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Attorneys for Defendant and Cross-Complainant
CITY OF SAN BUENAVENTURA

EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103

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, et al,

Respondents.

CITY OF SAN BUENAVENTURA, et al.,

Cross-Complainant,

v.

DUNCAN ABBOTT, an individual, et al.,

Cross-Defendants.

Case No. 19STCP01176

Judge: Hon. William F. Highberger

DECLARATION OF SARAH CHRISTOPHER FOLEY IN SUPPORT OF CITY OF SAN BUENAVENTURA'S OPPOSITION TO EAST OJAI GROUP'S EX PARTE APPLICATION TO CONTINUE TRIAL

[*Filed concurrently with Opposition to Ex Parte Application to Continue Trial; Declaration of Christopher M. Pisano*]

Date: January 18, 2022
Time: 1:30 p.m.
Dept.: 10

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

DECLARATION OF SARAH CHRISTOPHER FOLEY

I, Sarah Christopher Foley, declare:

1. I am a partner at the law firm of Best Best & Krieger LLP (BBK), the attorneys of record for Defendant and Cross-Complainant City of San Buenaventura (City). I am licensed to practice law before all of the courts in the State of California. Unless otherwise stated, I have personal knowledge of the facts set forth herein and if called and sworn as a witness, could and would testify competently thereto.

2. I make this declaration in response to the declaration of Gregg Scott Garrison re ex parte to continue trial and in support of the City's opposition to the ex parte request for a trial continuance.

3. BBK has not "withheld discovery" from Mr. Garrison. The Court-ordered percipient discovery cut-off date was October 15, 2021. There is no outstanding discovery request by Mr. Garrison to BBK. There is no outstanding request by Mr. Garrison to BBK other than his demand set forth in number 5, below.

4. At the December 13, 2021 status conference/order to show cause hearing, Mr. Garrison requested that BBK update its map of appearing parties and create a new map showing the parcels of the defaulted parties. The Court agreed that updating the appearing parties map and preparing a new defaulted parties map would be useful for the parties and for the Court and asked the City to do so, while acknowledging that the City would need sufficient time to complete these tasks. The Court did not "order" the City to produce these maps and did not impose a deadline for the City to complete this work. Attached hereto as Exhibit A is a true and correct copy of the December 13, 2021 transcript, with the relevant discussion highlighted.

5. Mr. Garrison has repeatedly demanded (by emails dated December 17, 2021, December 20, 2021, and December 28, 2021) that BBK produce these maps pursuant to Mr. Garrison's arbitrary schedule. BBK has had to repeatedly communicate and re-communicate the facts recited in number 4 above to Mr. Garrison. BBK has also communicated that updating these maps takes extensive time and effort, as further set forth below. Additionally, BBK has communicated its position that these maps are not relevant to the upcoming Phase 1 Trial, and

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their disclosure is not required for any expert analysis. Attached hereto as Exhibit B is a true and correct copy of the email correspondence between BBK and Mr. Garrison regarding this issue.

6. Updating the appearing parties map requires the following tasks that I am supervising:

a. Two BBK paralegals, Marnie Prock and Elizabeth Balloue, track and confirm party appearances and analyze and update a spreadsheet of appearing parties that includes party name and APN ownership as reflected by answers, stipulations, initial disclosures, and/or BBK's work product [COMPLETE];

i. Ms. Prock and Ms. Balloue informed me that this work took them 16.3 hours and 18.7 hours, respectively and was completed expeditiously, including during the weekend.

b. I review these updated spreadsheets and discuss additional revisions and changes with BBK paralegals [COMPLETE];

c. I provide this spreadsheet to City experts that are able to create the map [COMPLETE];

d. City experts create an updated map of appearing parties [IN PROGRESS];

e. BBK paralegals and I review the draft map for accuracy and consistency;

f. City experts make any final changes to the map;

g. City serves the map on all parties [ESTIMATED COMPLETION DATE: January 31, 2022].

7. BBK is researching and evaluating its options for creating a map of the non-appearing/defaulted named Cross-Defendants, and my paralegals inform me that this effort will require the mapping of thousands of parcels and similar coordination with City experts.

8. BBK met and conferred with Mr. Garrison and Mr. Whitman via Zoom on December 13, 2021. I shared my screen with them and mapped the properties of parties for which they wanted more information, based on my own research and based on research done by BBK paralegals. BBK answered all of their questions and did not withhold any information from them.

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9. Mr. Garrison requested more information about Sisar Mutual Water Company at the December 13, 2021 hearing and via email to me on December 17, 2021. After obtaining permission from Sisar Mutual Water Company's counsel of record, Bill Slaughter, BBK paralegals and I researched Sisar Mutual Water Company and responded to Mr. Garrison's request for more information about the entity on December 20, 2021. See Exhibit B.

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

Executed on January 14, 2022, at New Orleans, Louisiana.

