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10 VENTURA RIVER WATER DISTRICT and
MEINERS OAKS WATER DISTRICT

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**
13

14 SANTA BARBARA CHANNELKEEPER,)
a California non-profit corporation,)
15)
Petitioner,)
16)
vs.)
17)
STATE WATER RESOURCES CONTROL)
18 BOARD, a California State Agency; CITY OF)
SAN BUENAVENTURA, a California)
19 municipal corporation,)
20 Respondents.)

Case No.: 19STCP01176
CROSS-DEFENDANTS' VENTURA
RIVER WATER DISTRICT AND MEINERS
OAKS WATER DISTRICT JOINDER IN
CITY OF SAN BUENAVENTURA'S
OPPOSITION TO CITY OF OJAI'S
MOTION FOR JUDGMENT ON THE
PLEADINGS

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

Dept: 10

21)
22 CITY OF SAN BUENAVENTURA, a)
California municipal corporation,)
23)
Cross-Complainant)
24)
vs.)
25)
DUNCAN ABBOTT, an individual, et al.)
26)
Cross-Defendants.)
27)
28)

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

1 Cross-Defendants Meiners Oaks Water District and Ventura River Water District
2 (**Districts**) hereby join in the opposition to the City of Ojai’s (**Ojai**) motion for judgment on the
3 pleadings (**Motion**) filed by the City of San Buenaventura (**City**). While Districts do not wish to
4 duplicate the arguments made by the City, we wish to emphasize the arguments made in the
5 Motion are without support in law or fact.

6 **1. THE COMPREHENSIVE GROUNDWATER ADJUDICATION STATUTE IS**
7 **NOT THE EXCLUSIVE MEANS OF INITIATING A COMPREHENSIVE**
8 **GROUNDWATER ADJUDICATION.**

9 Very simply, the Comprehensive Groundwater Adjudication Statute (**CGAS**, Code Civ.
10 Proc §§830 et seq.) was established by the legislature to provide an *alternative* streamlined
11 method to bring groundwater adjudications in California; CGAS was not intended to, nor could it
12 legally, provide the exclusive method of pursuing such litigation. While Ojai argues that CGAS
13 provides the “exclusive authority under which courts may conduct a comprehensive adjudication
14 to determine all of the rights to groundwater in a basin,” the quote relied upon for this assertion
15 states only “This chapter establishes methods and procedures for a comprehensive adjudication.”
16 While the legislature could have easily stated it establishes the “exclusive” or “sole” methods
17 and procedures, it did not. Rather, it provided a “streamlined” alternative to traditional service of
18 process, allowing litigants to take advantage of notice by publication in certain circumstances.

19 As described in the text of AB 1390 adopting the CGAS:

20 This bill would establish special procedures for a comprehensive adjudication,
21 which is defined as an action filed in superior court to comprehensively determine
22 rights to extract groundwater in a basin. The bill would authorize the court to
23 determine all groundwater rights of a basin, whether based on appropriation,
24 overlying right, or other basis of right, and use of storage space in the basin. The
25 bill would provide that these special procedures governing comprehensive
adjudications do not apply in certain cases that do not involve a comprehensive
allocation of a basin’s groundwater supply. The bill would authorize a judge of
the superior court to determine if the action is a comprehensive adjudication, as
specified.

26 The special procedures in the CGAS are available *only if* the court deems an action to be a
27 “comprehensive adjudication”. The bill defines “comprehensive adjudication” as “an action filed
28 in superior court to comprehensively determine rights to extract groundwater in a basin,” and

1 overall seeks to streamline groundwater adjudications. Thus, the CGAS serves as a roadmap for
2 streamlining the adjudication process, but does not supplant the common law that has developed
3 over the decades.

4 Nor could the legislature have limited the rights of a litigant to bring a water right
5 adjudication only under the CGAS; the legislature cannot amend the California Constitution,
6 which provides, in Article X Section 2, a restriction on the exercise of all water rights in the
7 State:

8 It is hereby declared that because of the conditions prevailing in this State, the
9 general welfare requires that the water resources of the State be put to beneficial
10 use to the fullest extent of which they are capable, and that the waste or
11 unreasonable use or unreasonable method of use of water be prevented, and that
12 the conservation of such water is to be exercised with a view to the reasonable
13 and beneficial use thereof in the interest of the people and for the public welfare...

