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Superior Court of California
County of Los Angeles

NOV 09 2020

Sherril K. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

10
11 Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

15 SANTA BARBARA CHANNELKEEPER,
16 a California non-profit corporation,
17
18 Petitioner,
19
20 v.
19 STATE WATER RESOURCES
CONTROL BOARD, etc., et al.,
20
21 Respondents.

Case No. 19STCP01176
Judge: Honorable William F. Highberger
STATUS CONFERENCE REPORT
Date: November 16, 2020
Time: 2:00 p.m.
Dept: SS10
Action Filed: Sept. 19, 2014
Trial Date: Not Set

22
23 CITY OF SAN BUENAVENTURA, etc.,
24
25 Cross-Complainant
26
27 v.
26 DUNCAN ABBOTT, an individual, et al.
27
28 Cross-Defendants.

- 1 (3) October 8, 2020 – Flow Analysis;
- 2 (4) October 15, 2020 – Monitoring and Adaptive Management;
- 3 (5) October 29 – Costs.

4 In addition to these regularly scheduled meet and confer sessions, the Proposing Parties
5 have also held multiple meetings with specific parties, including, but not limited to the State
6 Water Resources Control Board (State Board) and the Department of Fish & Wildlife (CDFW).
7 The Proposing Parties have received significant valuable input on the Physical Solution through
8 these formal and informal meet and confer sessions, and they believe that additional time to
9 continue these meetings is appropriate. The Proposing Parties therefore would like to continue
10 this meet and confer process through at least the end of January 2021, and possibly beyond, and
11 request that the Court set a further CMC in February 2021 to permit this process to continue.

12
13 2. UPDATE RE SERVICE OF THE THIRD AMENDED CROSS-COMPLAINT
14 AND NOTICE OF COMMENCEMENT OF ADJUDICATION

15
16 The City diligently continues to attempt to serve the Third Amended Cross-Complaint on
17 all named Cross-Defendants and to provide the notice of adjudication and form answer to all
18 overlying landowners within the Ventura River Watershed’s groundwater basins, while being
19 mindful of Covid-19 public health and safety constraints.

20 A. SERVICE

21 The City mailed 738 service packets, requesting return of an acknowledgement of receipt,
22 to un-served Cross-Defendants in mid-August, 2020. To date, the City has received
23 approximately 165 acknowledgments of receipt. The City will continue to attempt to locate and
24 serve the remaining un-served Cross-Defendants. Additional service attempts may include
25 further research of newly obtained County Assessor records, additional correspondence to Cross-
26 Defendants, another attempt at mail service, outreach to individual Cross-Defendants to schedule
27 service, and additional personal service attempts. The City will ultimately seek to serve any
28 remaining un-served Cross-Defendants that it cannot locate via publication. The City is

1 cognizant of the Court's prior statements regarding service by publication and will make all
2 diligent efforts to perfect service on the named Cross-Defendant prior to seeking approval to
3 serve by publication.

4 B. NOTICE

5 The City mailed 3,072 notice of adjudication packets, return receipt requested, to owners
6 of parcels for which it had not yet received a return receipt in mid-August, 2020. The response to
7 this additional mailing was positive, and there are now only approximately 107 parcels for which
8 the City has not received a return receipt for the notice of adjudication. The City will make
9 additional attempts to provide notices of adjudication and to obtain receipts before ultimately
10 posting the notice of adjudication in a conspicuous place on the real property for any parcels for
11 which the City does not obtain a return receipt pursuant to Code of Civil Procedure section 836,
12 subdivision (d)(1)(C). The City will take additional steps to complete the required notice process
13 such as additional research from newly obtained County Assessor records, attempting another
14 notice packet mailing, and outreach to individual property owners to schedule delivery of the
15 notice of adjudication.

16
17 3. NEWLY APPEARING PARTIES

18
19 As of November 6, 2020, the following additional parties have appeared and/or filed an
20 answer to the Third Amended Cross-Complaint:

- 21 A. Michael Bradbury, Heidi Bradbury, and The Heidi Gramkow Trust, answer
22 filed 8/18/20;
- 23 B. Joyce Syme, and The Joyce A. Syme Living Trust, answer filed 9/18/20;
- 24 C. County of Ventura, notice of appearance filed 9/29/20;
- 25 D. Santa Ana Ranch, Inc., answer filed 9/29/20;
- 26 E. The Manfred Krankl and Elaine V. Krankl Living Trust, answer filed
27 10/15/20;
- 28 F. Loa E. Bliss 2006 Revocable Trust, Loa E. Bliss & David A. Gilbert,