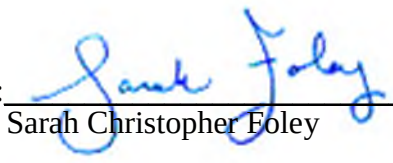
By: 
Sarah Christopher Foley

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EXHIBIT A

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE

- - -

SANTA BARBARA CHANNELKEEPER, a California non-profit corporation, Plaintiff, vs. STATE WATER RESOURCES CONTROL BOARD, etc., et al., Defendants. AND RELATED CROSS-ACTION.	)	Case No. 19STCP01176

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 13, 2021

IN-PERSON APPEARANCES OF COUNSEL:

FOR CITY OF SAN BUENAVENTURA:
BEST BEST & KRIEGER LLP
BY: CHRISTOPHER M. PISANO, ESQUIRE
300 South Grand Avenue, 25th Floor
Los Angeles, California 90071

CASITAS MUNICIPAL WATER DISTRICT:
RUTAN & TUCKER, LLP
BY: DOUGLAS J. DENNINGTON, ESQUIRE
1857 Jamboree Road, 9th Floor
Irvine, California 92612

REPORTED BY:
TIMOTHY J. McCOY, CSR NO. 4745
OFFICIAL REPORTER PRO TEMPORE

REMOTE LA COURTCONNECT APPEARANCES OF COUNSEL:

STATE WATER RESOURCES CONTROL BOARD:	OFFICE OF THE ATTORNEY GENERAL BY: MARC N. MELNICK, DEPUTY ATTORNEY GENERAL
CA. DEPARTMENT OF FISH & WILDLIFE:	OFFICE OF THE ATTORNEY GENERAL BY: NOAH GOLDEN-KRASNER, DEPUTY ATTORNEY GENERAL
FOR LOA E. BLISS 2006 REVOCABLE TRUST:	BY: LOA E. BLISS, IN PROPRIA PERSONA
FOR AERA ENERGY, LLC:	MANATT, PHELPS & PHILLIPS LLP BY: PETER R. DUCHESNEAU, ESQUIRE
FOR AGR BREEDING INC.:	ALSTON & BIRD LLP BY: GINA ANGIOLILLO, ESQUIRE
FOR HEIDI A. WHITMAN:	BY: ANDREW WHITMAN, ESQUIRE
FOR BALDWIN RANCH:	BY: BRIAN MOSKAL, ESQUIRE
FOR CLAUDE R. BAGGERLY:	BY: CLAUDE R. BAGGERLY
FOR VENTURA COUNTY WATERSHED PROTECTION DISTRICT:	BY: NATHAN METCALF, ESQUIRE
FOR THE THACHER SCHOOL:	BY: GREGORY PATTERSON, ESQUIRE
FOR GREGG GARRISON:	BY: GREGG GARRISON, IN PROPRIA PERSONA
VENTURA RIVER COUNTY WATER DISTRICT:	HERUM CRABTREE SUNTAG BY: JEANNE M. ZOLEZZI, ESQUIRE

CASE NUMBER: 19STCP01176
CASE NAME: SANTA BARBARA CHANNELKEEPER vs. STATE WATER RESOURCES CONTROL BOARD, et al.
LOS ANGELES, CA MONDAY, DECEMBER 13 2021
DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE
TIME: 4:05 P.M.
REPORTER: TIMOTHY J. McCOY, CSR NO. 4745
APPEARANCES: (AS HERETOFORE NOTED)

* * *

(The proceedings commenced in open court, with various parties appearing remotely, as follows:)

THE COURT: Okay. Good afternoon.
Mr. Whitman, you're there?
MR. WHITMAN: Yeah, I'm here.
THE COURT: And Mr. Garrison, you're there?
MR. GARRISON: I'm present, your Honor.
THE COURT: Mr. Whitman, have you and representatives of City of Ventura, such as Mr. Pisano, had any luck in determining whether your relevant fee simples should or should not be considered as within the basin?
MR. WHITMAN: I do understand their position, your Honor, and, you know, without a description I have no way of knowing one way or the other, but I'm not objecting until I see that evidence.
THE COURT: Mr. Pisano, do you consider the Whitman property to be within the basin after further examination of the details?
MR. PISANO: Your Honor, the properties that we discussed on the meet and confer call, they are either within the watershed or --
THE COURT: The watershed doesn't matter.
MR. PISANO: For purposes of the Upper Ojai Basin, yes, they're within the Upper Ojai Basin.
THE COURT: That matters.
MR. PISANO: Correct.
THE COURT: I don't give a hoot about watershed unless they're riparian.
MR. PISANO: Okay.
THE COURT: Are they riparian?
MR. PISANO: Well, some of the addresses or some of the properties they gave us are riparians in other portions of the watershed.
But for purposes of the Upper Ojai Basin, the properties they gave us --
THE COURT: Bear with me.
Are any of the fee simples that are at issue owned by Garrison or indirectly owned by Garrison named as cross-defendants because they're riparian?
MR. PISANO: I don't know the answer to that, but Mr. Hagerty might. He's on the screen, your Honor.
MR. HAGERTY: Thank you, your Honor. Shawn Hagerty

I N D E X

MONDAY, DECEMBER 13, 2021

W I T N E S S E S
(NONE)

