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12 CITY OF SAN BUENAVENTURA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

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16 SANTA BARBARA CHANNELKEEPER, a
California non-profit corporation,
17
Petitioner,
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v.
19 STATE WATER RESOURCES CONTROL
BOARD, etc., et al.,
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Respondents.
21
22 CITY OF SAN BUENAVENTURA, etc.,
23
Cross-Complainant
24
v.
25 DUNCAN ABBOTT, an individual, et al.
26
Cross-Defendants.
27
28

Exempt From Filing Fees Pursuant to
Cal. Gov't Code § 6103

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAY 03 2021

Sherri R. Carter, Executive Officer/Clerk
By: Amanda Flores, Deputy.

Case No. 19STCP01176
Judge: Honorable William F. Highberger
NOTICE OF RULING
Date: April 19, 2021
Time: 1:30 p.m.
Dept: SS10

Action Filed: Sept. 19, 2014
Trial Date: Not Set

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1. In advance of the Status Conference, the Court issued a tentative ruling on April 18, 2021 through File & Serve Xpress. The Court's April 18, 2021 document is attached as Exhibit A.
2. City of San Buenaventura (City) will work with Santa Barbara Channelkeeper (Channelkeeper) to prepare a Stipulation and order regarding dismissal of Channelkeeper's action against the City.
3. The Court set a hearing date on the City's Motion to Bifurcate on June 21, 2021 at 1:30 p.m. Moving papers must be filed by May 11, 2021. Oppositions must be filed by June 1, 2021, and replies must be filed by June 14, 2021.
4. The Court invited Cross-Defendant Claude Baggerly to file a Motion to Appoint a Special Master and set a hearing date on June 21, 2021 at 1:30 p.m. Moving papers must be filed by May 11, 2021. Oppositions must be filed by June 1, 2021, and replies must be filed by June 14, 2021.
5. The Court set a further Status Conference for May 10, 2021, at 1:30 p.m. and ordered that a joint status report and/or any unilateral status reports be filed and served by May 3, 2021.

1 6. The Court set an Order to Show Cause hearing regarding service by publication of
2 the summons in the *Ventura County Star* for the May 10, 2021 Status Conference.
3 City will send Notice of the Order to Show Cause hearing along with Notices and
4 Acknowledgments of receipt to 51 unserved cross-defendants via overnight mail
5 by April 28, 2021. Further, City will submit additional documentation regarding
6 the request for publication of the summons on or before May 5, 2021.

7
8 Dated: May 3, 2021

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10 By: 
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EXHIBIT A



19STCP01176 *Santa Barbara Channelkeeper v. SWRCB*

April 19, 2020 Tentatives re Further Status Conference

Status of Certain Recent Filings:

1. The Court's public website shows that City of Ventura's two ex parte applications to extend deadlines for service of the Cross-Complaint were each signed by me and filed on April 5, 2021.
2. The Court does not find any trace of the submission of plaintiff Santa Barbara Channelkeeper's Request for Dismissal as to defendant City of Ventura. It was supposedly lodged at Mosk on March 16, 2021, but that is no evidence of it having been served on FSX at about that time (as is ALWAYS required for any paper which is going to be filed or lodged with the Court) so my ability to help you with tracing it from my end is limited by your failure to properly serve it. The original would presumably get a Received stamp by Court staff at Mosk to match the date they understood it was left in the drop box, but it would not actually get Filed until a clerical employee (probably at Spring Street Courthouse) had passed on its technical correctness (the same process used in processing Default requests). I will check with my courtroom staff tomorrow to see if they have any idea where the original might be at this time.

Proposed Hearing Date For Motion To Bifurcate And Lift Discovery Stay:

Your proposed hearing date of June 21, 2021 at 1:30 p.m. is acceptable to the Court. Note: our records (both official on eCourt and unofficial on my Outlook calendar) do NOT show any future dates for this case beyond April 19, 2021. I certainly agree we should meet often, but please be sure we have a clear mutual understanding tomorrow as to each and all of our future dates so they get on our calendars.