- 1 Trustees, answer filed 10/20/20;
- 2 G. Asquith Family Limited Partnership, Ltd., answer filed 10/26/20;
- 3 H. Michael and Janet Boulton, answer filed 10/26/20;
- 4 I. Burgess Ranch, a California Corporation, answer filed 10/26/20;
- 5 J. Cary Cheldin, answer filed 10/26/20;
- 6 K. Cynthia Daniels, answer filed 10/26/20;
- 7 L. Wayne Francis, answer filed 10/26/20;
- 8 M. David Friend, answer filed 10/26/20;
- 9 N. The Larry & Pat Hartmann Family Trust, answer filed 10/26/20;
- 10 O. The John N. Hartmann Trust, answer filed 10/26/20;
- 11 P. Garry Hirschcron, answer filed 10/26/20;
- 12 Q. Cheryl Jensen, answer filed 10/26/20;
- 13 R. Krotona Institute of Theosophy, answer filed 10/26/20;
- 14 S. Lutheran Church of the Holy Cross of Ojai, California, a California Non-
- 15 Profit Corporation, answer filed 10/26/20;
- 16 T. North Fork Springs Mutual Water Company, a California Corporation,
- 17 answer filed 10/26/20;
- 18 U. Janice Sattler (Mineo), answer filed 10/26/20;
- 19 V. Siete Robles Mutual Water Company, a California Corporation, answer
- 20 filed 10/26/20;
- 21 W. Eitan Sloustcher, answer filed 10/26/20;
- 22 X. Rancho Sueno, LLC, answer filed 10/26/20;
- 23 Y. Ojai Oil Company, answer served 10/30/20;
- 24 Z. Ojai Valley School, answer served 10/30/20;
- 25 AA. Sharon Hamm-Booth and David Robert Hamm, Co-Trustees of The Hamm
- 26 2004 Family Trust Dated April 29, 2004, answer served 10/30/20;
- 27 BB. Emily V. Brown, answer served 10/30/20;
- 28 CC. Rogers-Cooper Memorial Foundation, answer served 11/2/20;

1 DD. Senior Canyon Mutual Water Company, answer served 11/2/20; and

2 EE. Reeves Orchard, LLC, answer served 11/2/20.

3
4 4. RESPONSE TO THIRD AMENDED CROSS-COMPLAINT

5
6 The current deadline to respond to the City's Third Amended Cross-Complaint is January
7 29, 2021. The Court previously ordered that Cross-Defendants may elect to file a Stipulation for
8 Disclaimer, in lieu of filing an answer, requiring a \$20 stipulation filing fee rather than a \$435
9 first appearance fee. The City requests that the Court similarly order that Cross-Defendants and
10 all those who have received notice of the adjudication may elect to file a Stipulation for Entry of
11 Physical Solution and Judgment, a draft of which is attached hereto as Exhibit A, in lieu of filing
12 an answer, requiring a \$20 stipulation filing fee rather than a \$435 first appearance fee.
13 Accordingly, the City proposes that by January 29, 2021, all Cross-Defendants and all those who
14 have received notice of the adjudication do one of the following:

- 15 1. File a Stipulation for Entry of Physical Solution and Judgment;
16 2. File a Stipulation for Disclaimer;
17 3. File an Answer or other responsive pleading the City's Third Amended
18 Cross-Complaint; or
19 4. Take no action. For those who have received notice of the adjudication,
20 taking no action will mean that the physical solution and judgment entered
21 in this matter will apply to their property. For named Cross-Defendants,
22 taking no action may result in the entry of a default judgment.

23
24 5. POSITION OF CROSS-DEFENDANT LOA E. BLISS 2006 REVOCABLE
25 TRUST, LOA E. BLISS & DAVID A. GILBERT, TRUSTEES

26
27 Ms. Loa E. Bliss, Trustee of the Loa E. Bliss 2006 Revocable Trust (the "Trust") sent
28 correspondence to counsel for the City on November 5, 2020. Ms. Bliss requested redline edits to

1 this Report and enclosed a letter regarding certain jurisdictional and other issues, some of which
2 have been previously addressed in the Joint Brief Regarding in Rem and in Personam
3 Jurisdiction, dated November 15, 2019. She requested the letter be filed as an attachment to this
4 Report, and it is attached hereto as Exhibit B. She also inquired about the hydrological status of
5 the Upper Ojai Basin. The City responded to Ms. Bliss on November 6, 2020 regarding her
6 jurisdictional and hydrological questions and proposed adding this section to the Report. Ms.
7 Bliss raised the following additional points of concern and contention in her redline edits and
8 correspondence to the City:

