHETHER SOMEBODY IS DEPOSED IS A DIFFERENT
2 QUESTION FROM WHETHER THEY CAN BE OFFERED AS A TRIAL
3 WITNESS. AND I DOUBT YOU ARE GOING TO HAVE THE CIRCUMSTANCE
4 WHERE YOU HAVE GOT SOME HELPFUL WITNESS, BUT FOR WHATEVER
5 REASON, THEY WON'T COME TO THE COURTHOUSE ON YOUR BEHALF. I
6 ASSUME THAT IF YOU GOT SOMEBODY THAT IS HELPFUL, THEY WOULD
7 BE WILLING TO COME TO DOWNTOWN LOS ANGELES AND COME TO THE
8 COURTROOM AND TAKE A OATH.

9 DOES THAT HELP CLARIFY ANYTHING FOR YOU,
10 MS. BLISS?

11 MS. BLISS: YES, IT DOES. THANK YOU VERY MUCH. I
12 JUST DID NOT WANT TO BE CUT OFF FROM HAVING THE TESTIMONY
13 AVAILABLE WHENEVER IT MIGHT BE CONVENIENT TO DO THAT. SO I
14 UNDERSTAND THAT DISCOVERY MEANS THEY HAVE TO BE AVAILABLE.
15 I WOULD NOT KNOW WHO THESE PEOPLE WOULD BE UNTIL I COULD
16 CONSULT WITH AN EXPERT, BUT I HAVE A PRETTY GOOD IDEA.

17 BUT YOU ARE CORRECT. THANK YOU VERY MUCH FOR
18 THE CLARIFICATION. I APPRECIATE THAT. I THINK THEY MAY
19 APPEAR AT TRIAL IF IT GETS THAT FAR.

20 THE COURT: AGAIN, IF YOU WERE TRYING TO ADVOCATE A
21 POSITION AT TRIAL, AT SOME POINT, YOU HAVE GOT TO FIND YOUR
22 WITNESSES. THEY HAVE TO BE COMPETENT AND KNOW WHAT THEY ARE
23 TALKING ABOUT.

24 SO I AM NOT GOING TO GO FIND THEM FOR YOU,
25 MR. HAGERTY'S JOB IS NOT TO GO FIND THEM FOR YOU, YOU OR
26 SOMEBODY WORKING ON YOUR BEHALF WILL HAVE TO GO FIND THEM.
27 BUT OTHERWISE, AM I FAIRLY DESCRIBING THE PROCESS FOR
28 MS. BLISS'S BENEFIT, MR. PISANO?

Original

31

1 MR. PISANO: I BELIEVE SO, YOUR HONOR.

2 THE COURT: ANYBODY DISAGREE WITH MY REVIEW OF THE
3 PROCEDURE FOR MS. BLISS?

4 OKAY. ANY OTHERS WANT TO BE HEARD THIS
5 AFTERNOON?

6 MR. PISANO?

7 MR. PISANO: JUST ONE SMALL REQUEST TO THE ORDER FOR
8 THE DAY IS THAT IF THE CITY IS GOING TO BE DISCLOSING FIRST
9 AND GIVING THE OTHER MAJOR PLAYERS AT LEAST A PREVIEW, THAT
10 AT A MINIMUM, THE ORDER PROVIDE THAT THE CITY'S EXPERT OR
11 EXPERTS NOT BE DEPOSED BEFORE THE MAJOR PLAYERS DISCLOSE
12 THEIR REPORTS. THAT WOULD TO ME SEEM A LITTLE MUCH.