Comments On Physical Solution Briefing:

I've scratched the surface but not completed a full review of this material. I can raise a few questions:

1. Assuming I agree to grant bifurcation of the First Phase as: (a) determination of boundaries of Basins and Watershed and (b) interconnectedness (if any) of surface water and groundwater basins, when in the process do I address various parties' concerns that (i) misnamed parties should get a quick exit from this case, and (ii) the 1-versus-4 basins question is addressed, e.g. whether the polling requirements for C.C.P. § 850(b) are done on a unified, multi-basin approach or whether four separate polls have to be satisfied? Put differently, when and how do I decide whether four separate adjudications are required as suggested by several parties (though not the Proponents of the draft Physical Solution)? My initial impression is that such decisions should be made long in advance of the start of the First Phase trial and as soon after bifurcation is determined as possible. (Asking this question and the next question is NOT intended as an indication that I will grant the anticipated motion to bifurcate.)
2. What happens if I decide this has to proceed as four separate adjudications for purposes of § 850(b) and otherwise AND the Proponents cannot satisfy the polling test for each of the four groundwater basins? What burden of proof and persuasion then applies? Do the

Proponents then have to satisfy this burden to obtain judicial approval of the Physical Solution over objection?

3. How soon in the process should I decide the question raised by the Whitman parties and others: Whether City of Ventura enjoys any Pueblo water rights protected by the Treaty of Guadalupe Hidalgo? Is this a pure question of law or a question of fact or some of each?

Video Tour Versus In-Person Tour:

As beautiful as parts of Ventura County can be, the Court fully understands the benefits of doing this via a pre-recorded tour taken by drone for presentation to the Court later in a public court session after the tour footage is edited.

Trial Scheduling:

The jury trial that competed for your attention on March 15 was resolved shortly thereafter, in large part because the parties and their attorneys understood I was serious about commencing their trial as scheduled, in person and with prospective jurors, on March 29. I will be equally serious about moving your case forward on the scheduled day for trial, but I understand this will be a court trial with no jurors needed. You don't presently give me a duration estimate for either trial, and it is perhaps too early to do so. I am NOT a fan of long trials droning on while I take notes on the bench. From many years' experience, I have to acknowledge that lawyers conducting a jury trial are much more respectful of the importance of brevity as compared to lawyers more comfortable in court trials and depositions. I have excellent availability presently for a trial of suitable length, conducted with appropriate dispatch and efficiency, in November 2021 and early 2022. I will review with you on the record tomorrow all the competing trial dates which are set during this period. You WILL be able to get a prompt trial in my courtroom.

Service By Publication:

Given that you represent that the Ventura Sheriff believes he can make no efforts to overcome locked gates at personal residences to effectuate service of the Summons and Cross-Complaint, I will be open to setting an OSC why these cross-defendants should not be served by publication with notice of such OSC served by some mode of confirmed delivery by U.S. Postal, FedEx, UPS or otherwise on the occupants/Cross-Defendants living behind the locked gates. If no persuasive opposition to such OSC is provided by the interested parties, I anticipate approving this necessary fallback mode of service by publication.

Confirmation Of Postal Delivery During Pandemic In Absence Of Signature:

The burden of this ambiguity falls in the first instance on Cross-Complainant City of Ventura since you need proper service to support the enforceability of the ultimate Judgment you hope to obtain. If you think I can or should make some confirming order, make a suggestion as to how you propose to proceed.

Case List Prepared By Outside Vendor:

Please clarify if you expect to treat this database as a reliable, disinterested resource for all parties, their counsel, the Court and (possibly) the public to use or if you expect this database to be treated as the official record of the Court. This will make a big difference as to whether or not I can approve this or if our court administrators should consent to its use.

Possible Use Of Hydrology Master:

Should I appoint a hydrology master given my lack of education in this field? If so, who pays and how do I pick a suitable list of candidates for party objection and ranking?

Other?

What else should we discuss?

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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, a California State Agency, et al.,

Respondents.

CITY OF SAN BUENAVENTURA, a
California municipal corporation,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

Case No. 19STCP01176

Judge: Hon. William F. Highberger

PROOF OF SERVICE

Action Filed: September 19, 2014

Trial Date: Not Set

PROOF OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to the action herein; my business address is Best Best & Krieger LLP, 2001 N. Main Street,, Ste 390, Walnut Creek, CA 94596. On May 3, 2021, I served the following document(s):