- 9 • The Trust believes the parties and Court should be continue to be aware of how
10 few answers or other responsive pleadings have been filed in response to the Third
11 Amended Cross-Complaint, compared with the number of landowners affected by
12 it and by this case.
- 13 • The Trust does not concede subject matter jurisdiction as to the Upper Ojai basin
14 groundwater and has raised this jurisdictional issue as a burden of the City to
15 prove factually, legally, and before any defaults are issued.
- 16 • The Trust requests the Proposing Parties hold additional meet and confer
17 conferences regarding the Physical Solution.
- 18 • The Trust asserts a Stipulation for Entry of Physical Solution and Judgment will
19 result in a forfeiture of rights in this case. Specifically, the Trust wants to ensure
20 that any implication of rights—relating to water or a party’s right to dispute issues
21 in this case—is made clear to any party before their election to agree to a
22 Stipulation for Entry of Physical Solution and Judgment, and that any such party is
23 given sufficient and reasonable time to consider any such implications. The City
24 disputes this assertion.
- 25 • The Trust wants to ensure proper notice and due process is given surrounding any
26 potential default judgment or implementation of the Proposed Physical Solution.
27 Specifically, the Trust has concerns with the City’s attempts to obtain automatic
28 application of the Proposed Physical Solution resulting from a party’s failure to

1 answer or file an otherwise responsive pleading.

- 2 • The Trust believes that additional time may need to be set for meet and confer
3 efforts regarding the Physical Solution. The parties and Court should consider the
4 need for these additional efforts along with the current deadline to answer or file a
5 responsive pleading.
- 6 • The Trust has raised numerous concerns regarding the Proposed Physical Solution,
7 including that, although it does not presently appear to include specific mention of
8 effects on Upper Ojai, any subsequent application of the Proposed Physical
9 Solution in Upper Ojai would be problematic because (as one example) Upper
10 Ojai is a collection of individuals with no entity representative of their interests
11 (e.g., a water district, city, or town).
- 12 • The Trust believes all reports, findings, and opinions held by the City or Proposing
13 Parties with regard to Upper Ojai or other relevant basin should be made public
14 and made available to all affected overlying landowners without regard to signing
15 confidentiality agreements, as currently required by the City

16
17 6. NEXT STEPS AND REQUEST FOR FURTHER CMC

18
19 The Proposing Parties will continue to solicit input from all affected parties and
20 landowners regarding the Proposed Physical Solution and to meet and confer regarding its
21 contents and potential revisions thereto. The Proposing Parties are willing to discuss
22 modifications to the Proposed Physical Solution The Proposing Parties may propose a revised
23 version of the Proposed Physical Solution based on the input from the meet and confer process.

24 In the event that the parties are unable to agree to a Proposed Physical Solution within a
25 reasonable amount of time or period of time otherwise instructed by the Court, the Proposing
26 Parties will request that the case will proceed to a discovery phase, and then ultimately an
27 evidentiary hearing on whether to enter the Proposed Physical Solution as a judgment binding on
28 all parties. The Proposing Parties may suggest at the next Status Conference that the Court set a

1 schedule for a proposed discovery phase, pretrial proceedings, and evidentiary hearing regarding
2 the Proposed Physical Solution. Other parties (including the State Board and CDFW or Cross-
3 Defendants) may disagree that that is the next step in this process. The Proposing Parties request
4 that the Court set a further Status Conference for February 2021, after responses to the Third
5 Amended Cross-Complaint are currently scheduled to be complete, and accounting for any
6 additional meet and confer conferences that the parties may hold.

7
8 7. CONCLUSION AND SUMMARY OF REQUESTS

9
10 Based on the above Report, the parties request that the Court consider taking the following
11 actions:

- 12 • Set a further Status Conference for February 2021 to provide an update on the
13 parties' efforts to meet and confer about the Proposing Parties' Proposed Physical
14 Solution and potentially to set a schedule and process for the Court's and parties'
15 consideration of the Physical Solution
- 16 • Order that parties may elect to file a Stipulation for Entry of Physical Solution and
17 Judgment, in lieu of an answer, requiring a \$20 stipulation fee rather than a \$435
18 appearance fee.
- 19 • Order that all served parties and all entities and overlying landowners who have
20 received notice of this adjudication take one of the following actions by January
21 29, 2021:
 - 22 1. File a Stipulation for Entry of Physical Solution and Judgment;
 - 23 2. File a Stipulation for Disclaimer;
 - 24 3. File an Answer or other responsive pleading the City's Third Amended
25 Cross-Complaint; or
 - 26 4. Take no action. For those who have received notice of the adjudication,
27 taking no action will mean that the physical solution and judgment entered
28 in this matter will apply to their property. For named Cross-Defendants,

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taking no action may result in the entry of a default judgment.

