

COPY

1 SHAWN HAGERTY, Bar No. 182435
 shawn.hagerty@bbklaw.com
 2 BEST BEST & KRIEGER LLP
 655 West Broadway, 15th Floor
 3 San Diego, California 92101
 Telephone: (619) 525-1300
 4 Facsimile: (619) 233-6118

5 CHRISTOPHER M. PISANO, Bar No. 192831
 christopher.pisano@bbklaw.com
 6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
 sarah.foley@bbklaw.com
 7 PATRICK D. SKAHAN, Bar No. 286140
 patrick.skahan@bbklaw.com
 8 BEST BEST & KRIEGER LLP
 300 South Grand Avenue, 25th Floor
 9 Los Angeles, California 90071
 Telephone: (213) 617-8100
 10 Facsimile: (213) 617-7480

11 Attorneys for Respondent and Cross-Complainant
 CITY OF SAN BUENAVENTURA
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Superior Court of California
County of Los Angeles

MAY 03 2021

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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

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

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

NOTICE OF RULING

1
2
3 On April 19, 2021, the parties appeared at a Further Status Conference, the Honorable
4 William F. Highberger, Judge presiding. The parties stated their appearances on the record and/or
5 they are reflected on LA Court Connect records. The Court made the following orders and
6 determinations:


- 7
- 8 1. In advance of the Status Conference, the Court issued a tentative ruling on April
9 18, 2021 through File & Serve Xpress. The Court's April 18, 2021 document is
10 attached as Exhibit A.
 - 11
 - 12 2. City of San Buenaventura (City) will work with Santa Barbara Channelkeeper
13 (Channelkeeper) to prepare a Stipulation and order regarding dismissal of
14 Chanelkeeper's action against the City.
 - 15
 - 16 3. The Court set a hearing date on the City's Motion to Bifurcate on June 21, 2021 at
17 1:30 p.m. Moving papers must be filed by May 11, 2021. Oppositions must be
18 filed by June 1, 2021, and replies must be filed by June 14, 2021.
 - 19
 - 20 4. The Court invited Cross-Defendant Claude Baggerly to file a Motion to Appoint a
21 Special Master and set a hearing date on June 21, 2021 at 1:30 p.m. Moving
22 papers must be filed by May 11, 2021. Oppositions must be filed by June 1, 2021,
23 and replies must be filed by June 14, 2021.
 - 24
 - 25 5. The Court set a further Status Conference for May 10, 2021, at 1:30 p.m. and
26 ordered that a joint status report and/or any unilateral status reports be filed and
27 served by May 3, 2021.
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6. The Court set an Order to Show Cause hearing regarding service by publication of the summons in the *Ventura County Star* for the May 10, 2021 Status Conference. City will send Notice of the Order to Show Cause hearing along with Notices and Acknowledgments of receipt to 51 unserved cross-defendants via overnight mail by April 28, 2021. Further, City will submit additional documentation regarding the request for publication of the summons on or before May 5, 2021.

Dated: May 3, 2021

BEST BEST & KRIEGER LLP

By: 

SHAWN HAGGERTY
CHRISTOPHER M. PISANO
SARAH CHRISTOPHER FOLEY
PATRICK D. SKAHAN
Attorneys for Respondent and
Cross-Complainant
CITY OF SAN BUENAVENTURA

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?