NOTICE OF RULING

- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
- ☐ I caused such envelope to be delivered via overnight delivery. Such envelope was deposited for delivery by United Parcel Service following the firm's ordinary business practices.
- ☒ by transmission via **E-Service to File & ServeXpress** to the person(s) set forth below. Local Rules of Court 2.10 (P).
- ☒ **By e-mail or electronic transmission.** I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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Robert Smith, Trustee of the Charles R. Rudd
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Bower Family Trust; Mark Terry Cline and Bonnie Burreson Cline, Trustees of the Mark Terry Cline and Connie Burreson Cline Revocable Trust; Robert R. Daddi and Darlene J. Daddi; Lucille A. Elrod, Trustee of the John and Lucille Elrod Family Trust; Friend's Stable & Orchard Inc. Daniel Hultgen, Trustee of the Hultgen Living Trust; Ojai Golf, LLC; Three Oaks, LLC, Erica J. Abrams, Trustee of the Erica J. Abrams Trust; Raul E. Alvarado and Hildegard M. Alvarado, Trustees of the Alvarado Family Trust; William Armstrong and April Nardini; Joseph Lynn Barthelemy and Elvira Lilly Barthelemy, Trustees of the Joseph Lynn Barthelemy and Elvira Lilly Barthelemy 2002 Family Trust; James S. Bennett and Carolyn D. Bennett, Trustees of the Bennett Family Trust; Sumeet Bhatia and Michael McDonald; John Joseph Broesamle and Katharine Sue Broesamle, Trustees of the Broesamle Family Trust; Richard Aaron Carlson, Trustee of the Richard Aaron Carlson Trust and Michelle Larson, Trustee of the Michelle Larson Family Trust; Thomas D. Carver and Cynthia L. Carver; Dana Cenicerros, Trustee of the Dana and Dawn Cenicerros Revocable Living Trust; Deborah Lys Martin Crawford; Frank Clay Creasey Jr.; Debra Joy Reed, Trustee of The Debra Joy Reed Revocable Trust Dated November 3, 1994; Frederic Devault; Diana Syvertson, Trustee of the Diana Syvertson Living Trust; Dive Deep L.L.C.; Douglas Roy Parent and Ann Marie Parent; William Erickson; Gelb Enterprises, L.P.; Jan Stephen Granade and Priscilla K. Granade, Trustees of the Granade Family Revocable Living Trust; Margot J. Griswold; Brian C. Haase and Marie Haase, Trustees of the B&M Haase Trust Dated October 8, 2019; Thomas Lann Harper and Jadona Collier-Harper; Ojai-Jackman L.L.C.; Kevin Rainwater and Marianne Ratcliff; Keith M. Nightingale and Victoria V. Nightingale, Trustees of The Nightingale Family Trust; Heide C. Kurtz, Trustee of The Kurtz Family Trust Dated January 19, 2019; Randall Leavitt, Trustee of The Randall B. Leavitt 2010 Trust; Edward C. Leicht and Jacqueline M. Leicht, Trustees of The Leicht Family 2013 Revocable Trust Dated March 1, 2013; Paul Lepiane and Bengtson Bo; Robert Levin and Lisa Solinas, Trustees of The Levin Family Living Trust; Francis Longstaff and Shauna Longstaff, Trustees of The Longstaff Trust Dated

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October 11, 2018; Mandy Macaluso, Trustee of The Living Trust of Mandy Macaluso; Marilyn Wallace, Trustee of The Marilyn Wallace Separate Property Trust; Daniel J. McSweeney and Yoko McSweeney; Wendell M. Mortensen and Laura L. Mortensen, Trustees of The Mortensen Family Revocable Trust; Timothy Jerome Murch and Jody Caren Murch, Trustees of The Jodim Family 2007 Trust Dated July 31, 2007; Chris E. Platt and Hanh H. Platt; Robert Erickson, Trustee and Ronald Wilson; Michael D. Robertson and Kimberly A. Robertson, Trustees of The Robertson Family Trust; James P. Robie, Trustee of the Robie Family Trust; Petter Romming and Kimi Romming, Trustees; Marc Saleh, Trustee of The Saleh Family Trust; Konrad Stefan Sonnenfeld, Trustee of The Konrad Stefan Sonnenfeld Living Trust; Mark Sutherland, Trustee of The Sutherland Marital Trust; John H. Thacher and Caroline H. Thacher, Trustees of The Thacher Family Trust Dated January 2004; Gilbert G. Vondriska and Carolyn J. Vondriska, Trustees of The Vondriska Living Trust; William D. Rusin, Sr., Trustee of the William D. Rusin Sr. Revocable Trust; Oscar D. Acosta, Trustee of the Acosta Trust

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1 I declare under penalty of perjury under the laws of the State of California that the
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3 Executed on May 3, 2021 at Walnut Creek, California

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