Dated: November 9, 2020

BEST BEST & KRIEGER LLP


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

EXHIBIT A

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10 Attorneys for Respondent and Cross-Complainant
11 CITY OF SAN BUENAVENTURA

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

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

Case No. 19STCP01176

16 Petitioner,

Judge: Honorable William F. Highberger

17 v.

STIPULATION FOR ENTRY OF PHYSICAL
SOLUTION AND JUDGMENT; [PROPOSED]
ORDER

18 STATE WATER RESOURCES
19 CONTROL BOARD, etc., et al.,

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

20 Respondents.

21
22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant

24 v.

25 DUNCAN ABBOTT, an individual, et al.

26 Cross-Defendants.
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28

1 Cross-Complainant City of San Buenaventura (“City”) and Cross-Defendant [INSERT
2 NAME] (“Cross-Defendant”) (City and Cross-Defendant are collectively referred to herein as the
3 “Parties”), hereby stipulate as follows:

4 I. RECITALS

5 1. On September 19, 2014, Plaintiff Santa Barbara Channelkeeper (“Channelkeeper”)
6 filed a Complaint and Petition for Declaratory Relief and a Writ of Mandate (“Complaint”)
7 pursuant to Code of Civil Procedure section 1085 in the County of San Francisco Superior Court
8 (Case No. CPF-14-513875) against the City and Respondent State Water Resources Control
9 Board. The action is now pending in the Superior Court for Los Angeles County before the
10 Honorable William F. Highberger.

11 2. On January 2, 2020, the City filed its operative Third Amended Cross-Complaint
12 in this action (“Amended Cross-Complaint”) commencing a comprehensive adjudication of the
13 Ventura River Watershed, including its four groundwater basins, the Lower Ventura River Basin,
14 the Upper Ventura River Basin, the Ojai Valley Basin and the Upper Ojai Valley Basin
15 (“Basins”), (the “Ventura River Watershed Adjudication”).

16 3. On or about November 21, 2019, the Court granted the City’s motion to approve a
17 notice of adjudication and form answer pursuant to Code of Civil Procedure section 836.
18 Pursuant to the Court’s November 21, 2019 order, the City has served a summons on
19 approximately 2,300 cross-defendants owning approximately 1,750 riparian parcels and provided
20 12,766 notices to the owners of approximately 10,000 parcels overlying the Basins. The City
21 provided notice of this action to all property owners who were not otherwise named parties to this
22 action and who own property overlying the Basins in accordance with Code of Civil Procedure
23 section 836.

24 4. On September 15, 2020, the City and Cross-Defendants Ventura River Water
25 District, Meiners Oaks Water District, Rancho Matilija Mutual Water Company, and the Wood-
26 Claeysens Foundation (the “Proposing Parties”) filed a Notice of Dissemination of Proposed
27 Physical Solution and Judgment for the Ventura River Watershed. The Proposed Stipulated
28 Physical Solution and Judgment (the “Physical Solution”) is conditioned on further proceedings

1 that will result in the Physical Solution becoming binding in this action. The Physical Solution is
2 incorporated by reference herein.

3 5. In lieu of filing an answer or other responsive pleading to the Amended Cross-
4 Complaint, Cross-Defendant intends to stipulate to, support, and be bound by the Physical
5 Solution, subject to Court approval of the Physical Solution, or any modified version thereof, and
6 entry of a final judgment. The Parties expect and intend that this Stipulation and attached order
7 shall be incorporated into the final judgment entered in this matter and that the Court will retain
8 jurisdiction in the action.

9 II. TERMS

10 IT IS HEREBY STIPULATED that:

11 1. Cross-Defendant is named in the Amended Cross-Complaint. Cross-Defendant
12 acknowledges receipt of process of the City's Amended Cross-Complaint. Cross-Defendant
13 agrees to, and hereby does, submit itself to the jurisdiction of this Court in all matters involving
14 the Ventura River Watershed Adjudication.

