

1 SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbkllaw.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

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Superior Court of California
County of Los Angeles

MAR 08 2021

Sherri R. Carter, Executive Officer/Clerk of Court

5 CHRISTOPHER MARK PISANO, Bar No. 192831
christopher.pisano@bbkllaw.com
6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
sarah.foley@bbkllaw.com
7 PATRICK D. SKAHAN, Bar No. 286140
patrick.skahan@bbkllaw.com
8 BEST BEST & KRIEGER LLP
300 South Grand Avenue, 25th Floor
9 Los Angeles, California 90071
Telephone: (213) 617-8100
10 Facsimile: (619) 617-7480

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LOS ANGELES SUPERIOR COURT

MAR 08 2021

S. DREW

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
17 California non-profit corporation,

18 Petitioner,

19 v.

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

22 Respondents.

23 CITY OF SAN BUENAVENTURA, etc.,

24 Cross-Complainant,

25 v.

26 DUNCAN ABBOTT, an individual, et al.,

27 Cross-Defendants.
28

Case No. 19STCP01176

Judge: Hon. William F. Highberger

STATUS CONFERENCE REPORT

Date: March 15, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set

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1 as the request for judicial notice of these judgments. The Proposing Parties would like to discuss
2 any questions the Court may have regarding the physical solution briefing at the Status
3 Conference.

4
5 2. UPDATE RE SERVICE OF THE THIRD AMENDED CROSS-COMPLAINT
6 AND NOTICE OF COMMENCEMENT OF ADJUDICATION

7 The City diligently continues to work to complete service of the Third Amended Cross-
8 Complaint (Cross-Complaint) on all named Cross-Defendants and has completed providing the
9 notice of adjudication and form answer to all overlying landowners within the Ventura River
10 Watershed's groundwater basins. The City has made substantial progress on these efforts.

11 A. Notice

12 The City, through its notice vendor JND Legal Administration (JND), has completed the
13 mailing and posting required by Code of Civil Procedure section 836(d). The City originally
14 mailed notice packets (containing the Cross-Complaint, notice of adjudication, and form answer),
15 return receipt requested, to more than 10,000 unique holders of fee title to real property overlying
16 the groundwater basins, commencing in January 2020. The City subsequently mailed 3,072
17 notice packets, return receipt requested, to owners for which it had not yet received a return
18 receipt in August 2020 and in December 2020. This additional notice attempt was effective, and
19 return receipts were obtained for all but 115 parcels out of the original 10,000+ parcels.
20 Accordingly, the City, through its notice vendor JND, posted notice packets in a conspicuous
21 place on these remaining parcels as required by Code of Civil Procedure section 836(d)(1)(D) and
22 completed this posting on February 21, 2021. The City will file a notice of completion as
23 required by Code of Civil Procedure section 836(e).

24 B. Service of Cross-Defendants Named in the Cross-Complaint

25 As of the last Status Conference, there were 319 unserved Cross-Defendants out of the
26 over 2,100 Cross-Defendants named in the Cross-Complaint. Since then, the City successfully
27 served 182 Cross-Defendants in February and early March and is continuing efforts to serve the
28 remaining 137. The City will continue to attempt to locate and serve these un-served Cross-

1 Defendants, including by conducting targeted outreach and phone calls to and additional
2 researching and tracking of un-served Cross-Defendants.

3 Certain of the un-served Cross-Defendants fall into the following five different
4 categories—(1) those whom the City has been unable to serve because their properties are located
5 behind locked gates with no guards or other persons out front for sub-service (51 Cross-
6 Defendants); (2) those who are evading service (5 known Cross-Defendants); (3) those that are
7 defunct corporate entities, merged out corporate entities, or that have not otherwise updated their
8 agents for service of process (9 corporate entities); (4) deceased owners with no known
9 successors (10 Cross-Defendants); and (5) vacant or sold properties (12 Cross-Defendants). With
10 regard to the properties located behind locked gates, the City has made diligent attempts at
11 service and there is no apparent opportunity for sub-service. The City would like direction from
12 the Court about alternative methods of service of these Cross-Defendants, if any, short of service
13 by publication. As for Cross-Defendants who are evading service, the City will continue attempts
14 at personal service and will also explore options for substitute service. As for the entity Cross-
15 Defendants, the City will continue its efforts at personal service, or, if the agent for service cannot
16 be located, the City will seek leave to perfect service by serving the Secretary of State. The City
17 will continue to make diligent efforts to serve all Cross-Defendants, but would like direction on
18 whether the Court will accept these alternative means of service.

