



1 RUTAN & TUCKER, LLP  
 Jeremy N. Jungreis (State Bar No. 256417)  
 2 jjungreis@rutan.com  
 Douglas J. Dennington (State Bar No. 173447)  
 3 ddennington@rutan.com  
 Travis Van Ligten (State Bar No. 301715)  
 4 tvanligten@rutan.com  
 18575 Jamboree Road, 9th Floor  
 5 Irvine, CA 92612  
 Telephone: 714-641-5100  
 6 Facsimile: 714-546-9035

7 Attorneys for Cross-Defendant  
 CASITAS MUNICIPAL WATER DISTRICT a California  
 8 special district

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 FOR THE COUNTY OF LOS ANGELES, COMPLEX

11 SANTA BARBARA CHANNELKEEPER, a  
 California non-profit corporation,

12 Petitioner,

13 vs.

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

17 Respondents.

18 CITY OF SAN BUENA VENTURA, a  
 19 California municipal corporation,

20 Cross-Complainant,

21 vs.

22 DUNCAN ABBOTT, et al.,

23 Cross-Defendant.

Case No. 19STCP01176

Judge: *Hon. William F. Highberger*  
 Dept: 10

**CROSS-DEFENDANT CASITAS  
 MUNICIPAL WATER DISTRICT'S  
 JOINDER IN CROSS-DEFENDANT EAST  
 OJAI GROUP'S EX PARTE REQUEST TO  
 CONTINUE TRIAL DATE AND ALL  
 RELATED DEADLINES**

Date Action Filed: September 19, 2014  
 Phase 1 Trial Date: February 14, 2022

Hearing Date: January 20, 2022  
 Time: 1:30 P.M.  
 Department: 10

1 Cross-Defendant Casitas Municipal Water District’s (“Casitas”) hereby joins in Cross-  
2 Defendant East Ojai Group’s (“East Ojai”) Ex Parte Request To Continue Trial Date And All  
3 Related Deadlines for, among other things, the reasons provided by East Ojai in their Ex Parte  
4 Application, and the reasons provided in this Joinder and the attached declaration of Jeremy N.  
5 Jungreis and supporting exhibits. (See Jungreis Decl. ¶¶ 1-6; Exs. 1-4.)

6 Trial in Phase 1 of this case is less than a month away, and the parties are still not certain  
7 of the scope for Phase 1. Extensive expert depositions still need to occur, under extremely short  
8 deadlines (if they can occur at all), and expert discovery will not end until after the deadline for  
9 filing of pretrial motions (January 21).<sup>1</sup> Meanwhile, expert discovery continues to be frustrated by  
10 what Casitas contends is failure of the State and the City of Ventura to timely/fully disclose the  
11 technical basis for their models as required by Code of Civil Procedure 843.<sup>2</sup>

12 Trials should never be about surprise. With the extensive number of parties participating  
13 in Phase 1 of trial, it makes sense for the court to provide a reasonable continuation of the current  
14 trial date, per East Ojai’s request, in order to allow all parties to: (1) better understand what issues  
15 the court wants tried and to prepare accordingly;<sup>3</sup> (2) complete expert discovery in a manner that  
16

---

17 <sup>1</sup> The original expert discovery cutoff for a February 14 trial was January 14. However, with  
18 less than a month before a February 14 trial start, there are still at least four original disclosures  
19 depositions that need to occur (Preston, Schnaar, Klug and Archer), at least six supplemental  
20 disclosure depositions (Kear, McCord, Preston, Schnaar, Archer, Brown), and at least six rebuttal  
21 depositions (Kear, McCord, Hanson, Preston, Schnaar, Archer). (Jungreis Decl. ¶ 6.) Some of  
22 these depositions can likely be combined, but as they have not yet been scheduled, accomplishing  
23 all of them prior to February 14, and more importantly before the Motion in Limine and trial brief  
24 deadline of January 21, 2022, would appear to be an impossibility.

25 <sup>2</sup> A good faith disagreement exists between Casitas on the one hand, and the State and the City  
26 of Ventura (“City”) on the other, as to whether all required technical data and information was  
27 properly disclosed at the time of expert report designations. Notwithstanding this disagreement, it  
28 bears mentioning that Counsel for the State and the City have conducted themselves in good faith  
during an ultimately unsuccessful meet and confer process. With additional time and continuation  
of the trial date, much of the missing information can be obtained by Casitas’ experts in time to  
prepare for their own expert depositions as well as the depositions of the State’s experts and the  
City’s remaining expert, Dr. Claire Archer.

29 <sup>3</sup> The Court in November 2021 provided helpful guidance to the Parties as to the types of  
30 questions that may arise as the parties prepare for Phase 1 of trial, and provided guidance on some  
31 areas where the Court was seeking additional information. However, Casitas’ understanding is  
32 that many of the questions raised by the Court were never entirely ruled upon in November and  
33 December 2021, which leaves the scope of Phase 1 still open to party interpretation. Now that the  
34 Court has issued its tentative decision on the City of Ojai’s Motion for Judgment on the Pleadings,  
35 the Parties could greatly benefit from additional clarification from the Court on what the Court  
36 believes is the proper scope of issues to be tried during Phase 1.

1 allows for adequate preparation by all parties, particularly in light of incomplete disclosures to  
2 date from the State, and the fact that the State has introduced a new version of its model for which  
3 public comment will not close until April 1, 2022 (Jungreis Decl ¶ 3; Ex. 2.); (3) timely file trial  
4 briefs, pretrial statements, exhibit lists, witness lists and motions in limine (as well as needed  
5 discovery related motions) based upon a full and adequate opportunity to complete expert  
6 depositions supported by all relevant technical information. Casitas supports continuing the trial  
7 to an appropriate time selected by the Court between April and July 2022, as urged by East Ojai,  
8 because doing so is critical to a fair and orderly process for Phase 1 of trial. Indeed, the deadline  
9 for motions in limine, pretrial statements, trial briefs, exhibit lists, witness lists, and trial briefs is  
10 now January 25 per the court's two court day extension granted on January 18, which remains  
11 only a few days after the date of hearing on East Ojai's Application. The bulk of expert  
12 depositions cannot take place by January 25, and even if they could, there would be no way for the  
13 Parties to conduct all of the depositions, while simultaneously complying with all of the other  
14 January 25 deadlines. The current schedule essentially precludes the court from hearing motions  
15 related to the majority of expert discovery, opening the door to the potential for ambush and unfair  
16 surprise at trial. That's a scenario the Court can avoid by simply granting East Ojai's request.

17 Casitas is sympathetic to the Court's conundrum in finding a new trial date that works for  
18 all or most Parties. Casitas will be flexible, and will encourage the other major parties to be  
19 flexible, in accomplishing the continuance requested by East Ojai in its Application. Thank you  
20 for considering Casitas' position in this matter. The trial will be more orderly, and the information  
21 the Court receives better prepared and more relevant, if the Court grants East Ojai's Application.

22 Dated: January 19, 2022

23 Respectfully submitted

24 RUTAN & TUCKER, LLP  
25 JEREMY N. JUNGREIS  
26 DOUGLAS J. DENNINGTON  
27 TRAVIS VAN LIGTEN

28 By: 

Jeremy N. Jungreis  
Attorneys for Cross-Defendant  
CASITAS MUNICIPAL WATER  
DISTRICT a California special district