15 2. Cross-Defendant owns one or more parcels of real property located in Ventura
16 County with the assessor parcel number(s) of [INSERT APN] (the "Property"). Cross-
17 Defendant's Property is adjoining or abutting the waters of the Ventura River and/or its
18 tributaries, whether flowing on the surface or underground in a known and defined channel,
19 and/or is overlying one or more of the Basins.

20 3. In lieu of filing an answer or other responsive pleading to the Amended Cross-
21 Complaint, Cross-Defendant agrees to be, and is, bound by the Physical Solution, and supports
22 the Physical Solution, subject to Court approval of the Physical Solution, or any modified version
23 thereof, and entry of a final judgment. Judgment may be entered against Cross-Defendant in lieu
24 of Cross-Defendant filing an answer or other responsive pleading.

25 4. Cross-Defendant acknowledges that in signing this Stipulation, Cross-Defendant is
26 responsible for the accuracy of its content. Consequently, Cross-Defendant acknowledges that in
27 lieu of filing an answer or other responsive pleading to the Amended Cross-Complaint, Cross-
28 Defendant shall nevertheless be bound by the results of this litigation, including the entry of a

1 judgment and physical solution and shall be subject to the continuing jurisdiction of this Court to
2 oversee the implementation of the judgment and physical solution entered herein and to resolve
3 subsequent conflicts that may arise.

4 5. This Stipulation and attached order shall be incorporated into the final judgment
5 entered in this matter.

6 6. This Stipulation shall bind and benefit the City and Cross-Defendant and shall be
7 binding upon and benefit all their respective heirs, executors, administrators, successors, parent,
8 subsidiary entities, and assigns.

9 7. This Stipulation constitutes the entire, complete and integrated agreement among
10 the Parties, and supersedes all prior or contemporaneous undertakings of the Parties in connection
11 herewith. This Stipulation may not be modified or amended except in writing executed by the
12 Parties and approved by the Court. It shall be construed and interpreted to effectuate the intent of
13 the Parties which is to provide, through this Stipulation, for a complete resolution of the relevant
14 claims between the Parties on the terms provided in this Stipulation. Notwithstanding the
15 foregoing, the Parties intend and agree that this Stipulation will later be incorporated into a
16 Physical Solution, which is consistent with the terms of this Stipulation.

17 8. This Stipulation may be executed in counterpart originals, by facsimile, or by
18 electronic signature, each of which shall be deemed to be an original, and all of which shall
19 constitute one and the same document.

20 9. No fees and/or costs shall be awarded against Cross-Defendant in this action, and
21 Cross-Defendant shall not seek an award of fees or costs from the City.

22 IT IS SO STIPULATED.
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Dated: _____, 2020

BEST BEST & KRIEGER LLP

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

Dated: _____, 2020

By: _____
Cross-Defendant [INSERT NAME]

DRAFT

1 [PROPOSED] ORDER

2 Having read and considered the pleadings and the preceding Stipulation for entry of
3 Physical Solution and Judgment (the “Stipulation”), by and between Cross-Complainant City of
4 San Buenaventura (“City”) and Cross-Defendant [INSERT NAME] (“Cross-Defendant”), and
5 good cause appearing,

6 IT IS ORDERED:

7 1. Cross-Defendant is named in the Third Amended Cross-Complaint (“Amended
8 Cross-Complaint”), filed by the City on January 2, 2020. Cross-Defendant has acknowledged
9 receipt of the process of the City’s Amended Cross-Complaint. Cross-Defendant is subject to the
10 jurisdiction of this Court in all matters involving the Ventura River Watershed Adjudication.

11 2. Cross-Defendant owns one or more parcels of real property located in Ventura
12 County with the assessor parcel number(s) of [INSERT APN] (the “Property”). Cross-
13 Defendant’s Property is adjoining or abutting the waters of the Ventura River and/or its
14 tributaries, whether flowing on the surface or underground in a known and defined channel,
15 and/or is overlying one or more of the Basins.

16 3. On September 15, 2020, the City and Cross-Defendants Ventura River Water
17 District, Meiners Oaks Water District, Rancho Matilija Mutual Water Company, and the Wood-
18 Claeysens Foundation filed a Notice of Dissemination of Proposed Physical Solution and
19 Judgment for the Ventura River watershed. The Proposed Stipulated Physical Solution and
20 Judgment (the “Physical Solution”) is conditioned on further proceedings that will result in the
21 Physical Solution becoming binding in this action.