19 The City will ultimately seek to serve via publication any remaining un-served Cross-
20 Defendants that it cannot locate after a diligent search. The City believes that this number will be
21 small. The City is cognizant of the Court’s prior statements regarding service by publication and
22 will make all diligent efforts to perfect service on the named Cross-Defendant prior to seeking
23 approval to serve by publication. This includes the Court’s statements at the last Status
24 Conference related to providing evidence of property tax records in conjunction with any request
25 to serve by publication.

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C. Roes

On March 3, 2021, the City filed two sets of roe amendments, totaling 379 new Cross-Defendants. One set consists of new owners of property that is already subject to the Cross-Complaint but which has been sold during the fourteen (14) months since the filing and initial service of the Cross-Complaint. As explained below, the City is presently taking a conservative approach of dismissing the old owners, many of whom have been already served, and serving the new owners. The other set consists of newly discovered riparian landowners who need to be included as Cross-Defendants. Personal service will commence as soon as the Court processes the amendments.

With regard to the sold properties, there have been numerous parcels that have sold during the fourteen (14) months since the Cross-Complaint was filed. Although the City had already served many of these property owners, and although the pendency of this action would have been required to be disclosed as part of the real estate transaction, the City is taking the conservative step of dismissing the property owners named in the Cross-Complaint and naming the new owners as roe Cross-Defendants. This approach has resulted in the dismissal of 134 Cross-Defendants (62 Cross-Defendants were previously served) and the addition of 130 new Cross-Defendants who now own the parcels at issue.

With regard to the new riparian properties, the City has obtained new information during the last fourteen (14) months, from a variety of sources, which has revealed that owners of additional riparian properties need to be included. Specifically, the City has identified 174 riparian parcels owned by approximately 260 landowners that need to be included as named Cross-Defendants.

It should be noted that in a large watershed adjudication such as this one, it is typical that additional parcels are identified for either inclusion or exclusion. This process is ongoing and will continue even after any judgment is entered. The City is taking steps now to include all known required parties, but the City wishes to alert the Court that additional information will continue to be obtained that will likely require additional changes even after any judgment is entered.

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D. Dismissals

On March 1, 2021, the City filed two sets of dismissals totaling 166 named Cross-Defendants. One set of dismissals consisting of 29 parties is for deceased and/or misnamed Cross-Defendants. The second set consisting of 134 dismissals is for Cross-Defendants who sold their riparian parcel(s) and no longer own any real property interest in the Watershed.

E. Defaults

The City is in process of drafting 1,391 request for entry of default packages, which it anticipates to begin filing in groups of five by or before March 15, 2021. On March 8, 2021, the City filed 117 requests for entry of default.

F. Coordination with Court Staff

Counsel for the City and its staff members have been and will continue to work closely with Court staff to ensure items are being filed and party information is being managed in accordance with the Court's requirements and specifications. Court staff has been very accommodating and helpful, and the City will continue to work closely and coordinate with Court staff to facilitate its recordkeeping and case management needs. The City will make every effort to reduce the burden of this large and complicated matter on the Court and its staff.

One suggestion the City wishes to discuss with the Court is hiring an outside vendor to maintain a separate register of actions and document database for ease of searching and finding relevant filed documents by Cross-Defendant name, document type, and filing party. This procedure has been implemented in other water adjudications.

G. Stipulations For Entry of Physical Solution and Judgment

Counsel for the City continue to work closely with the Ryan Blatz Law Firm and other interested parties who wish to stipulate to the physical solution in lieu of filing an answer. The City is working with Mr. Blatz to submit amended and correctly-worded stipulations for the Court's consideration and approval. Approximately ten new parties have also requested to

1 stipulate to the proposed physical solution, and the City continues its ongoing efforts to identify
2 individual members of erroneously named Cross-Defendant the Gridley Road Water Group who
3 wish to sign stipulations.

4
5 H. Case Website

6 The City continues to maintain and update the neutral adjudication website, available at:
7 <https://www.venturariverwatershedadjudication.com>.