E X H I B I T S
(NONE)

on behalf of the City.
Mr. Garrison's property itself I don't believe is at issue, at least it hasn't been specifically raised --
THE COURT: I think we're talking about Whitman. Weren't we talking about Whitman, Mr. Pisano?
MR. HAGERTY: Yes, that's correct.
With Mr. Whitman, we brought up a map, we showed Mr. Whitman where his property is located as to that map, and it is within the Upper Ojai Basin. We don't think there's any dispute about that.
The issue, you know, was the issue that was raised previously about it being outside of the watershed but in the basin, and we have confirmed to our satisfaction that it is absolutely within the basin, and that's why he received notice and that's why he decided to appear in the case.
THE COURT: Okay. So Mr. Whitman, is this consistent with what they've told you, which is, that your property is outside the Ventura River watershed but it is within their analysis of the Upper Ojai Valley groundwater basin?
MR. WHITMAN: I understand that they take that position. They showed me a map with the address on the border of that, so I'd like to see metes and bounds so I can confirm if there was -- there was no way of correlating that.
But I'm not objecting to our proceeding on these issues until I can see if it's a valid description, which I understand that their position is that they don't have it and it doesn't exist.

MR. HAGERTY: Yes, your Honor. And we also can do that with software that we have. And so -- I mean, there is no question that this property is within the basin as described in DWR. And, you know, that's why they received the notice, and that's why Mr. Whitman apparently elected to appear.
There was a representation made that somehow that we were noticing people outside of the basin, and we have no evidence of that. We've asked for information about that, that's what the meet and confer was about. We got a list of six names, and we've confirmed that all of those names that Mr. Garrison has provided, they're either in the basin or they're named riparians that are part of the watershed.
And so, again, if there's someone that's outside of the basin and outside of the watershed, as we said in court last Thursday, we don't want them in the case and we'll deal with that.
But Mr. Whitman is definitely part of the Upper Ojai Basin.
THE COURT: Okay.
Mr. Garrison, you wanted to be heard and I was holding you off. You've got the floor.
MR. GARRISON: Thank you, your Honor.
Pursuant to the hearing on Thursday, I contacted the Department of Water Resources and disclosed to them that we have four basins within this adjudication, two of which do not have coordinates, and I have asked that

So, you know, it's their burden of proof to show where it is, so we'll see if they do.
THE COURT: So my understanding of what I've been told is that, by law, I am to take and use the basin definition created by the Department of Water Resources, however good or bad it is, and if people feel that that definition of the basin needs to be corrected, either to add precision or to move a line, that one has to petition the Department of Water Resources to do so, and that that is, by the statute I'm applying, supposedly beyond my powers.
Is that a correct understanding, Mr. Hagerty, of your position?
MR. HAGERTY: That's exactly right, your Honor.
And if I may just add something. The map we showed was actually a tool that is on the DWR website where you can look -- they have the boundaries shown, and you can use a locator tool. And that's what we showed Mr. Whitman. That wasn't something we prepared, that was a DWR process.
MR. GARRISON: Your Honor, if I may speak?
THE COURT: Not yet. Not yet.
MR. GARRISON: Okay.
THE COURT: Mr. Hagerty, if you drill down on that map on the internet that the Department of Water Resources provides can you essentially go to a given street and start looking at this side or that side of the street and have a clear answer as to whether the property is mapped as being within the groundwater basin, Mr. Hagerty?

they provide those coordinates so we can go forward with some certainty pursuant to CCP 841(a) through (d).
I spoke with a senior hydrologist and counsel for the Department of Water Resources, which its just contacted me and wants to discuss my letter of this morning in more detail with what we require for specificity in this groundwater adjudication.
THE COURT: So that was apparently a relatively positive interchange, suggesting that they would provide the level of detail you're hoping to get?
MR. GARRISON: Absolutely, your Honor.
THE COURT: Okay.
Do you have further questions where you want information from Mr. Hagerty or Mr. Pisano that they have not yet supplied you, Mr. Garrison?
MR. GARRISON: I do, your Honor.
They are correct, we met and conferred with Mr. Whitman this morning and we did identify six particular parcels. But moreover, on Map 3 of 3 for the answering parties, there are 13 parcels that are identified as not in the watershed of Ventura and may not be in the basin. And on those 13 properties, that's a subset of the nonanswering parties or the defaulted parties.
This map also, that Mr. Hagerty referred to, is dated 8/13/2021, four months old. What I would request of BBK and the City of Ventura is that they update the appearing parties' map so that we can see where the answering parties are located that have responded, but

also include another map of those parcels sued and/or defaulted or nonanswering so we can see the full universe of all parcels that they have sued that may not be in the basin and that may be subject to dismissal based on what Mr. Hagerty just said.

So really, in an instant universe, right now we're looking through a knothole in the fence and we need to take down that claim and look at -- because there are 13 parties here that are not situated in the watershed, I understand that. There must be a multiple exponent of 40 parties that had been served and/or defaulted, and I'd like to see them depicted in this map, as well.

THE COURT: So bear with me.

I at least, as a neutral, would contemplate proposing that a map generated by the City of Ventura of appearing parties be supplemented to include default status information only as to named cross-defendants who have in fact been defaulted.