14 The CGAS provides additional – not exclusive - tools for use in adjudications. For
15 example, Code of Civil Procedure (**CCP**) section 850 specifically *allows* the court to impose a
16 physical solution that is part of a stipulated judgment as a component of the final judgment if the
17 physical solution satisfies specific criteria. Again, while this section provides another tool for
18 moving a stipulated judgment ahead under certain circumstances, it is not the only tool, and the
19 CGAS clearly continues to allow the court to exercise its discretion to and duty to adopt physical
20 solutions in other circumstances by including language acknowledging the court’s common law
21 duty:

22 The court shall have the authority and the duty to impose a physical solution on the
23 parties in a comprehensive adjudication where necessary and consistent with Article 2
24 of Section X of the California Constitution.

25 CCP section 849(a), and by explicitly leaving common law water rights in place. (Wat. Code,
26 section 10720.5 [stating that “[n]othing in this part, or in any groundwater management plan
27 adopted pursuant to this part, determines or alters surface water rights or groundwater rights
28 under common law or any provision of law that determines or grants surface water rights”]; CCP
section 830, subd. (b)(7) [stating that “[e]xcept as provided in this paragraph, this chapter shall
not alter groundwater rights or the law concerning groundwater rights”].)

1 2. THE COMPREHENSIVE GROUNDWATER ADJUDICATION STATUTE DOES
2 NOT RESTRICT ADJUDICATIONS TO ONE BASIN.

3 Ojai puts strong emphasis on the plain meaning doctrine, which doctrine in this case
4 seems to work against the arguments brought in the Motion. The language of the CGAS in no
5 way limits comprehensive adjudications to one basin, quite the opposite. California code
6 sections, of which there are more than half a million, are contained in 29 separate codes. In an
7 effort to provide guidance to those needing to interpret these statutes, each Code, including the
8 Code of Civil Procedure, begins with a “General Provisions” section. Within these General
9 Provisions are codified directives, **which include the express statement that the singular**
10 **includes the plural**. CCP section 17(a).

11 3. THE FIRST AMENDED CROSS COMPLAINT DOES NOT ASK FOR
12 CORRELATIVE RIGHTS TO BE APPLIED ACROSS THE BASINS.

13 Ojai asserts that the court cannot properly combine four different groundwater basins
14 because “the correlative rights doctrine must be applied among the owners in each basin, and the
15 correlative rights and priorities cannot be determined when the owners are taking from different
16 sources.” This statement evidences a clear misunderstanding of how adjudications have
17 historically been addressed in California. When multiple basins are included in an adjudication,
18 the court does not attempt to apply correlative rights and priorities over the several basins; rather,
19 the court applies correlative rights and priorities within each basin, and then between each
20 individual basin and the water right holders of the interconnected surface water body. Of course,
21 if a physical solution is achieved, the court does not even reach this step. While the stated goal of
22 many adjudications, including this one, is to comprehensively determine water rights, very often
23 that is not done. Rather than face the draconian rules of pumping limitations and determination
24 of priorities, many adjudications are resolved through negotiations and compromise, thus
25 avoiding a final comprehensive determine of water rights and priorities.

26 ///

27 ///

28 ///

1 4. COURT ACTION IN THIS CASE DOES NOT PREEMPT THE ONGOING
2 DEVELOPMENT OF GROUNDWATER SUSTAINABILITY PLANS.

3 Ojai argues that because the Ojai Basin Groundwater Management Agency has not
4 completed a groundwater sustainability plan for the Ojai Basin, the Sustainable Groundwater
5 Management Act (SGMA) and CGAS “do not allow the court to preempt this ongoing process
6 with its own judgment and physical solution.” This assertion is so far outside of what the law
7 provides it is nothing less than intentionally misleading to the court. To the contrary, SGMA
8 expressly contemplates that adjudications can take place prior to, during, and subsequent to
9 adoption of a Groundwater Sustainability Plan (GSP) as provided in Water Code Section
10 10737.2:

11 In an adjudication action for a basin required to have a groundwater sustainability plan
12 under this part, the court shall manage the proceedings in a manner that minimizes
13 interference with the timely completion and implementation of a groundwater
14 sustainability plan, avoids redundancy and unnecessary costs in the development of
technical information and a physical solution, and is consistent with the attainment of
sustainable groundwater management within the timeframes established by this part.