8
9 3. SITE VISIT

10 The Proposing Parties emailed a draft stipulation and proposed order re site visit protocols
11 to all parties who have appeared on March 2, 2021. The Proposing Parties' proposal is attached
12 hereto as Exhibit A. The Proposing Parties have received initial comments from several parties
13 on the proposal, and the City has scheduled a Zoom meet and confer session open to all parties
14 for Thursday March 11, 2021 from 10:00 to 11:00 a.m. It is likely that the parties can achieve
15 consensus on the locations for the site visit, but many of the protocols need additional discussion,
16 including who attends the site visit with the Court. The Proposing Parties would like to update
17 the Court on the status of the meet and confer over the site visit at the March 15, 2021 Status
18 Conference, with the hope of documenting concurrence on the locations for the visit and seeking
19 Court input on the protocols. The Proposing Parties would then hope to finalize the meet and
20 confer process and have the Court consider final arrangements for the site visit at the April status
21 conference.

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23 4. NEWLY APPEARING PARTIES

24 As of March 8, 2021, the following additional parties have filed answers to the City's
25 Cross-Complaint:

- 26 1. Lindy Goetz and Karen C. Goetz, filed 1/28/21.
27 2. Susan Capper, filed 1/28/21.
28 3. Gregg Garrison and Rosanna Garrison, filed 1/29/21.

- 1 4. Joshua Beckman, filed 1/29/21.
- 2 5. Joyce L. Heath, Trustee of the Heath Family Living Trust, filed 1/29/21.
- 3 6. Melinda Hass, filed 1/29/21.
- 4 7. Malinda K. Vaughn and Mitchell B., filed 1/29/21
- 5 8. Rebecca D. Schwermer, filed 1/29/21.
- 6 9. Robert Kyle and The Robert Kyle Living Trust, filed 1/29/21.
- 7 10. Rebecca Tickell, filed 1/29/21
- 8 11. Robert L. Smith, filed 1/29/21.
- 9 12. Robin Schwartzburd, filed 1/29/21.
- 10 13. Susan M. Glennon, filed 1/29/21.
- 11 14. Thomas M. German, filed 1/29/21.
- 12 15. William E. Colborn, Jr., filed 1/29/21.
- 13 16. Brigitte Lovell, Trustee of Lovell Living Trust, filed 2/1/21.
- 14 17. Catherine Ferro & Catherine Eileen Ferro Inter Vivos Trust, filed 2/1/21.
- 15 18. Jennifer Jordan Day and Joel Fox, filed 2/1/21.
- 16 19. Susan C. White and Steven J. White, filed 2/1/21.
- 17 20. Oscar D. Acosta, Trustee of the Acosta Trust Dated July 12, 2006, filed
- 18 2/26/21.

19 The City provided notice to Mr. Acosta's counsel, Ryan Blatz, that because Mr. Acosta's
20 answer was filed before March 1, 2021, his initial disclosures are due by June 1, 2021 pursuant to
21 the Court's order on February 9, 2021. The City only recently became aware of the answers filed
22 by parties one through nineteen because none of these parties served the City with their answers.
23 The City obtained these answers from the Court's document retrieval portal on March 5, 2021.
24 The City will provide these parties with notice of the due date for initial disclosures.

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1 5. PARTY SEARCH – SPREADSHEET

2 The City is finalizing two spreadsheets: (1) named Cross-Defendants and (2) holders of
3 fee title to real property overlying the groundwater basins for upload to the adjudication website:
4 www.venturariverwatershedadjudication.com. The City will post those spreadsheets on the
5 adjudication website (see section 2.H) for public access to names and assessor parcel numbers in
6 each category in advance of the March 15, 2021 Status Conference.

7
8 6. CDFW DRAFT FLOW RECOMMENDATIONS

9 On Friday February 26, 2021, California Department of Fish and Wildlife (CDFW)
10 released for public review draft instream flow regime recommendations for the lower Ventura
11 River and Coyote Creek and hosted a webinar regarding the draft. CDFW is accepting input
12 regarding its draft flow recommendations during a thirty (30) day public comment period.
13 CDFW will also release additional studies for (1) San Antonio Creek and (2) the intermittent
14 reach of the Ventura River.

