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7 *Trevor Quirk, Trustees of the Quirk/Gooden Family Trust, Roe 199;*
8 *Aletheia Gooden, Trustee of the Quirk/Gooden Family Trust, Roe 95*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 SANTA BARBARA CHANNELKEEPER, a
12 California non-profit corporation,

13 Petitioner,

14 v.

15 STATE WATER RESOURCES CONTROL
16 BOARD, et al.,

17 Respondents.

18 CITY OF SAN BUENAVENTURA, et al.,

19 Cross-Complainant,

20 v.

21 DUNCAN ABBOTT, an individual, et al.,

22 Cross-Defendants.

Case No.: 19STCP01176

**CROSS-DEFENDANT TREVOR QUIRK
& ALETHEIA GOODEN'S PRE-TRIAL
STATEMENT**

Trial Date: 03/16/2022

Time: 8:30 AM

Place: Dept. SS10

23 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

24 Cross-Defendants Trevor Quirk & Aletheia Gooden ("Cross-Defendant") hereby submit
25 their Pre-Trial Statement.

26 To know where you're going, you must know where you've been.

27 Here is brief history of where Defendant the City of San Buenaventura ("City") has been:

- 28 • In 1998, the State of California sent the City correspondence telling them to fix the
Ventura River ("River"), the steelhead and other animals are endangered, the City

1 is pumping the River dry at Foster Park killing the endangered species. The City
2 did nothing. As a result, the Ventura River was listed on the State list of impaired
3 or threatened waters pursuant to Section 303D of the Clean Water Act.

- 4 • In 2007, the Federal government told the City to stop pumping at Foster Park
5 because it was killing steelhead: “resumed Foster Park well field withdrawals are
6 likely to jeopardize the continued existence of endangered Southern California
7 steelhead...and are likely to destroy or adversely effect modify designated critical
8 habitat for steelhead”
- 9 • In 2013, the City’s hired Hopkins Groundwater Consultants, Inc. It issued a report
10 and told the City in writing to stop pumping at Foster Park during the low flow
11 conditions because it was draining the River dry and killing the fish. The 2013
12 Hopkins report ironically provides: “[w]hile the City has no control on how much
13 water will seasonally flow into the Foster Park reach of the River, the reduction and
14 eventual cessation of pumping will serve to maintain the steelhead habitat...” The
15 City did not want to reduce or stop pumping and as we now know, seeks to control
16 how much water will flow into Foster Park.
- 17 • In 2014, the Channelkeepers started going to City council meetings asking the City
18 to fix the River because it was killing endangered species. Channelkeepers sent
19 the City written correspondence requesting the same. The City did nothing.
- 20 • In 2014, Channelkeepers filed suit against the City.
- 21 • In 2018, the City chooses to sue the people in the Channelkeepers matter. The Trial
22 Judge said no. The City appealed. In reversing the trial Court, the Appellate
23 Court says [t]he City not only asserts the reasonableness of its own water use, it has
24 complained against other entities who also draw from the Ventura River watershed
25 alleging that their water use is unreasonable. Defendant seek to curtail these other
26 entities’ water use affecting the flow of the Ventura River.
27
28

- 1 • In early September 2019, the City voted, behind closed doors, to sue 14,000 people.
2 That vote is kept secret until 2020 when the Ojai Valley News successfully filed a
3 complaint with the District Attorney forcing the City to reveal its vote.
- 4 • In late September 2019, the City and Channelkeepers settled the underlying case.
5 The City paid the Channelkeepers \$850,000. The day the settlement agreement is
6 signed, the City Mayor Matt LaVere issued a Press Release boasting how the City
7 “proud to work with the Channelkeepers” but curiously omitting the \$850,000
8 settlement.
- 9 • January 2020-The City hires Mustang Marketing-a public relations company to
10 quell a storm. People throughout Ventura County are being personally served
11 with lawsuits and are very upset. The City Mayor makes an emotional speech to
12 a packed auditorium promising the “watershed will not be adjudicated” and
13 apologizes because BBK, gave the City “really bad advice.” The water
14 adjudication that the City Mayor said would never happen, is happening.
- 15 • As of February 2022, the City has spent: \$3,939,441.80 on Attorney’s fees;
16 \$2,638,193.90 on expert fees and \$539,028.93 on “other costs.”
17

