

1 Cross-Defendant
2 Kelton Lee Gibson, Trustee
3 of the Gibson Family Trust
4 Dated June 6, 2006
5 878 Oak Grove Court
6 Ojai, CA 93023

7 Telephone: (805)649-1091
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9 Property Involved: 878 Oak Grove Ct.
10 Ojai, CA 93023
11 Parcel No. 011-0-230-205

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 SANTA BARABARA CHANNELKEEPER,
15 a California non-profit corporation,

16 Petitioner,

17 v.

18 STATE WATER RESOURCES CONTROL
19 BOARD, a California State Agency; CITY OF
20 SAN BUENAVENTURA, a California
21 municipal corporation, incorrectly named as
22 CITY OF BUENAVENTURA,

23 Respondents.

24 CITY OF SAN BUENAVENTURA, a
25 California municipal corporation,

26 Cross-Complainant

27 v.

28 DUNCAN ABBOTT, an individual, et al.

Cross-Defendants

CASE NO. 19STCP01176

OPPOSITION TO PROPOSED PHYSICAL
SOLUTION

Hearing Date: June 21, 2021

Time: 1:30 p.m.

Dept: SS10

Judge: Hon. William F. Highberger

Action Filed: September 19, 2014

Trial Date: Not Set

29 Cross Defendant Kelton Lee Gibson, the trustee of the Gibson Family Trust dated June 6,
30 2005 (hereinafter "the Gibson Trust"), hereby submits this objection to the Proposed Stipulated

1 Physical Solution and Judgment (the “Proposed Physical Solution). In particular, these objections
2 relate to limits, restrictions and regulation of New Producers and De Minimis Producers contained
3 in Sections 7.7.4.5 and 7.7.4.6.

4 The Gibson Trust is the owner of residential property located at 878 Oak Grove Court,
5 Ojai, CA, 93923. It is located in the Rancho Matilija development, adjacent to the Ventura River,
6 near Baldwin Road. The Gibson Trust property does not directly to the adjoin the river.

7 Rancho Matilija is a common interest development of 115 parcels, each approximately 2
8 acres, with the exception of 4 larger agriculture parcels. Most lots have had estate homes built on
9 them. Approximately 15 of residential the parcels have wells already drilled and operating. These
10 wells only service the specific residential lot involved, providing fire protection water, landscape
11 watering and related residential uses, but not potable water. The 2017 Thomas Fire came within
12 100 yards of portions of Rancho Matilija.

13 The Gibson Trust does not appear to be specifically named in this case as a Roe Defendant
14 (at least from what can be ascertained from the highly convoluted list of specifically named Cross-
15 Defendants). However, its Ventura County parcel number, 011-0-230-205, is buried among what
16 appears to be thousands of parcel numbers on page C-3 of the Proposed Physical Solution. It is
17 therefore a “Bound Party”, as defined in the Proposed Physical Solution.

18 The Gibson Trust is what is described in the Proposed Physical Solution as a “Non-
19 Producer”. The Gibson Trust does not have a well. However, it is the Gibson Trust’s intention to
20 preserve its right at a future date to drill a well as an important and valuable property right to it and
21 any future purchaser of this property. If and when a well is drilled, the Gibson Trust will
22 undoubtedly be what is described in the Proposed Physical Solution as a “De Minimis Producer”,
23 with “New Production” less than five (5) AFY.

24 It is important to the Gibson Trust (and undoubtedly other Non- Producers) to be able to
25 drill a well and use its important water rights without having to go through even more undo
26 procedures, applications, or other governmental or quasi-governmental reviews than are presently
27 in place. The Proposed Physical Solution seeks to add multiple additional layers of bureaucratic
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1 hoops be gone through. And, the party to be governing and controlling these additional layers of
2 review, the “MC” or “Managing Committee”, is entirely composed of entities with conflicting
3 interests and built-in biases against Non-Producers, such as the Gibson Trust.

4 Section 7.7.4.5 of the Proposed Physical Solution requires Non-Producer seeking to
5 exercise the property right to drill a new well to first submit a notice to a “Technical Advisor”
6 appointed by the MC, who would basically be a water czar. The Technical Advisor, hired by and
7 serving at the will of the MC, then recommends to the MC whether or not to grant and approve
8 the applicant’s proposed well. The MC may then impose mitigation or other undefined
9 requirements on the applicant as apparent conditions to drilling the well. All of this is in addition
10 to multiple governmental application and permit requirements already in place.

11 The conflict and bias is apparent: the MC is totally composed of governmental entities
12 involved in this litigation seeking to acquire and protect their own water rights. The City, Casitas,
13 VRWD, MOWD and the other entities composing the Proposed MC all want their own water,
14 want to limit and take water rights of other parties, and have sued practically the whole Ojai
15 Valley to get these. Now they seek practically unbridled authority in respect to granting Non-
16 Producers the ability to drill a well on their property. Talk about the proverbial “Fox in the
17 Henhouse.”

18 Although the Proposed Physical Solution provides for judicial review of the MC’s
19 decisions by the Court retaining continuing jurisdiction, can any small player really afford to do
20 this and take the time and effort necessary to access judicial review in Los Angeles County in
21 order to have a well drilled on their property?

22 The specific objections to the Proposed Physical Solution are to those provisions which in
23 anyway require review, input or approval by the Technical Advisor and/or The MC for New
24 Production by Non-Producers and those which in any way regulate De Minimis Producers. This
25 would include the striking and deletion of Sections 7.7.4.5 and 7.7.4.6. No authority should be
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1 established to review and/or regulate drilling on properties such as that of the Gibson Trust or
2 which in any way affect the rights of De Minimis Producers beyond what already exists.

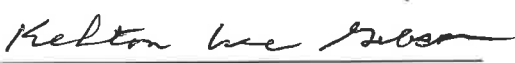
3 At this point there are many other governmental authorities which require applications and
4 permits irrespective of that sought by the Proposed Physical Solution. To permit the MC to have
5 review authority over deeded water rights would constitute a taking of property without due
6 compensation in violation of the California Constitution.

7 For these reasons, the Gibson Trust requests the court to reject the Proposed Physical
8 Solution as it is overbearing, overburdening and in violation of property rights.

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Respectfully Submitted,

Date: June 10, 2021


Kelton Lee Gibson, Trustee of the Gibson
Family Trust Dated June 6, 2005

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DECLARATION OF KELTON LEE GIBSON

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, based upon my personal knowledge or reasonable belief.

Executed on June 10 2021, at Ventura, California.

Kelton Lee Gibson

Kelton Lee Gibson