

1 SHAWN HAGERTY, Bar No. 182435
 shawn.hagerty@bbklaw.com
 2 BEST BEST & KRIEGER LLP
 655 West Broadway, 15th Floor
 3 San Diego, California 92101
 Telephone: (619) 525-1300
 4 Facsimile: (619) 233-6118

5 CHRISTOPHER M. PISANO, Bar No. 192831
 christopher.pisano@bbklaw.com
 6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
 sarah.foley@bbklaw.com
 7 PATRICK D. SKAHAN, Bar No. 286140
 patrick.skahan@bbklaw.com
 8 BEST BEST & KRIEGER LLP
 300 South Grand Avenue, 25th Floor
 9 Los Angeles, California 90071
 Telephone: (213) 617-8100
 10 Facsimile: (213) 617-7480

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

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

FILED
 Superior Court of California
 County of Los Angeles

MAR 23 2021

Sherri R. Carrer, Executive Officer/Clerk
 By Yuliya Tarasyuk, Deputy

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
 BOARD, etc., et al.,
 20
 Respondents.

Case No. 19STCP01176
 Judge: Honorable William F. Highberger
 NOTICE OF RULING
 Date: March 15, 2021
 Time: 1:30 p.m.
 Dept: SS10
 Action Filed: Sept. 19, 2014
 Trial Date: Not Set

21
 22 CITY OF SAN BUENAVENTURA, etc.,
 23
 Cross-Complainant
 24
 v.
 25 DUNCAN ABBOTT, an individual, et al.
 26
 Cross-Defendants.

03/24/2021

FILED

1 SHAWN HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
2 BEST BEST & KRIEGER LLP
655 West Broadway, 15th Floor
3 San Diego, California 92101
Telephone: (619) 525-1300
4 Facsimile: (619) 233-6118

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

5 CHRISTOPHER M. PISANO, Bar No. 192831
christopher.pisano@bbklaw.com
6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
sarah.foley@bbklaw.com
7 PATRICK D. SKAHAN, Bar No. 286140
patrick.skahan@bbklaw.com
8 BEST BEST & KRIEGER LLP
300 South Grand Avenue, 25th Floor
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
BOARD, etc., et al.,
20
Respondents.
21

Case No. 19STCP01176
Judge: Honorable William F. Highberger

NOTICE OF RULING

Date: March 15, 2021
Time: 1:30 p.m.
Dept: SS10

Action Filed: Sept. 19, 2014
Trial Date: Not Set

22 CITY OF SAN BUENAVENTURA, etc.,
23
Cross-Complainant
24
v.
25 DUNCAN ABBOTT, an individual, et al.
26
Cross-Defendants.
27

1 NOTICE OF RULING

2
3 On March 15, 2021, the parties appeared at a Further Status Conference, the Honorable
4 William F. Highberger, Judge presiding. The parties stated their appearances on the record and/or
5 they are reflected on LA Court Connect records. The Court made the following orders and
6 determinations:

- 7
- 8 1. In advance of the Status Conference, the Court issued a tentative ruling on March
9 14, 2021 through File & Serve Xpress. The Court's March 14, 2021 document is
10 attached as Exhibit A.
 - 11
12 2. The Court set a further Status Conference for April 19, 2021, at 1:30 p.m. and
13 ordered that a joint status report and/or any unilateral status reports be filed and
14 served by April 12, 2021.

15
16 Dated: March 23, 2021

BEST BEST & KRIEGER LLP


17
18 By: 
19 SHAWN HAGERTY
20 CHRISTOPHER M. PISANO
21 SARAH CHRISTOPHER FOLEY
22 PATRICK D. SKAHAN
23 Attorneys for Respondent and
24 Cross-Complainant
25 CITY OF SAN BUENAVENTURA
26
27
28

EXHIBIT A



19STCP01176 Santa Barbara ChannelKeeper v. SWRCB

March 15, 2021 Tentative

Time Constraint on March 15, 2021:

Due to the need to prepare BC522224 *GemCap Lending, I, LLC v. Western Food Distribution, LLC* for a jury trial to start in Dept. 10 on March 29, 2021 and certain other matters on calendar with overlapping time slots on March 15, I will have limited time available to talk to you tomorrow. I will need to limit this session to 60 minutes at most.

