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9 Attorneys for Cross-Defendant
 AERA ENERGY LLC

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

13 SANTA BARBARA CHANNELKEEPER,
 14 a California non-profit corporation,

15 Petitioner,

16 v.

17 STATE WATER RESOURCES CONTROL
 BOARD, et al.,

18 Respondents.

19 CITY OF SAN BUENAVENTURA, et al.,

20 Cross-Complainant,

21 v.

22 DUNCAN ABBOTT, an individual, et al.,

23 Cross-Defendants.
 24

Case No. 19STCP01176

**CROSS-DEFENDANT AERA ENERGY
 LLC'S STATUS CONFERENCE
 REPORT**

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

Date: Nov. 15, 2021
 Time: 1:30 P.M.
 Dept.: SS10

Action filed: Sept. 19, 2014
 Trial Date (Phase 1): Feb. 14, 2022

1 Cross-Defendant Aera Energy LLC (“Aera”) respectfully submits this report in advance of
2 the status conference to be held on November 15, 2021. At the October 18, 2021 status
3 conference, the Court set the November 15 conference to address the structure of the Phase 1
4 trial, including issues of fact and law to be tried. While Aera believes that it will reach an
5 agreement with the City of San Buenaventura (“City”) to avoid the need to participate in Phase 1,
6 if the parties are unable to do so, Aera respectfully submits that Phase 1 should address the depth
7 of the subject watershed and its interconnectivity (i.e., lack thereof) with the much deeper
8 petroleum formations of the Ventura Oil Field from which Aera extracts and reinjects saline
9 water.

10 **I. BACKGROUND**

11 On January 2, 2020, the City filed its operative Third Amended Cross-Complaint in this
12 action commencing a comprehensive adjudication of the Ventura River Watershed, which the
13 City alleges includes four groundwater basins (i.e., the Lower Ventura River Basin, the Upper
14 Ventura River Basin, the Ojai Valley Basin and the Upper Ojai Valley Basin) (“Watershed”). On
15 June 21, 2021, the Court granted the City’s Motion to Bifurcate and Partial Lifting of the
16 Discovery Stay (“Motion”). In its Motion, the City sought to bifurcate the case in order to resolve
17 two issues in the Phase 1 trial: 1) determination of the Watershed boundaries and the boundaries
18 of the four groundwater basins; and 2) determination of the interconnection between the surface
19 water and the groundwater in the Watershed, including the interconnection between surface water
20 and the four groundwater basins, and the interconnection between those groundwater basins and
21 the Ventura River and its tributaries. Motion, 5:10-16. The City argued that “an early resolution
22 of these two discrete issues will inform the Court as to the extent, nature, and boundaries of the
23 resources being litigated, and confirm that all parties are properly before the Court.” *Id.*, 5:17-19.

24 **II. AERA VENTURA OIL FIELD OPERATIONS**

25 Aera is unique among the numerous parties in this action. Aera obtains its water supply
26 from the City and other water purveyors, but Aera operates oil and gas-related wells in the
27 Ventura Oil Field, which covers approximately 3,410 acres on both sides of Highway 33. In
28 addition to petroleum, some of Aera’s wells extract saline water from and reinject saline water

1 back into very deep geological formations pursuant to authorizations and stringent requirements
2 of the California Department of Conservation Geologic Energy Management Division (“Cal-
3 GEM”).¹ A limited part of this oil field on the surface traverses the narrow geographic footprint
4 of an area of the Lower Ventura River Basin.

5 The claims in this action are ambiguous as to whether and how they purport to pertain to
6 Aera’s oil and gas-related wells. The draft proposed Physical Solution, lodged with the Court on
7 July 12, 2021, provides that it does not apply to petroleum production-related wells that extract or
8 inject fluids, including waters from or into formations that are not underground sources of
9 drinking water or are exempted aquifers. *See* Draft Proposed Physical Solution, ¶¶ 4.3 and 5.2.3.
10 At the status conference held on August 16, 2021, after reviewing the draft proposed Physical
11 Solution, the Court asked whether the parties could reach an agreement to exclude the petroleum-
12 related wells from the litigation. To that end, Aera has been conferring with the City and is
13 hopeful that an agreement will be reached.

14 **III. PHASE 1’S SCOPE SHOULD ADDRESS WHETHER THE DEEPER**
15 **PETROLEUM FORMATION IS OUTSIDE OF THE SUBJECT GROUNDWATER**
16 **BASINS**

17 While Aera and the City have had constructive discussions, given an agreement had not
18 been reached, Aera had no choice but to timely designate and disclose an expert hydrogeologist,
19 Murray Einarson, on October 22, 2021, in accordance with the Phase 1 schedule. Simply put, the
20 primary issue for Aera’s expert concerns the depth of the Lower Ventura River Basin and such
21 basin’s lack of interconnectivity with the much deeper geologic formations from which saline
22 water is produced by some of Aera’s oil and gas wells and reinjected. Such wells are perforated
23 *several hundred to thousands (in most cases) of feet below* the depth of, and therefore outside the
24 boundary of, the relatively shallow Lower Ventura River Basin, which has groundwater bearing
25 formations of quaternary alluvial sediments ranging from approximately 60 to no more than 150

26 ¹ Such injection occurs within “exempted aquifers” that are not considered underground sources
27 of drinking water in accordance with the Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*,
28 pursuant to the authorization of CalGEM and the U.S. Environmental Protection Agency. 40
C.F.R. section 146.4. *See also* Injection Wells - Frequently Asked Questions, CalGEM
(https://www.conservation.ca.gov/calgem/general_information/Pages/class_injection_wells.aspx)

1 feet below the ground surface.

2 The determination of the boundaries, including the depth, and interconnectivity of the
3 water basins is plainly within the scope of Phase 1. *See* City's Notice of Phase 1 Trial Issues,
4 Nov. 1, 2021, at 2:13-20. In the event that the parties are unable to reach an agreement, Aera
5 submits that it is within the scope of Phase 1 to determine whether the deep geologic formations
6 from which it extracts and reinjects saline water are outside of the boundaries of the Lower
7 Ventura River Basin and not connected to the Watershed.

8 **IV. CONCLUSION**

9 Aera remains optimistic and committed to working with the City to reach an agreement to
10 exclude its wells from the litigation. However, if an agreement is not reached, Aera believes that
11 addressing whether the deep geological formations from which it extracts and reinjects saline
12 water are within the boundaries of or connected to the Watershed is within the scope of Phase 1.

13 Dated: November 8, 2021

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15 By: _____

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