13 THE COURT: ANYBODY DISAGREE WITH MR. PISANO'S
14 REASONABLE REQUEST?

15 MR. COSGROVE FOR CASITAS?

16 MR. COSGROVE: NO.

17 THE COURT: MR. MELNICK?

18 MR. MELNICK: NO, YOUR HONOR.

19 THE COURT: MS. JACOBSON?

20 MR. MELNICK: I HAVE NO OBJECTION.

21 THE COURT: MS. JACOBSON?

22 MS. JACOBSON: NO, YOUR HONOR.

23 THE COURT: MR. PATTERSON?

24 MR. PATTERSON: NO OBJECTION, YOUR HONOR. I THINK IT
25 MAKES SENSE. THAT'S FINE.

26 MS. JACOBSON: ACTUALLY, I DO HAVE A QUESTION.

27 THE COURT: GO AHEAD, MS. JACOBSON.

28 MS. JACOBSON: SO IF THE REQUEST IS THAT VENTURA'S

Original

32

1 EXPERT NOT BE DEPOSED UNTIL SEPTEMBER 24TH --

2 THE COURT: INCLUDING THE DISCLOSURE OF THE REPORTS
3 THAT ARE EXPECTED ON SEPTEMBER 24TH.

4 MS. JACOBSON: WELL, MY CONCERN IS IF A PARTY FILES AN
5 EX PARTE REQUEST FOR ADDITIONAL TIME FOR A REPORT, BUT HAS
6 DISCLOSED THEIR EXPERT, I DON'T KNOW -- I DON'T THINK IT
7 WOULD BE IN THE BEST INTEREST OF STREAMLINING THIS CASE TO
8 FURTHER DELAY DEPOSITIONS.

9 THE COURT: WELL, IT MAY OR MAY NOT. I GUESS YOU ARE
10 SOMEBODY WHO MAY WANT TO DELAY YOUR EXPERT, BUT IF YOU DO,
11 YOU MAY DELAY THE DEPO OF THE VENTURA EXPERT. SOUNDS LIKE
12 YOU HAVE TO DEAL WITH THAT.

13 MS. JACOBSON: NO, AS I UNDERSTAND THE SEPTEMBER 24TH
14 DEADLINE, IT'S TO DISCLOSE THE EXPERT AND REPORT UNLESS AN
15 EXTENSION IS REQUESTED FOR THE REPORT.

16 THE COURT: FOR GOOD CAUSE AND THEN I GRANT IT, BUT
17 THAT MAY HAVE AN IMPACT THEN ON WHEN MR. PISANO'S EXPERT IS
18 FIRST ELIGIBLE TO BE DEPOSED, AT LEAST IN HIGHBERGER'S VIEW.

19 MS. JACOBSON: WELL, MY CONCERN IS THAT THAT IS GOING
20 TO GET CIRCLED BACK TO OUR ORIGINAL CONCERNS ABOUT NOT
21 HAVING ENOUGH TIME TO PREPARE FOR TRIAL IN THIS CASE IF WE
22 CONTINUE TO DELAY DEPOSITIONS. THAT'S ALL.

23 THE COURT: WE WILL HAVE TO SEE HOW IT PLAYS OUT.
24 MAYBE IF MR. MELNICK'S EXPERTS AND MR. COSGROVE'S EXPERTS,
25 YOU KNOW, PUT ENOUGH CARDS ON THE TABLE TO DEMONSTRATE WHAT
26 THE DEBATING POINTS ARE REGARDING THE CITY OF VENTURA'S
27 EXPERT, PERHAPS THEN IT IS FAIR TO EXPECT THE VENTURA EXPERT
28 TO BE DEPOSED, EVEN IF MS. JACOBSON'S EXPERT IS STILL

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER,
PLAINTIFF,
VS.
STATE WATER RESOURCES CONTROL BOARD,
ET AL.,
DEFENDANTS.

AND RELATED CROSS-ACTION.

CASE NO.
19STCP01176

I, KAREN VILICICH, CSR NO. 7634, OFFICIAL COURT
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES 1 THROUGH 33 COMPRISE A FULL, TRUE AND
CORRECT TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THE ABOVE-ENTITLED MATTER ON FRIDAY, JULY 23, 2021.

DATED THIS 29TH DAY OF JULY, 2021.



KAREN VILICICH, CSR NO. 7634
OFFICIAL REPORTER PRO TEMPORE

EXHIBIT F



Exempt From Filing Fees
to Government Code § 68092

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a California special district

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,

Petitioner,

v.

STATE WATER RESOURCES CONTROL
BOARD, a California State Agency;
CITY OF SAN BUENA VENTURA, a
California municipal corporation, incorrectly
named as CITY OF BUENA VENTURA,

Respondents.

CITY OF SAN BUENA VENTURA, a
California municipal corporation,

Cross-Complainant,

v.

DUNCAN ABBOTT, et al.

Cross-Defendants.

Case No. 19STCP01176

Hon. William F. Highberger; Dept: 10

**STATUS CONFERENCE REPORT OF
CROSS DEFENDANT CASITAS
MUNICIPAL WATER DISTRICT**

Further Status Conference Hearing:

DATE: October 18, 2021

TIME: 1:30 p.m.