15
16 7. CHANNELKEEPER NOTICE OF DISMISSAL AND STATUS OF
17 UNDERLYING PLEADINGS

18 The City wishes to clarify for the Court and the parties its position on the status of the
19 underlying pleading filed by Santa Barbara Channelkeeper (Channelkeeper) against the City. The
20 purpose of this clarification is to avoid or address possible confusion related to the Request for
21 Dismissal that Channelkeeper recently served and to clarify party status. The City provided
22 counsel for Channelkeeper with the language below, and counsel had no objection to it.

23 In September of 2019, the City and Channelkeeper entered into a settlement agreement
24 regarding Channelkeeper’s Complaint for Declaratory Relief and Petition for Writ of Mandate.
25 The City is a named defendant in the First Cause of Action in that Complaint. In the settlement
26 agreement, the City agreed to implement a Pilot Project of flow restrictions at Foster Park and
27 agreed to take other actions. Channelkeeper released and waived its claims against the City other
28 than two reserved issues. First, Channelkeeper reserved its “claim after the Pilot Project is

1 completed but before entry of a stipulated judgment in the adjudication that future pumping and
2 diversion of water in Reach 4 of the Ventura River is an unreasonable use in violation of the
3 California Constitution Article X, Section 2, and the public trust doctrine.” Channelkeeper also
4 reserved its claims for unresolved attorney’s fees and costs in the amount of \$191,075.29.

5 As the Court is aware, at the June 24, 2020 Status Conference, after the time for the Pilot
6 Project had ended, Channelkeeper informed the Court of its plan to bring a motion for interim
7 flow measures at Foster Park. The City and Channelkeeper met and conferred over this issue, and
8 in August 2020, the City and Channelkeeper amended the settlement agreement to address the
9 issue. As part of that amended agreement, Channelkeeper agreed “not to seek other interim relief
10 regarding flow.” The amended agreement provided that the “settlement relating to interim flows
11 in no way impacts Channelkeeper’s ability to comment on, support, or challenge the physical
12 solution proposed by any party in the Action.” The amended agreement therefore leaves only two
13 issues remaining as between the City and Channelkeeper—an unresolved claim for attorney’s
14 fees and costs and Channelkeeper’s ability to participate in the issues related to the physical
15 solution. All other issues are resolved between Channelkeeper and the City. Channelkeeper’s
16 claims against the State Water Resources Control Board remain.

17 The settlement agreement requires Channelkeeper to file a Request for Dismissal as to the
18 City in a specific form. Channelkeeper served that Request for Dismissal on October 30, 2019
19 via File&ServeXpress. However, there is no record of the Request for Dismissal being filed with
20 or acted on by Court. Counsel for the City brought this to the attention of Channelkeeper on
21 February 7, 2021, and on February 8, 2021 Channelkeeper again served the Request for
22 Dismissal. However, there is still no record in the Court docket of the Request for Dismissal
23 being filed or acted on by the Court. As the City moves forward with the Cross-Complaint and as
24 the Proposing Parties seek Court consideration of the Physical Solution, the City believes that
25 clarifying that the underlying claims as to the City have been resolved is important, with
26 recognition that Channelkeeper may continue to participate in the process related to the Physical
27 Solution and has an unresolved attorney’s fee claim. The City is willing to stipulate that
28 Channelkeeper may be considered an intervenor in the Cross-Complaint to make the procedural

1 status of Channelkeeper’s involvement clear.

2
3 8. SCHEDULE RE LODGING THE PHYSICAL SOLUTION, SETTING A
4 HEARING ON A MOTION TO LIFT STAY AND HEARING ON PHYSICAL
5 SOLUTION