That being noted, the way the Streamlined Comprehensive Adjudication statute works for people whose interest in the litigation is limited to that of the owner of a fee simple over a groundwater basin, they aren't named, they instead get alternative kind of short-form notice of the suit, they're given an opportunity to answer or theoretically demur and move for judgment on the pleadings or otherwise, certainly at least to answer, but they don't have to, and it cost money to answer, and if somebody got that short-form notice and does nothing

THE COURT: So Mr. Pisano or Mr. Hagerty, is that a reasonable and doable thing by your client, given enough time to implement the data updates?

MR. HAGERTY: Your Honor, I think we could pursue that.

I mean, I think that the problem I'm having here is that we've asked Mr. Garrison and Mr. Whitman to identify what they represented to the Court on Thursday, which was, they knew of people who were outside of the basins that got notice. And we haven't received any of that information.

And I think what's happening is we're just getting things thrown at us, and I'm not quite sure why this is occurring when, you know, we've noticed everyone, we've demonstrated and submitted to the Court, as required, evidence that we've provided all the notice, we've submitted proofs of service for everyone, there's a whole default process.

All this information is there and available, but if the Court wishes us to update a map, we're happy to do this.

But we would ask that Mr. Garrison or Mr. Whitman, if they have actual evidence of what they asserted to you on Thursday, they need to provide that to us because we haven't seen that at all.

And we do also ask the Court to go forward with the order to show cause, because even if there is some subsequent change or we get some information from DWR, it's the Bulletin 118 description that the Court's obligated to use until that's formally amended. And you approved

thereafter to respond, they're never going to get defaulted so they won't be listed as defaulted parties.

So if you've got people who own a fee simple in that portion of the Upper Ojai groundwater basin which is east of or northeast of the limitations of the Ventura River watershed, it would be really weird if they have otherwise stepped away from the lawsuit to find their default entered.

Correct, Mr. Pisano?

MR. PISANO: Correct, your Honor.

THE COURT: So I don't know how we would do much more to improve upon that map as to that subset of people, Mr. Garrison, who were fee simple owners in the non-watershed portion of the Upper Ojai Valley Basin who have been noticed up on the suit but otherwise stood aside.

So help me out with what it is you want Ventura City to do as to that unique subset of potential litigants, Mr. Garrison?

MR. GARRISON: Yes, your Honor. To update the now four-month old map to include those appearing parties that have appeared since August to December, and also, you know, through the defaulted parties that do not appear on the map currently.

THE COURT: Well, I don't quarrel with that in concept.

So if somebody in the Upper Ojai Valley Basin who's outside the Ventura watershed did choose to answer, it's your request that the map of four months vintage be updated to tell us who those people are, Mr. Garrison?

MR. GARRISON: Yes, your Honor.

the other two -- three, excuse me, and we would ask that the Court go forward with that.

We're happy to continue to work with Mr. Garrison and Mr. Whitman, we're happy to update the map as suggested, it's just, you know, I'm not sure where this is heading in terms of the value to the parties and to the Court.

MR. GARRISON: Your Honor, I can speak to that.

THE COURT: Go ahead, Mr. Garrison.

MR. GARRISON: One concern I had in the map of 8/13, I looked for a couple of answering parties and they weren't on the map. And I don't know if that's just because it's so far back in time. But I was looking particularly for the Sisar Water Company.

Are you familiar with that client?

THE COURT: Your voice is dropping off, Mr. Garrison. You need to be slower, enunciate, and get your mouth closer to the microphone.

MR. GARRISON: The Sisar Mutual Water Company, they're not on the map, but they've answered.

MR. HAGERTY: Your Honor? Again, your Honor, I'm happy to work with Mr. Garrison. If he has questions about who has answered, who has been defaulted, we're happy to work with him and provide that information. I don't know why we need to do this at an OSC.

And the other parties who have questions can call us and we'll provide the information, and we're happy to continue to do that, including with Mr. Garrison.

THE COURT: I tend to agree with you on that point.

But, Mr. Garrison, I do think it's fair to ask that a map trying to tell all interested parties who's appeared in the case should be updated, and I think it's good that it be updated to include named parties who have been defaulted.

And beyond that, Mr. Whitman, do you wish to be heard any further to object to adopting that portion of the order to show cause dealing with adoption of the Department of Water Resources' currently-written, vague-as-they-may-be boundaries for the Upper Ojai Valley water basin, Mr. Whitman?

MR. WHITMAN: Yes, your Honor.

And just, you know, for the record, Mr. Hagerty's made representations about inquiries that I made. I've been kind of drug into this thing and -- but as long as there's no prejudice to our ability to show that we're not in that basin if upon further description it shows we're not in the basin guidelines.

I understand that if we are, then we're apparently stuck in this, although if you do have to read 118, it does say that the water does not serve the valley and --

THE COURT: Well, that's for a merits determination later.

Mr. Garrison, do you wish to be heard further to contest adopting the Department of Water Resources Bulletin 118 definition, vague as it may be at the moment, of the boundaries of the Upper Ojai Valley basin?

MR. GARRISON: Your Honor, I would respectfully ask that we defer a decision on this until our standard December 20th status conference, by which time I'll have had a chance and an opportunity to meet and confer with counsel for the Department of Water Resources, as they've already responded to my letter of today's date identifying the defects in the boundary descriptions, and them positively willing to work with us pursuant to 841 of the CCP.