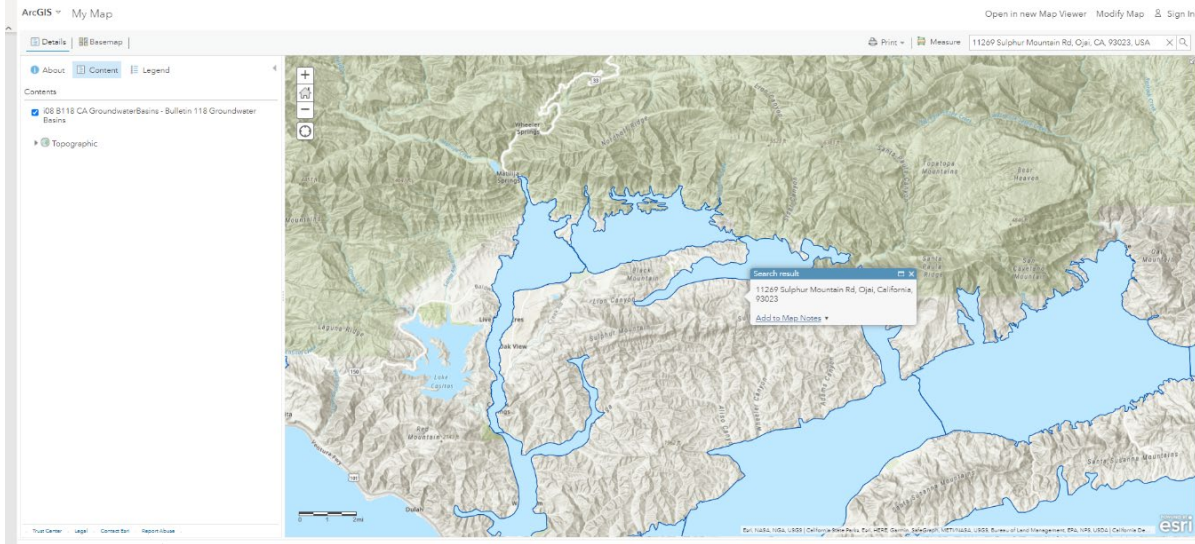
18 Two of the people the City seeks to curtail water use from are Cross-Defendants Trevor
19 Quirk and Aletheia Gooden. Cross-Defendants are trustees of the Quirk/Gooden Family Trust.
20 “Trust”). The Trust owns two parcels of land in Upper Ojai, CA. Both parcels are outside the
21 court defined groundwater B-118 basin boundaries and 15 miles away from the Ventura River.

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1 This is a screenshot of the B 118 boundary and the location of the Trust Parcels:



11 As the Court knows, Cross-Defendants have been in this case for roughly one month. On

12 February 3, 2022, Cross Defendant sent an email to BBK asking them to explain why he and his

13 wife were in this case when in fact his parcels did not fall within the Court boundaries. The BBK

14 team advised Cross Defendant the parcels were “adjacent to the Ventura River and/or one of its

15 tributaries” and requesting “[o]ther parties who have specific questions about their individual

16 properties should email the team for the City of Ventura listed below, rather than needlessly

17 replying to all and burdening this group with irrelevant information about individual property

18 owners who are all properly in this case.”

19 After a few e-mails the City finally conceded:

20 Specifically as to your property and as reflected in the attached “Quirk Map 2,”

21 per the USGS National Hydrography Dataset, an unnamed stream runs through

22 your parcel located at 11269 Sulphur Mountain Road. That stream is a tributary

23 to Big Canyon Creek, which is a tributary to Lion Creek, which is a tributary to San

24 Antonio Creek, which is a Tributary to Reach 4 of the Ventura River. Your

25 property is indisputably located within Watershed Boundary Dataset HUC

1807010101 — Ventura River Watershed. It is thus Riparian Property located

within the Watershed.

26 So according to the City, Cross-Defendants are in the stream as dormant riparian right

27 holders next to a “tributary.”

1 Cross-Defendants maintain they should not be part of this case for at least two reasons:

2 (1) The law does not authorize a “watershed adjudication.” The City initiated a
3 “comprehensive adjudication.” CCP 832(c) defines a “comprehensive adjudication” as a
4 “action filed in superior court to comprehensively determine rights to extract groundwater in a
5 basin. The word “watershed” does not even exist in groundwater basin adjudication statutory
6 scheme.

7
8 If the City wanted to adjudicate the “watershed” and include folks, like cross-Defendants,
9 who own parcels outside of the “basins,” then CCP 833(c) required this Court to make a factual
10 determination *first* and then require their joinder:

11
12 833 (c) If the court finds that including an interconnected surface water body or
13 subterranean stream flowing through known and definite channels is necessary for
14 the fair and effective determination of the groundwater rights in a basin, the court
15 may require the joinder of persons who claim rights to divert and use water from
16 that surface water body or subterranean stream in a comprehensive adjudication
17 conducted pursuant to this chapter.

18
19 This factual determination of interconnectedness has not happened and therefore the Trust,
20 and other entities and people outside the B-118 boundaries, should not be part of this case.

21
22 A second and distinct reason why the Trust should not be part of this case is because the
23 Trust parcels are not, contrary to the Team’s assertion, next to an unnamed tributary. An
24 “unnamed stream runs through your parcel located at 11269 Sulphur Mountain Road. That
25 stream is a tributary...”

26
27 A tributary is a legal term. According to 33 Code of Federal Regulation 328.3 “a tributary
28 means a river, stream, or similar naturally occurring surface water channel that contributes surface
water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly
or through one or more waters identified in paragraph (a)(2), (3), or (4) of this section. **A tributary**

1 **must be perennial or intermittent in a typical year.”**

2 “The term perennial means surface water flowing continuously year-round.” Id., at (8).

3 “The term intermittent means surface water flowing continuously during certain times of
4 the year and more than in direct response to precipitation.” Id., at (5).

5 The alleged nameless, nameless, waterless tributary linking Cross-Defendants to this case
6 does not exist, it certainly does not flow continuously year round or during certain times of the
7 year, or ever:
8



19 Trial, if necessary, will reveal further reasons why Cross-Defendants should not be part of
20 this case. No expert can meet the burden of establishing interconnectedness and their models and
21 opinions are fatally flawed as they failed to overcome *Sanchez*.
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1 Cross-Defendant Trevor Quirk is schedule to be in trial in another matter, but will be
2 present as much as possible.

3 Executed this March 2, 2022 in Ventura, California.
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6 By: 
7 _____
8 Trevor Quirk
9 Cross Defendant
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