6 At the March 15, 2021 Status Conference, the Proposing Parties would like to discuss
7 with the Court and the parties a schedule to lodge its proposed physical solution so that the Court
8 may begin considering it. Additionally, the Proposing Parties would like to discuss a briefing
9 schedule and a hearing date for a motion to lift the discovery stay and a timeline that culminates
10 in the Court setting an evidentiary hearing on the Proposing Parties’ proposed physical solution
11 on or around January 2022. It is the position of the Proposing Parties that they are entitled to an
12 evidentiary hearing on the proposed physical solution. (*Hillside Memorial Park & Mortuary v.*
13 *Golden State Water Co.* (2011) 205 Cal.App.4th 534, 549-550 [reserving a decision to decide the
14 matter on a noticed motion and noting that “the court did not fulfill its duties of holding an
15 evidentiary hearing, and if the parties could not agree, suggesting a physical solution which the
16 court could impose on the parties over their objections.”].) However, the noticed motion will
17 allow the parties to fully brief key legal issues that may influence how the Court proceeds with
18 the required evidentiary hearing, including but not limited to, the application of Code of Civil
19 Procedure section 833(c) (which the Proposing Parties contend is a permissive statute that has no
20 direct application to these proceedings given that both surface water and groundwater users are
21 already named in the City’s action) and Code of Civil Procedure section 850(a) and (b) (which
22 the Proposing Parties contend are two separate vehicles for entry of judgment in this action, with
23 850(b) being an elective provision that parties may decide to pursue to shift the burden of proof).
24 The noticed motion will also allow the Proposing Parties to state their position regarding how the
25 issue of the interconnection between surface and groundwater must be demonstrated by them as
26 part of the Court’s consideration of the proposed physical solution.

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9. “OBJECTIONS” TO THE PHYSICAL SOLUTION

On Friday March 5, 2021, two parties (Claude R. Beggerly & Patricia E. Baggerly and various members of the Whitman Family) separately served certain “objections” to the proposed physical solution. As the Court is aware, the proposed physical solution is not currently before the Court, and, therefore, objections thereto are premature. The City interprets these “objections” to be Status Conference Reports of these parties. The City believes that these “objections” contain unsupported and erroneous statements that are not the proper subject of the Status Conference. For example, the objections of the Whitman Family assert that the City has not reduced its extractions from the Ventura River Watershed, when, as the Court is aware, the City has already agreed to implement certain flow protocols at Foster Park that have resulted in reduced extractions from the River. The City does not believe it is appropriate to respond to each statement in these “objections” that it believes is erroneous or unsupported, and therefore objects to the documents in their entirety. The City requests that the Court provide guidance to the parties on the proper subject matter for Status Conference Reports to help avoid the raising of issues that are not properly before the Court.

Notwithstanding the City’s position on these “objections,” counsel for the City will reach out directly to the Whitman Family representative to address the comments regarding Cross-Defendants who allegedly are not proper parties to the action. As explained above in this Report, the City is in the process of dismissing and adding new parties. All parties or their counsel who believe that they should not be included in the action are encouraged to contact counsel for the City in the future so that these issues can be directly resolved through the ongoing dismissal process.

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10. CONCLUSION AND SUMMARY OF REQUESTS

Based on the above Report, the Proposing Parties request that the Court consider taking the following actions:

- Discuss and address any questions raised by the physical solution briefing.
- If no objection is raised, discuss a date for the Proposing Parties to lodge their proposed physical solution.
- Discuss locations and protocols for a site visit, provide direction on unresolved issues, and order the parties to submit proposed protocols in advance of the April Status Conference.
- Discuss the scheduling of a hearing and a briefing schedule for a motion to lift the discovery stay.
- Discuss the establishment of a timeline that culminates in the Court setting an evidentiary hearing on the Proposing Parties' proposed physical solution on or around January 2022.
- Provide direction to the parties regarding the subject matter for future Status Conference Reports.

Dated: March 8, 2021

BEST BEST & KRIEGER LLP


By: 
SHAWN D. O'AGERTY
CHRISTOPHER MARK PISANO
SARAH CHRISTOPHER FOLEY
Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

EXHIBIT A

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

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12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15 SPRING STREET COURTHOUSE

16 SANTA BARBARA CHANNELKEEPER, a
17 California non-profit corporation,

18 Petitioner,

19 v.

20 CITY OF SAN BUENAVENTURA, a
California municipal corporation; STATE
21 WATER RESOURCES CONTROL BOARD, a
California State Agency;

22 Respondents.

23
24 CITY OF SAN BUENAVENTURA, a
California municipal corporation,

25
26 Cross-Complainant,

27 v.

