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4 In Pro. Per.

5
6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF LOS ANGELES

8
9 SANTA BARBARA CHANNELKEEPER,)
10 A California non-profit corporation,)
11)
12) Petitioner/Plaintiff,)

Case No. 19STCPO1176
Judge: Honorable William F. Highberger

**RESPONSE TO OPPOSITION BY
CROSS-DEFENDANT CLAUDE R.
BAGGERLY IN SUPPORT OF HIS
MOTION REQUESTING THE COURT
TO APPOINT A SCIENTIFIC
ADVISOR FOR HYDROGEOLOGY**

13 v.
14 STATE WATER RESOURCES
15 CONTROL BOARD, a California State
16 Agency,
17 CITY OF SAN BUENAVENTURA, a
18 California municipal corporation.
19 Respondent/Defendant

Date: September 20, 2021
Time: 9:00 a.m.
Action Filed: Sept. 19, 2014
Trial Date: Phase 1, February 14, 2022

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21 CITY OF SAN BUENAVENTURA, a California
22 municipal corporation, incorrectly named as
23 CITY OF BUENA VENTURA,
24 Cross-Complainant

25 v.
26 Duncan Abbott, an individual. et al.,
27 Cross-Defendant
28

1 **RESPONSE TO OPPOSITION TO THE COURT APPOINTMENT OF A**
2 **SCIENTIFIC ADVISOR**

3
4 In the Second Supplemental Opposition to Motion Requesting the Court to Appoint a
5 Scientific Advisor for Hydrogeology (Motion), the attorneys for the CITY OF SAN
6 BUENAVENTURA in essence state: Judge Highberger, you are permitted to do as we
7 say, and you are not permitted to act and adjudicate according to your own judgment
8 based on California law and reason. The document is a legalistic affront intended to ward
9 off impartial scientific expertise in this case, and, to ward off an expert who can
10 investigate claims made by the CITY OF SAN BUENAVENTURA and explain complex
11 scientific matters to, or advise, the Court without prejudice.

12 The CITY OF SAN BUENAVENTURA quibbles over the term “special advisor”
13 disallowing one to the Court while, at the same time, allowing the Court to “appoint a
14 special master.” That seemingly grand gesture however is immediately taken back when
15 the CITY OF SAN BUENAVENTURA states, “the Court does not need to pursue this
16 option.” Why? Because, the CITY OF SAN BUENAVENTURA states, “The Court will be
17 presented with multiple experts that will testify on the issues.” But who are these
18 experts, who is paying for their testimony, and how can the Court decide on the validity
19 of the testimony if it involves complex scientific matters unfamiliar to the Court?
20

21 That is why an impartial expert is needed, one who in fact would be an advisor but
22 named, according to legalese, “special master.” This special master would be appointed
23 by the Court, would advise the court, and would investigate claims.

24 Succinctly, the “*Special Master*” would “*advise* the court” and “*investigate* certain
25 *claims*.” Does it not seem reasonable that such an appointee could be called, succinctly, a
26 Special Advisor? Or a Technical Advisor or a Scientific Advisor? If not, though I can’t
27 see why not, then let the appointee be called **Special Master of Investigation and**
28 **Advice to the Court** (“SMIAC”). There’s a weighty suffix to the phrase: **for Judicious**

1 **Understanding of Difficult Geologic Hydrology** (“JUDGH” - pronounced *juj*). All in
2 all, succinctly, if the Court truly will be informed, we need a Court-appointed SMIAC-
3 JUDGH (though I still like Scientific Advisor).

4
5 Additionally, I might ask the Deputy Attorney General (AG) for the Water Boards to
6 explain the opposition doublespeak presented to the Court. The Deputy AG does not
7 oppose the Motion to appoint a Scientific Advisor but also does not think the
8 appointment is necessary at this time and will oppose it in the future. Which is it?

9
10 Why is the Attorney General’s office not supporting the appointment of a Scientific
11 Advisor? When Judge Highberger questioned the Deputy AG if the State Board’s
12 Groundwater and Surface Water Model would serve as a substitute for a Scientific
13 Advisor, the Deputy AG clearly stated that the Model was not designed for litigation. I
14 think that might have been a simple “no” answer.

15
16 My motion has been languishing on the docket since May. Much of the delay was my
17 fault because of mistakes in filing, signing, and paying the Court fees. For that I
18 apologize to the Court and the parties. But we all must recognize the rapidly approaching
19 issues to be brought before the Court that will require knowledge of the science of
20 Hydrogeology.