THE COURT: I don't believe we've got anything on calendar December 20.

What date do you think we're next together, Mr. Garrison?

MR. GARRISON: Our next status conference in this matter.

MR. HAGERTY: Your Honor, I think that that December 20th date did get moved to the one we had last week. And so we don't have any December status conference. And I think the next scheduled date is in January for the hearings on the 18th.

THE COURT: Indeed.

MR. HAGERTY: And, I mean, for what it's worth, we don't disagree with what Mr. Whitman said in terms of -- I mean, if the boundaries change or if there's an issue, if he can demonstrate he's actually outside the boundaries, that's a different story.

And, you know, with Mr. Garrison, if his work proves fruitful and there are changes, that can be added to the Court's decision.

But again, we renew our request that the Court move forward now with fixing the boundaries of the basin subject to subsequent change to the DWR process.

MR. GARRISON: And your Honor, a final word from myself?

THE COURT: Yes, Mr. Garrison.

MR. GARRISON: The statute specifically delineates, as was pointed out by Mr. Melnick on Thursday, a CCP section by which you, as the judicial representative or a litigant in a water adjudication can request that the Department of Water Resources Control Board to provide more specificity. That has been done, and I would ask that you defer any final -- defer anything on the boundaries until we let the DWR respond pursuant to the statute.

THE COURT: Thank you.

I am going to adopt the currently-defined boundaries for the Upper Ojai Valley basin over your objection, Mr. Garrison, but have Mr. Hagerty and Mr. Pisano include the statement that this is without prejudice to updating these boundaries if and when the Department of Water Resources provides a more detailed description and/or a revised location of the boundaries.

I want that expressed in the order, Mr. Hagerty.

MR. HAGERTY: Yes. Thank you, your Honor.

THE COURT: Okay. But you can finalize that order.

and I think for efficiency sake it would be just as well that you now submit a single order that is the boundaries of the watershed and the two subbasins for Upper and Lower Ventura River groundwater and then the Ojai Valley groundwater and Upper Ojai groundwater, Mr. Hagerty.

MR. HAGERTY: Will do. And we'll include all the language that we discussed last Thursday.

Thank you, your Honor.

THE COURT: But including today's new language about recognizing the provisions of --

MR. HAGERTY: Yes. Yes, your Honor.

THE COURT: And frankly, we know that Mr. Garrison has quite usefully -- and I thank you for this, Mr. Garrison -- asked the Department of Water Resources to provide the missing clarity of the exact metes and bounds of what at the moment may be in software precise but in terms of English is not yet precise, so that those of us who rely on English words can have a better understanding of the metes and bounds and not just be dependent on going into somebody's interactive software.

So thank you for your efforts in this regard, Mr. Garrison.

MR. GARRISON: Thank you, your Honor.

THE COURT: Okay.

Mr. Hagerty, is there anything else, or Mr. Pisano, you think we need to usefully address this afternoon?

Oh, the Archer thing. Are you making any progress on Archer, or not?

MR. PISANO: Well, I've submitted a draft stipulation and protective order to counsel for the City of Ojai, the East Ojai Group and Casitas, who have all retained

hydrogeological experts and who have requested the model for their experts. That draft is out for --

THE COURT: So basically it's just three different people who want the model.

MR. PISANO: Three different people want the model. And assuming we can work out this stip and protective order, we would prepare hard drives and FedEx them to those three people, and they can do, you know, their verifying of the model.

THE COURT: Okay. Well, if you have further discovery problems, I'm here Friday. Tomorrow's too soon. I'm out Wednesday for a medical procedure and recovery is Thursday. Hopefully that's all I need. Next week I'm out Monday through Wednesday, but I am here -- Monday and Tuesday rather. I'm here the 22nd and the 23rd. I don't wish to be here between Christmas and New Years, but if you have something urgent, post a message on the bulletin board and I'll make myself available because I'm in town. Otherwise I'm back on January 3 and I'm here all days that week.

MR. PISANO: Very good, your Honor.

THE COURT: Anybody else wish to be heard this afternoon?

MR. HAGERTY: Your Honor, Shawn Hagerty. Just to clarify, we did respond to your post on the message board over the weekend explaining the situation with regard to any summary judgments. We're not sure what that is, but it's not --

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

- - -

SANTA BARBARA CHANNELKEEPER, a California non-profit corporation,

Plaintiff,

vs.

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

Defendants.

AND RELATED CROSS-ACTION.

Case No. 19STCP01176

I, TIMOTHY J. McCOY, CSR No. 4745, Official Reporter Pro Tempore of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 1 through 16, inclusive, comprise a full, true and correct transcript of the proceedings held in the above-entitled matter on Monday, December 13, 2021.

DATED THIS 20TH DAY OF DECEMBER 2021.

TIMOTHY J. McCOY, CSR NO. 4745
OFFICIAL REPORTER PRO TEMPORE
LOS ANGELES SUPERIOR COURT

THE COURT: Well, it's just a rough calendar. I mean, I had planned ahead in part because, since I was going to be out of town, if there was going to be a serious event I wanted to give it a new date. Now it sounds like it's not going to be any event at all.

MR. HAGERTY: That's right, your Honor. It can't be under the current schedule.