28 DUNCAN ABBOTT, an individual, et al.
Cross-Defendants.

Case No. 19STCP01176
Judge: Honorable William F. Highberger,
Dept. SS10

STIPULATION AND PROPOSED ORDER
FOR PRE-TRIAL COURT VIEWING OF
VENTURA RIVER WATERSHED

Action Filed: September 19, 2014
Trial Date: Not Set

1 Plaintiff Santa Barbara Channelkeeper (“Plaintiff”), Defendant and Cross-Defendant State
2 Water Resources Control Board (“SWRCB”), Defendant and Cross-Complainant City of San
3 Buenaventura (“City”), and Cross-Defendants California Department of Fish and Wildlife
4 (“CDFW”), Ventura River Water District, Meiners Oaks Water District, Rancho Matilija Mutual
5 Water Company, the Wood-Claeyssens Foundation, and other parties who have answered the
6 City’s Third Amended Cross-Complaint as noted in the signatures to this Stipulation (collectively
7 the “Stipulating Parties”) hereby stipulate and agree, by and through their respective counsel of
8 record, as follows:

9 WHEREAS in September of 2014, Plaintiff filed a Complaint for Declaratory Relief and
10 Petition Writ of Mandate pursuant to Code of Civil Procedure section 1085 against the City and
11 SWRCB, and later filed a First Amended Complaint and Petition (“Amended Complaint.”).

12 WHEREAS in the Amended Complaint Plaintiff asks, among other things, that the Court
13 declare the City’s extraction of water from Reach 4 of the Ventura River from April through
14 October to be unreasonable, in violation of Article X, section 2 of the California Constitution and
15 to direct the State Board to perform alleged mandatory duties under Article X, section 2, Water
16 Code section 275, and the public trust doctrine, and to prevent that alleged unreasonable use by
17 the City.

18 WHEREAS in response to the Complaint the City filed a Cross-Complaint, and later a
19 First Amended, Second Amended, and now Third Amended Cross-Complaint against other
20 surface water and Groundwater users in the Ventura River Watershed who it alleges affect the
21 flow of water in the Ventura River (“Amended Cross-Complaint”).

22 WHEREAS in the Amended Cross-Complaint the City named approximately 2,300
23 Cross-Defendants who beneficially use or who have potential rights to waters of the Ventura
24 River flowing in a known and defined channel or Groundwater in the Ventura River Watershed,
25 including surface water from the Ventura River and its tributaries and Groundwater from the
26 Basins. The Amended Cross-Complaint also alleged that the Court has in rem jurisdiction over
27 all property overlying the Basins. The Amended Cross-Complaint alleges nine separate claims
28

1 for relief, including one claim for entry of a physical solution (sixth claim for relief). SWRCB
2 and CDFW have intervened as Cross-Defendants in this Action.

3 WHEREAS on September 15, 2020, the City and Cross-Defendants Ventura River Water
4 District, Meiners Oaks Water District, Rancho Matilija Mutual Water Company and the Wood-
5 Claeysens Foundation (collectively “Proposing Parties”) disseminated to all Parties a proposed
6 Physical Solution and Judgment for the Ventura River Watershed, and since September 15, 2020,
7 the Parties have been meeting and conferring in an effort to reach consensus regarding a proposed
8 Physical Solution and Judgment.

9 WHEREAS the Parties to this Stipulation desire that the Court conduct a viewing of the
10 Ventura River and Ventura River Watershed so that the Court has a better understanding of the
11 physical nature of the river and watershed area as the case progresses toward a potential trial of
12 the proposed Physical Solution.

13 THEREFORE it is hereby stipulated by and between the parties, through their counsel of
14 record, to the following schedule and protocols for the Court’s viewing of the Ventura River and
15 Ventura River Watershed.

16 1. The inspection shall take place on a date and time that is mutually agreed to by the
17 Court and the Parties, which shall be set at the March 15, 2021 Status Conference.

18 2. On the day of the Court inspection, the Court shall view the Ventura River and
19 Ventura River Watershed subject to the following protocols:

- 20 a. The inspection of the Ventura River and Ventura River Watershed shall be via
21 a driving and walking tour.
- 22 b. The Court shall be accompanied on the driving and walking inspection by a
23 representative from the City, SWRCB, and Casitas Municipal Water District
24 (“Casitas”) who are knowledgeable about the Ventura River and Ventura River
25 Watershed. The City’s representative will be Jennifer Tribo, Management
26 Analyst II. SWRCB’s representative will be Kevin Delano, Geologist
27 (pending confirmation of his availability and approval by SWRCB’s legal
28 counsel). Casitas’ representative has yet to be determined but will be decided

1 and announced by the time of the Status Conference. These individuals will be
2 collectively referred to herein as “Designated Representatives”. The Court and
3 the Designated Representatives will be the only persons permitted to attend the
4 initial Court inspection.