15 And as further provided in CCP section 830(b)(4), which requires that an adjudication be
16 conducted “in a manner that is consistent with the achievement of groundwater sustainability
17 within the timeframes of the Sustainable Groundwater Management Act.”

18
19 5. THE CITY HAS STANDING TO BRING A CROSS-COMPLAINT AGAINST
20 DEFENDANTS IN THE OJAI BASIN.

21 As addressed by the City, for the purposes of this Motion, the court must assume that the
22 factual allegations in the City’s Third Amended Cross-Complaint (TACC) are true. These
23 allegations include the assertion that the City holds pueblo, prescriptive, and/or appropriative
24 rights to the waters in the watershed (TACC, ¶ 107), which gives it a priority right to use
25 sufficient water from the Ventura River Watershed, which by definition includes the Ojai Basin,
26 to meet its needs (TACC, ¶¶ 107, 124-126). The pumping and/or diversion activities of Cross-
27 Defendants reduce Watershed groundwater tables and surface flows and contribute to the
28 deficiency of the Watershed water supply as a whole. (TACC, ¶ 108.)

1 While many cross-defendants, including Districts, dispute the City's assertion that it
2 holds pueblo rights, those allegations must be presumed to be true for purposes of this motion.
3 Consequently, the City has standing to challenge the rights of all water users in the Ventura
4 River and all four connected groundwater basins.

5
6 6. CONCLUSION.

7 The Court must deny Ojai's Motion. It is contrary to the law of the case, improperly
8 ignores or directly misstates the material allegations in the TACC, is inconsistent with settled
9 California water law and the CAGS that was designed to streamline and supplement – not
10 eliminate - common law. The Court of Appeal has already held that Ventura is *entitled* to bring
11 this action against the other users of the interconnected waters in the Ventura River Watershed,
12 including groundwater users in the watershed's four groundwater basins and that the Court *must*
13 consider the demands made on the watershed by those other water users. *Santa Barbara*
14 *Channelkeeper v. City of San Buenaventura* (2018) 19 Cal.App.5th 1176, at 1188, 1190-1194.

15
16 Dated: January 3, 2022

HERUM CRABTREE SUNTAG
A California Professional Corporation



17
18
19 By: JEANNE M. ZOLEZZI
20 Attorneys for Cross-Defendants
21 VENTURA RIVER WATER DISTRICT
22 and MEINERS OAKS WATER DISTRICT
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1 *Santa Barbara Channelkeeper v. State Water Resources Control Board, et al.*
2 Los Angeles County Superior Court – Case No. Case No 19STCP01176

3 **PROOF OF SERVICE**

4 I, PEGGY GARCIA, certify and declare as follows:

5 I am over the age of 18 years and not a party to this action. My business address is:
6 HERUM\CRABTREE\SUNTAG, 5757 Pacific Avenue, Suite 222, Stockton, California 95207.
7 On the date set forth below, I served the following document(s):

8 **CROSS-DEFENDANTS' VENTURA RIVER WATER DISTRICT AND MEINERS
9 OAKS WATER DISTRICT JOINDER IN CITY OF SAN BUENAVENTURA'S
10 OPPOSITION TO CITY OF OJAI'S MOTION FOR JUDGMENT ON THE
11 PLEADINGS**

12 **BY ELECTRONIC TRANSMISSION:** Pursuant to Court Order Authorizing Electronic
13 Service, I provided the document(s) listed above electronically on the **File &**
14 **ServeXpress** website for distribution to the SERVICE LIST maintained for this matter.

15 **BY U.S. MAIL** – By enclosing the document(s) in a sealed envelope addressed to the
16 person(s) set forth below, and placing the envelope for collection and mailing, following
17 our ordinary business practices. I am readily familiar with this business's practice for
18 collecting and processing of correspondence for mailing. On the same day that
19 correspondence is placed for collection and mailing, it is deposited in the ordinary course
20 of business with the United States Postal Service, in a sealed envelope with postage fully
21 prepaid.

22 The envelope was addressed as follows:

23 **BY FEDERAL EXPRESS/OVERNIGHT MAIL** in a sealed envelope, with postage
24 thereon fully prepaid. [Code Civ. Proc., §§ 1013(c), 2015.5.]

25 The envelope was addressed as follows:

26 **BY PERSONAL SERVICE/HAND DELIVERY.**

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

Dated: January 3, 2022



PEGGY GARCIA