21
22 The first issue before the Court is the release of the CITY OF SAN
23 BUENAVENTURA’S expert witness’ report submitted at the end of August. The nature
24 of this release and the presentation of information will necessarily be adversarial in
25 support of the CITY OF SAN BUENAVENTURA’S position. The second issue is that
26 this case is only six months away from the scheduled Phase I Trial regarding the all-
27 important issue of interconnectedness of the basins in the Ventura River watershed and

1 compliance with Code of Civil Procedure Sections 830-852. The third is the technical
2 content of the State Water Board's Draft Groundwater and Surface Water Model.

3
4 These upcoming issues will of necessity dive deeply into geology and hydrology. The
5 Court has repeatedly indicated that it has little knowledge of the science related to
6 hydrogeology and might need some independent guidance in understanding the complex
7 science.

8
9 **SUPRISING COMMENTS FROM THE ATTORNEY GENERAL'S OFFICE**

10
11 The comments from the Proposing Parties in opposition to the motion seem to be saying
12 that only **they** know what is best for the Court to hear, and it must be heard from their
13 expert witnesses or read in their reports. The Proposing Parties are trying to push the
14 Court into a one-sided testimony. The attorney for the Water Boards has frequently
15 misquoted and misrepresented the words in my motion to the point of my having to call it
16 what it is: "Gaslighting." The Deputy Attorney General continues to foment his idea that
17 the Scientific Advisor is somehow requested by Baggerly to be used by the multitude of
18 pip-squeaks like myself who do not have the financial strength to be on a level playing
19 field with the CITY OF SAN BUENAVENTURA (who have spent \$7,000,000 of
20 taxpayer's money to date on the case). My motion was drafted and presented to the
21 Court at the **request** of presiding Judge the Honorable William Highberger with the full
22 and complete intention of aiding the Court with independent and knowledgeable help in
23 understanding the issues that will be before the Court in short order. This continued
24 accusation by the Deputy Attorney General, and others, of some imaginary personal use
25 of a Scientific Advisor is both inappropriate and decidedly untrue.

26
27 **CONCLUSION**

1 The arguments in opposition to the appointment of a Scientific Advisor have all been
2 stated, ad nauseum, previously. Those arguments are prime examples of the adversarial
3 nature of Court proceedings. What can be foreseen in the instant cases' future are the
4 complexities of the arguments that will be difficult for most people to understand and to
5 translate into cogent thought. Dueling adversarial positions may prove to be difficult to
6 understand.

7
8 Nevertheless, all parties agree the Court has the authority to appoint a Scientific Advisor,
9 or a Technical Advisor, or a Special Master, but some parties can't seem to reconcile that
10 idea to help the Court. This type of appointment has been used by both state and federal
11 courts for many years. With that unanimity of agreement, I respectfully request that the
12 Honorable Judge William F. Highberger decide to appoint the Scientific Advisor.

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14 Dated: September 4, 2021.

Claude R. Baggerly
Cross-Defendant – In Pro. Per.

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3 **PROOF OF SERVICE**

4 **Santa Barbara Channelkeeper v. State Water Resource Control Board, et al.**

5 **And related cross-action**

6 **Los Angeles County Superior Court**

7 **Case No. 19STCP01176**

8 **STATE OF CALIFORNIA, COUNTY OF VENTURA**

9 **I am a Cross-Defendant in this case as a Self-Represented Individual, In Pro. Per. I am way over the age of 18; I**
10 **am a party to this action. My address is 119 South Poli Avenue, Ojai, California 93023. My electronic notification address is**
11 **russ.baggerly65@gmail.com.**

12
13 **On September 14, 2021, I served on the interested parties in said action the within:**

14 **RESPONSE OF CROSS-DEFENDANT CLAUDE R. BAGGERLY IN SUPPORT OF HIS**
15 **MOTION REQUESTING THE COURT TO APPOINT A SCIENTIFIC ADVISOR FOR**
16 **HYDROGEOLOGY**

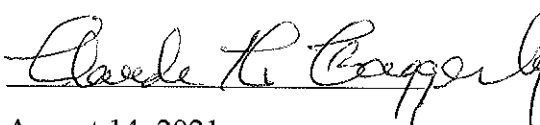
17 **As stated below:**

18 **(Via E-Service File & ServeXpress) I completed the service by submitting an electronic version to File**
19 **& ServeXpress. LLC, to all parties to this case.**

20
21 **Executed on September 14, 2021, at Ojai, California.**

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

24
25 **Claude R. Baggerly**

26 
27
28 **August 14, 2021.**