- 5 c. The Court and the Designated Representatives will meet at Surfer’s Point
6 where the Ventura River meets the Pacific Ocean at 9:00 a.m. The Court and
7 the Designated Representatives will then travel together to each viewing
8 location. In light of the ongoing COVID-19 pandemic, the Court and the
9 Designated Representatives will take all reasonable precautions to maintain
10 appropriate physical separation, and will wear a face mask and any other
11 appropriate Personal Protective Equipment (“PPE”), at all times during the
12 tour. The Court and Designated Parties will also drive separately to each
13 location in order to avoid being together in a confined space.
- 14 d. At each location to be inspected, the Designated Representatives will provide
15 to the Court an overall description of the physical features at the location, and
16 shall also be available to answer any questions that the Court may have
17 regarding the physical makeup of the Ventura River and the Ventura River
18 Watershed. The Designated Representatives will provide descriptions and
19 respond to questions from the Court in a non-argumentative and neutral
20 fashion. The Court and the Designated Representatives will spend as much
21 time at each location as is desired by the Court. The Court may also
22 photograph any features it so desires to photograph at each location, which
23 photographs shall remain within the sole possession of the Court, and shall not
24 be provided to any Parties.
- 25 e. The Court and the Designated Representatives shall inspect the following areas
26 along the Ventura River: (i) the Estuary at Surfer’s Pont, (ii) the Ojai
27 Sanitation District discharge location, (iii) the City’s Foster Park and Kingston
28 and Power Reservoirs, (iv) the Confluence of the Ventura River and San

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Antonio Creek, (v) the Robles Diversion, (vi) the North Fork Matilija Creek, (vii) Matilija Dam, and (viii) San Antonio Creek at the following locations: Frasier Road Crossing, Old Creek Road and Grand Avenue.

- f. At least one week prior to the commencement of the viewing the City shall provide to the Court and serve on all Parties a map detailing the location of each inspection site. The Court and Designated Parties are encourage to wear clothing and footwear that is appropriate for hiking.
- g. Following the driving and walking tour, the Court and the Designated Representatives shall return to the Estuary at Surfer’s Point, where the inspection will end and the Court and Designated Representatives will disburse with no further discussions. Other than the communications expressly permitted pursuant to this Stipulation, there shall be no ex parte communications between the Court and any Party regarding the inspection at any time.

3. The Court shall conduct a second inspection of the same locations of the Ventura River and Ventura River Watershed in the Fall of 2021, on a date to be decided by the Parties and the Court in order to observe the river in different conditions. Counsel for all Parties will be permitted to attend the second site inspection with the Court, provided that COVID-19 restrictions have been lifted. During the second site inspection, the same protocols as above will apply, including the rule regarding speaking to the Court in a non-argumentative fashion, except as is agreed to by the parties.

4. The Court’s inspections of the Ventura River and Ventura River Watershed shall not constitute evidence upon which the Court may base any decision it will make in this case. Rather the purpose of the inspection is to provide the Court with background and context, and to ultimately assist the Court in understanding the physical nature of the Ventura River and Ventura River Watershed.

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IT IS SO STIPULATED.

Dated:

BEST BEST & KRIEGER LLP

By: _____
SHAWN HAGERTY
CHRISTOPHER M. PISANO
SARAH CHRISTOPHER FOLEY
Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

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ORDER

The Court, having reviewed the parties' Stipulation, and good cause appearing, hereby
Orders as follows:

1. The Court shall conduct a viewing of the Ventura River and Ventura River
Watershed consistent with the terms of the Stipulation set forth above.

2. The Court's inspection of the Ventura River and Ventura River Watershed shall
not constitute evidence upon which the Court may base any decision it will make in this case.
Rather the purpose of the inspection is to provide the Court with background and context, and to
ultimately assist the Court in understanding the physical nature of the Ventura River and Ventura
River Watershed.

Dated:

JUDGE OF THE SUPERIOR COURT

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