Service of Isolated Private Residences:

While provision is made for private process servers (or the Sheriff) to force lawful entry into gated communities for service of necessary process via C.C.P. § 415.21, the Court is aware of no similar adaptation of the law to situations where a single private residence is located behind a locked gate. The Court invites counsel to provide a suggestion for what work-around is reasonable, lawful and consistent with due process. If the Ventura County Sheriff (in lieu of a private professional process server) was engaged to serve process, can it force lawful entry to the front of the residence to accomplish service or attempted service? If not, perhaps this is the rare case where fictional service via Notice Of Publication with advice re same provided by certified mail or the equivalent via UPS or FedEx to the occupant of the isolated residence should suffice.

Parallel Data Base of Party Name and Status:

Judge Highberger has not yet obtained court management comment on the suggestion to have an outside vendor at party expense create a mirror image of the Register of Actions and the status of each party named in this suit (or who has voluntarily appeared after receiving notice).

Santa Barbara ChannelKeeper Request For Dismissal:

If you have a conformed copy of the Oct. 30, 2019 Request or Feb. 8, 2021 Request showing that it was tendered to and received, in hard copy (or by fax), by employees of the Los Angeles Superior Court, please provide it. Otherwise, and as noted in the posting by Judge Highberger on FSX recently, the paperwork has to be delivered in hard copy (or fax) to the court staff before any action will be taken. Service via FSX is NOT a substitute for filing/lodging of a document.

Schedule For Site Visit:

While Judge Highberger has had the benefit of two Pfizer covid shots, he recognizes that this immunization is not yet broadly available and that any gathering for a site visit needs to comply with public health restrictions on gatherings of persons from separate households. At a minimum, this leads to the conclusion that the timing and protocols for such a site visit should be deferred to the scheduled April 19, 2021 Status Conference. (As a technical matter, this Status Conference needs to be officially set, but it is very much in order and will be set for this date at 1:30 p.m.)

Pending Stipulations in Lieu of Answers:

Because so many of the first such Stipulations evidenced clerical errors (e.g. assertions that a party had been named as a cross-defendant when such was not the case according to the Court's

records), the Court has been stock-piling the subsequent submissions until such time as it has access to a list which Cross-Complainant City of Buenaventura claims, by counsel, to be accurate. As of this writing on Sunday March 14, 2021, no such list has been provided to the Court though hopefully this will occur on the morning of March 15. Once such lists are available, the Court intends to deal with this paperwork as quickly as possible, subject to the press of other cases.

Requests For Default:

This is done by clerical staff of the court, not courtroom staff, and not subject to any direction by the judge. To my understanding a flood of these Requests are now being tendered, and they will be dealt with by staff in due course. If counsel have concerns, contact Spring Street Court Administrator II Rick Thrall at 213-310-7089.

Anticipated Motion To Set Evidentiary Hearing:

The Court has barely scratched the surface on this contested issue¹, but it is enough to say that a motion has to precede the setting of an evidentiary hearing. The Court would assume that practical counsel for the parties urging the Physical Solution would want to exhaust their settlement discussions with the State's representatives and other interested parties before they file such a motion. The condition of the Court's calendar is such that the concept of setting a contested evidentiary hearing in January 2022 or some time thereafter should not be a problem. It may well be that some preliminary motion practice needs to be had in the second half of 2021 on whether the predicates for a proceeding under C.C.P. § 850(b) have been established by the proponents of the Physical Solution.

Other:

If there are other topics which can be usefully addressed on March 15, please feel free to raise them with the Court.

¹ Simply put, the Court has not yet had time to review the Brief Of Proposing Parties Regarding The Physical Solution, the portion of the State's brief addressed to the same topic, the brief of Casitas Municipal Water District re same, City of Ojai's Legal Brief On Physical Solution, Andrew Whitman's Objections on behalf of certain clients re same, Loa Bliss's Brief re same, two filings by Claude & Patricia Baggerly re same, or any of the items included in the Requests For Judicial Notice. The Court does not expect to have time to do so before the March 15 status conference. Hopefully, I can address the substance of these briefs on April 19, 2021 if the scheduled Jury Trial is resolved before then.