DEPT.: 10

Date Action Filed: September 19, 2014

First Amended Complaint Filed:
September 7, 2018

1 **STATUS CONFERENCE REPORT**

2 Cross-Defendant CASITAS MUNICIPAL WATER DISTRICT, a California special
3 district (“Casitas”) submits this Status Conference Report (“Report”) in advance of the Status
4 Conference scheduled for October 18, 2021 at 1:30 p.m. On October 6, 2021, the City of Ventura
5 (Ventura) emailed a draft of its report to all parties who have appeared and invited input and
6 joinder. While appreciative of Ventura’s efforts to summarize current issues pending before the
7 Court for discussion at the October 18, 2021 Case Management Conference (“CMC”), Casitas
8 hereby provides this separate Report to address unique concerns it has with regard to designation
9 and testimony of experts in Phase 1 of trial given the potential for the scope of Phase 1 to expand
10 in unexpected directions as various parties seek additional determinations from the Court.

11 **I. CONCERNS REGARDING SCOPE OF PHASE 1 OF TRIAL AND ABILITY OF**
12 **PARTIES WHO HAVE NOT DESIGNATED EXPERTS TO DO SO IF THE**
13 **SCOPE OF TRIAL EXPANDS BEYOND “WHO IS IN, AND WHO IS OUT” OF**
14 **THE ADJUDICATION**

15 As the Court is likely aware, Casitas did not designate experts and did not submit an expert
16 report for Phase 1 of trial. Casitas did not designate an expert, at least in part, because the scope
17 of Phase 1 appeared relatively narrow—a determination of basin boundaries and hydrologic
18 connection (or not) between certain groundwater and surface water resources within the Ventura
19 River watershed. However, in reviewing the expert reports submitted, and the case management
20 statements submitted by the Cities of Ventura and Ojai, it now appears that some of the experts
21 retained, and providing opinions in Phase 1 of trial, would seem to go well beyond a simple
22 determination of hydrologic interconnection between surface and groundwater in the Ventura
23 River Watershed. For example, as noted by the City of Ojai in their separate CMC statement, the
24 City of Ventura has disclosed four experts for Phase 1 of trial, only one of whom is a
25 hydrogeologist (presumably the primary experts with relevant opinions on the topic of hydrologic
26 connection between surface waters and ground waters) . Ventura’s other experts include:

- 27 • A historian who will opine upon historical documents from 1920 to 1959 not
28 related to hydrogeology.

- A fisheries biologist who has formed opinions on “the importance of migration, spawning, and juvenile rearing habitat within the San Antonio Creek and its tributaries, including Lion Creek, to the overall health and condition of Southern California steelhead inhabiting the Ventura River watershed.”
- A botanist who will opine on the presence of certain species of vegetation along San Antonio Creek.

Similarly, the California Department of Fish and Wildlife (“CDFW”) has proposed to introduce evidence from an environmental scientist, who, if allowed to do so by the Court, would provide an expert opinion regarding “the composition and distribution of native species located in the Ventura River Watershed.”

All of the aforementioned experts, and the opinions they would propose to render, would seem to stray fairly significantly from the narrow questions of hydrologic connectivity, and determining “who’s in” and “who’s out” of the adjudication, which Casitas understood to be the narrow purpose(s) of Phase 1 of Trial. As such, Casitas concurs with Ojai’s request that the Court clarify during the October 18, 2021 CMC the precise scope of Phase I and which issues will, and which issues will not, be addressed during Phase 1.

Along the same lines, Casitas is not yet seeking modification of the Phase 1 trial schedule to allow additional expert disclosures, since it is not yet clear that such modification is necessary to protect the rights of Casitas and other parties who did not designate experts based upon their understanding of the narrow issues before the Court in Phase 1. However, Casitas asks the Court to consider at the October 18, 2021 CMC issuing an order to the effect that parties who have not yet designated experts may petition the court on an ex parte basis to modify the trial schedule and designate experts, if expert depositions demonstrate that expert evidence is likely to be used by one or more Parties to establish facts that go beyond hydrologic connectivity and/or basin boundaries.

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Dated: October 12, 2021

RUTAN & TUCKER, LLP
JEREMY N. JUNGREIS
DOUGLAS J. DENNINGTON



By: _____

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