THE COURT: Okay. That solved that. So, so much the better.

Okay. Court's in recess. City of Ventura to give notice.

MR. PISANO: Thank you, your Honor.

MR. DENNINGTON: Thank you, your Honor.

(At 4:35 p.m., the proceedings were adjourned)

- - -

EXHIBIT B

EXHIBIT B

From: Shawn Hagerty
Sent: Friday, December 17, 2021 10:07 AM
To: 'GLC'
Cc: Sarah Foley; Christopher Pisano; Rosanna Garrison
Subject: RE: Further Meet & Confer re: BBK's Production and Serving of the Two Sets of Three Maps Reflecting Five Basins and Two Watersheds of (1) Appearing and (2) Defaulted Parties as Ordered by the Court December 13, 2021

Gregg: We are currently working on the revised map of the appearing parties in the watershed and the 4 basins at issue in this litigation. Revising the map takes time and we will provide it to the parties and the Court when it is ready. We are also working on a new way to depict the location of defaulting parties. Since this is a new effort, this will take more time to prepare. The Court did not set a deadline for this work. If you have any questions about specific parties in the meantime, please let Sarah know.

From: GLC <gsgarrison@garrisonlawcorp.com>
Sent: Friday, December 17, 2021 10:01 AM
To: Shawn Hagerty <Shawn.Hagerty@bbklaw.com>
Cc: Sarah Foley <Sarah.Foley@bbklaw.com>; Christopher Pisano <Christopher.Pisano@bbklaw.com>; Rosanna Garrison <rosanna@garrisonlawcorp.com>
Subject: Further Meet & Confer re: BBK's Production and Serving of the Two Sets of Three Maps Reflecting Five Basins and Two Watersheds of (1) Appearing and (2) Defaulted Parties as Ordered by the Court December 13, 2021

Dear Shawn,

Thank you for your email dated December 17, 2021.

On December 13, 2021, BBK promised the Judge that BBK will provide to the counsel and parties:

1. Updated maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all Appearing Parties from the outdated August 13, 2021 maps; and
2. Provide new maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all the Defaulted Parties.

In that it has been 5 days since the Judge instructed BBK to produce and serve maps 1 and 2 above, please confirm that you will be serving these maps on all parties and counsel on December 17, 2021.

As you know, GLC's client list is dynamic including the five Stipulations for Motion to Set Aside we have in process with BKK.

We currently have additional parties requesting representation. I will research the Retainer Agreements on file and double check and clarify for BBK the client list as it has been changing weekly as many Defaulted Parties are now seeking a Set Aside of Defaults and non-represented parties are seeking representation.

Thank you,

Gregg

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Attorney-Client Communication and/or Attorney Work-Product Privilege

On Dec 17, 2021, at 9:25 AM, Shawn Hagerty <Shawn.Hagerty@bbklaw.com> wrote:

Gregg: In some of the recent documents you have served, such as your recent expert disclosure, you have listed as clients a number of parties who you did not previously represent. Some of these parties where previously pro per and some already have separate counsel. Some of these parties or their counsel are contacting us directly, and we need formal confirmation about who your represent in the case so we can honor the attorney-client relationship. By way of example, in your expert disclosure, you list AGR Breeding as a client. However, AGR Breeding is currently represented by Ed Casey of Alston & Bird. Mr. Casey represented to us yesterday that he is still counsel for AGR Breeding, and Mr. Casey just help them update their initial disclosures. To help us understand who you are representing, we ask that you process substitutions of attorney or otherwise clarify for the parties and the Court who you represent. In this way, we can honor the client relationship. At the moment, we are receiving mixed information about some of these parties. If you are not able to clarify this issue, it will need to be addressed by the Court.

Thank you for helping us to clarify this important issue. If you have any questions, please let us know.

BEST BEST & KRIEGER ATTORNEYS AT LAW

Shawn Hagerty
Partner
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Holiday Greetings from BB&K!

received this communication in error, please advise the sender via reply email and immediately delete the email you received.

From: Shawn Hagerty
Sent: Monday, December 20, 2021 12:50 PM
To: Gregg Garrison
Cc: Sarah Foley; Bill Slaughter; Rosanna Garrison
Subject: Re: Sisar Mutual Water Company

Gregg. As I have already informed you, we are working on the updated map and the information on defaulted parties. We will serve them when they are done. There is a significant amount of work to complete to prepare these documents. The court did not set a specific time to complete this work. In the meantime, if you have specific questions on parties, please let us know.

Shawn Hagerty
Partner
shawn.hagerty@bbklaw.com
T: (619) 525-1327 C: (619) 347-4837
www.BBKlaw.com

Holiday Greetings from BB&K!

On Dec 20, 2021, at 1:33 PM, Gregg Garrison <gsgarrison@garrisonlawcorp.com> wrote:

CAUTION - EXTERNAL SENDER.

Dear Sarah,

Thank you for your email dated December 20, 2021 to Mr. Slaughter and GLC re: Further meet and confer on BBK's production of Court-ordered maps.