22 4. In lieu of filing an answer or other responsive pleading to the Amended Cross-
23 Complaint, Cross-Defendant agrees to be, and is, bound by the Physical Solution, and supports
24 the Physical Solution, subject to Court approval of the Physical Solution, or any modified version
25 thereof, and entry of a final judgment. Judgment may be entered against Cross-Defendant in lieu
26 of Cross-Defendant filing an answer or other responsive pleading.

27 5. This order and preceding Stipulation shall be incorporated into the final entered
28 judgment in this matter.

1 6. The City and Cross-Defendant are bound and benefitted by the preceding
2 Stipulation, which shall also bind and benefit all their respective heirs, executors, administrators,
3 successors, parent, subsidiary entities, and assigns.

4 7. The Court shall retain jurisdiction over the City and Cross-Defendant to enforce
5 the preceding Stipulation until there is full performance thereof.

6 8. No fees and/or costs shall be awarded against Cross-Defendant in this action, and
7 Cross-Defendant shall not recover fees or costs from the City.

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Dated: _____

By: _____

The Honorable William F. Highberger
Judge of the Superior Court
County of Los Angeles

DRAFT

EXHIBIT B

Loa E. Bliss 2006 Revocable Trust
Loa E. Bliss and David A. Gilbert, Trustees
9030 Ojai Santa Paula Rd.
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November 5, 2020

VIA EMAIL

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Re: *Santa Barbara Channelkeeper v. State Water Resources Control Board and City of San Buenaventura; City of San Buenaventura v. Duncan Abbott, et al.*,
Case No. 19STCP01176

Counsel:

I am writing on behalf of the Loa E. Bliss 2006 Revocable Trust, as Trustee, in response to your email dated November 2, 2020 regarding a Draft Status Conference Report (the “Draft Report”). In your email, you attached the Draft Report in connection with the Status Conference currently set with the Court on November 16, 2020. This letter serves to raise several concerns regarding the Draft Report and case more generally.

First, there is a threshold issue of whether the Court has subject matter jurisdiction over claims asserted in the Third Amended Cross-Complaint, filed by Cross-Complainant City of San Buenaventura (the “City”) on January 2, 2020. It is unclear from records available to me (and therefore potentially to other parties) whether it has been sufficiently demonstrated that the Upper Ojai basin feeds into any of the basins or tributaries at issue in the above-captioned case, or whether the Upper Ojai basin is an isolated, standalone, basin.

The Loa E. Bliss 2006 Revocable Trust does not concede subject matter jurisdiction as to the Upper Ojai basin groundwater based on mere supposition, bare assertion, or overreach. Other parties may hold the same view. Subject matter jurisdiction must be proved by the City at the outset, and before any order by the Court that would approve, allow, or otherwise permit any physical solution to move forward, or other order that would otherwise subject overlying landowners to any such physical solution or resolution of the case. Of course, factual determinations underlying subject matter jurisdiction must be made before any default—regarding judgment or otherwise—is issued that would subject overlying landowners to a physical solution, including the Proposed Physical Solution.¹ Depending on the facts, consideration should be given to dismissal of the Third Amended Cross-Complaint with respect to the Upper Ojai Basin. No defaults should be entered regarding any claim in the City’s Third Amended Cross-Complaint before subject matter jurisdiction is definitively proven. At that point, if proven, additional opportunity to answer should be provided.

Second, although the Proposed Physical Solution does not currently appear to include specific mention of effects on Upper Ojai, if the Proposed Physical Solution subsequently affects Upper Ojai, such a result would be incredibly problematic.

The management structure outlined in the Proposed Physical Solution provides no representation for Upper Ojai, which is a collection of individuals with no entity of any sort that is representative of their interests, such as a water district, city, or town. To this end, the City should identify for the record owners in Upper Ojai, as well as parcels by location over the basin, affected by this lawsuit so that persons with common interests can communicate. For example, the ability to contest any finding in the suit, or any action by the management board, if it is established, is burdensome. Findings and rulings on the Upper Ojai basins should be put on hold, with no defaults issued, or dismissed, particularly in reference to the basin, unless and until the impact on overlying owners is specifically known. Furthermore, there should be requirement relating to the reporting of water use until the character of the Upper Ojai basin is established. The bare assertion of unreasonable use should not stand, even by default.

Third, all reports, findings, opinions held by the City or Proposing Parties with regard to the Upper Ojai basin should be public, and made available to all affected overlying landowners without regard to signing privacy or confidentiality statements or agreements.

Please contact me with any issues or questions. Thank you.

Sincerely,

Loa E. Bliss

¹ The term “Proposed Physical Solution” has the same meaning as in the Draft Report.