A week ago, in our Hearing before the Judge on December 13, 2021 at 4:00 PM, BBK promised the Judge that BBK will provide to my office, counsel and parties:

1. **Updated** maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all Appearing Parties from the outdated August 13, 2021 maps; and
2. Provide **new** maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all the Defaulted Parties.

In that it has been 7 days since the Judge instructed BBK to produce and serve maps 1 and 2 above.

Please confirm BBK's compliance and that you will be serving these maps to all parties and counsel this week.

Please copy Bill, Gregg and Rosanna on future Sisar Mutual Water District correspondence.

Thank you,

Gregg Scott Garrison

On Mon, Dec 20, 2021 at 10:05 AM Sarah Foley <Sarah.Foley@bbklaw.com> wrote:

> Thanks, Bill.
>
> Bill and Gregg,
>
> In response to Gregg's inquiry about Sisar Mutual Water Company's ("Sisar") interest in the Watershed and groundwater basins, our research reflects the following facts as we understand them:
>
> •□□□□□□□ DWR's Water Management Planning Tool shows the boundaries of Sisar's service area in the attached map, (shown in pink), which shows that Sisar's service area is located within the Upper Ojai Groundwater Basin, and is located both within the Ventura River Watershed and the Santa Clara River Watershed.
>
> •□□□□□□□ Sisar is a named cross-defendant in the City's Third Amended Cross-Complaint (paragraph No. 72) as a pumper that pumps from the Upper Ojai Basin
>
> •□□□□□□□ Per the Watersheds Coalition of Ventura County's Integrated Regional Water Management Plan Update, Appendix C - Ventura River Watershed Section, Sisar is a small water supplier located within the Ventura River Watershed.
>
> •□□□□□□□ Per the Ventura River Watershed Management Plan, Sisar's wells pump from the Upper Ojai Basin, and Sisar also purchases water from Casitas.
>
> •□□□□□□□ Sisar's answer (received on 2/8/21) and initial disclosures (dated 6/1/2021) identify two addresses for Sisar property and/or wells: 12662 Sisar Rd, Ojai, CA and 12580 Sisar Rd., Ojai, CA. Per DWR's Water Management Planning Tool, both addresses are overlying the Upper Ojai Basin.

Please tell me if you have additional questions.

Thanks,

Sarah

Sarah Christopher Foley
Partner
sarah.foley@bbklaw.com
T: (213) 787-2560 C: (213) 435-8603
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From: Bill Slaughter <slaughter@srllplaw.com>
Sent: Monday, December 20, 2021 11:26 AM
To: Sarah Foley <Sarah.Foley@bbklaw.com>
Cc: gsgarrison@garrisonlawcorp.com
Subject: RE: Sisar Mutual Water Company

No objection. I will get an association on file.

Bill Slaughter

Slaughter, Reagan & Cole LLP

625 E Santa Clara Suite 101

Ventura, Ca 93001

805-658-7800

Email: slaughter@srllplaw.com

Website: http://www.srllplaw.com

From: Sarah Foley <Sarah.Foley@bbklaw.com>
Sent: Friday, December 17, 2021 12:44 PM
To: Bill Slaughter <slaughter@srllplaw.com>
Subject: Sisar Mutual Water Company

Hi Bill,

It is our understanding that you represent Sisar Mutual Water Company since you filed its answer and initial disclosures, but Gregg Garrison is now telling us that he represents the entity. We have not been served with any notice of association of counsel or any substitution papers. Can you please work with Gregg so that the parties and the Court are given proper notice of the entity's counsel?

Gregg has requested that we conduct research and provide him with information about Sisar's location within the Watershed and its groundwater basins. Do you have any objection to my providing him with that information? Please let me know if the two of you should be copied on any emails re Sisar or if you no longer represent Sisar. Feel free to give me a call if you want to discuss.

Thanks,

Sarah

Sarah Christopher Foley
Partner
sarah.foley@bbklaw.com
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www.BBKlaw.com

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Gregg Garrison, Esquire
GARRISON LAW CORPORATION
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Phone: 650/726-1111
Facsimile: 805/669-3168
Email: GSGarrison@GarrisonLawCorp.com
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From: Christopher Pisano
Sent: Tuesday, December 28, 2021 4:42 PM
To: 'Gregg Garrison'
Cc: Marnie Prock; Rosanna Garrison; Shawn Hagerty; Sarah Foley
Subject: RE: Courtesy copy of the EXPERT DISCLOSURE REPORT served December 15, 2021 via File & ServeXpress at 5:59 PM (Doc ID 88509773)

Gregg:

As Shawn has told you, we are working on the maps, but they are a lot of work and they take a lot of time to pull together. We will not have them ready this week as you request because we are focused on drafting oppositions to three motions for judgment on the pleadings, including the one that you filed. The Court did not order us to provide these maps by any particular deadline, and we are not going to follow a schedule that you have now set. We will provide the maps as soon as is reasonably practical.

As for your statement that the maps will be part of Mr. Kear's opinion testimony, I take issue with that for two reasons. First, Under CCP Section 843, Mr. Kear was required to submit a report that contains all of his opinions, and that report likewise was required to discuss all of the facts and data that support the opinions, and must include all trial exhibits Mr. Kear intends to use at trial. The Court gave Ms. Bliss leave to submit such a report by December 15th, and you have now disclosed the report on Ms. Bliss' and several other Upper Ojai owners' behalf. If you are now saying that the report is incomplete, then we will have no choice but to file a motion to exclude Mr. Kear from testifying on behalf the Upper Ojai owner group that you now purport to represent. Second, I also take issue that this map is somehow important for Mr. Kear's testimony because it is irrelevant to the Phase 1 issues. The boundaries of the basins and Watershed have been set, and the issue of interconnectivity of the groundwater basins and surface flows is not dependent on any particular users' use of groundwater. I do not know why Mr. Kear would need this map, but we view it as irrelevant to the Phase 1 issues. In short, Mr. Kear should not need this map to offer opinions, and to the extent he does, then his report is improper and subject to being stricken.

At this point, I must insist that you provide me dates of availability in the first half of January. If I do not hear from you by Thursday of this week, I will unilaterally set the deposition. Thank you and I look forward to hearing from you.

Chris

From: Gregg Garrison <gsgarrison@garrisonlawcorp.com>
Sent: Tuesday, December 28, 2021 9:19 AM
To: Christopher Pisano <Christopher.Pisano@bbklaw.com>
Cc: Marnie Prock <Marnie.Prock@bbklaw.com>; Rosanna Garrison <Rosanna@garrisonlawcorp.com>; Shawn Hagerty <Shawn.Hagerty@bbklaw.com>; Sarah Foley <Sarah.Foley@bbklaw.com>
Subject: Re: Courtesy copy of the EXPERT DISCLOSURE REPORT served December 15, 2021 via File & ServeXpress at 5:59 PM (Doc ID 88509773)

Dear Chris,

Thank you for your email dated December 28, 2021 re potential dates with Mr. Kear. Your request is in process.

Two weeks ago, in our Hearing before the Judge on December 13, 2021 at 4:00 PM, BBK promised the Judge that BBK will provide to my office, counsel and parties:

1. **Updated** maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all Appearing Parties from the outdated August 13, 2021 maps; and
2. Provide **new** maps (three) — based on proximity to the five basins in the two Watersheds (VRW and SCRW) — of all the Defaulted Parties.

In that it has been 15 days since the Judge instructed BBK to produce and serve maps 1 and 2 above.

Please confirm BBK's compliance and that you will be serving these maps on all parties and counsel this week.

These maps will be part of the subject matter and opinions expert testimony of Mr. Kear.

I want to confirm the delivery date by BBK will allow adequate review time for the upcoming deposition.

Thank you,

Gregg Scott Garrison

On Mon, Dec 27, 2021 at 8:25 PM Christopher Pisano <Christopher.Pisano@bbklaw.com> wrote:

> Gregg:
>
> Have you had an opportunity to speak to Mr. Kear about a deposition date? If not please contact him and let me know. I would like to get a date set in mid-January, and do so I will need to send out a notice later this week or early next week. Thanks.
>
> Chris
>
> **From:** GLC <gsgarrison@garrisonlawcorp.com>
> **Sent:** Monday, December 20, 2021 5:29 PM
> **To:** Christopher Pisano <Christopher.Pisano@bbklaw.com>
> **Cc:** Marnie Prock <Marnie.Prock@bbklaw.com>; Rosanna Garrison <rosanna@garrisonlawcorp.com>; Shawn Hagerty

<Shawn.Hagerty@bbklaw.com>; Sarah Foley <Sarah.Foley@bbklaw.com>
Subject: Re: Courtesy copy of the EXPERT DISCLOSURE REPORT served December 15, 2021 via File & ServeXpress at 5:59 PM (Doc ID 88509773)

Dear Chris,

I will discuss with Mr. Kear dates, times and locations for his deposition per your December 20, 2021 request.

Thank you,

Gregg

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Attorney-Client Communication and/or Attorney Work-Product Privilege

> On Dec 20, 2021, at 4:17 PM, Christopher Pisano <Christopher.Pisano@bbklaw.com> wrote:
>
> Gregg:
>
> Thank you for sending this expert disclosure last week. I would like to take Jordan Kear's deposition regarding this report in the first half of January. Can you please let me know when you and Mr. Kear can be available? Thanks.
>
> Chris

Christopher Pisano
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From: Gregg Garrison <gsgarrison@garrisonlawcorp.com>
Sent: Wednesday, December 15, 2021 8:34 PM
To: Marnie Prock <Marnie.Prock@bbklaw.com>
Cc: Rosanna Garrison <Rosanna@garrisonlawcorp.com>; Shawn Hagerty <Shawn.Hagerty@bbklaw.com>; Christopher Pisano <Christopher.Pisano@bbklaw.com>; Sarah Foley <Sarah.Foley@bbklaw.com>
Subject: Courtesy copy of the EXPERT DISCLOSURE REPORT served December 15, 2021 via File & ServeXpress at 5:59 PM (Doc ID 88509773)

Dear Marnie,

Here's a courtesy copy of the EXPERT DISCLOSURE REPORT served December 15, 2021 via File & ServeXpress at 5:59 PM (Doc ID 88509773).

Thank you,

Gregg

--

Gregg Garrison, Esquire
GARRISON LAW CORPORATION

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