

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

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County of Los Angeles

FEB 19 2021

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

Sherri R. Carter, Executive Officer/Clerk of Court

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

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

16 SANTA BARBARA CHANNELKEEPER,  
17 a California non-profit corporation,

18 Petitioner,

19 v.

20 STATE WATER RESOURCES  
CONTROL BOARD, etc., et al.,

21 Respondents.

22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant

24 v.

25 DUNCAN ABBOTT, an individual, et al.

26 Cross-Defendants.  
27  
28

Case No. 19STCP01176

Judge: Honorable William F. Highberger

NOTICE OF RULING

Date: February 9, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set

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1 8, 2021. Parties who would like to respond to this brief can do so through their  
2 respective Status Conference Reports to be filed by March 10, 2021.

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4 6. For the Status Conference on March 15, 2021, at 1:30 p.m., the Court ordered that  
5 City's status report be filed and served by March 8, 2021, and if necessary,  
6 unilateral reports filed by other parties be filed and served by March 10, 2021.  
7 Prior to the filing of those reports, the City will meet and confer with the other  
8 parties about the terms of a potential site visit and a schedule for providing the  
9 Court with the proposed physical solution, so those topics can be discussed at the  
10 March 15, 2021 Status Conference.

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12 7. The City shall coordinate with Court clerical staff and may begin filing requests  
13 for entry of default.

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15 8. Any request to lift the discovery stay or to set any dates related to an evidentiary  
16 hearing on a proposed physical solution shall be made by noticed motion at some  
17 future date as set by the Court.

18 Dated: February 19, 2021

BEST BEST & KRIEGER LLP

19  
20  
21 By: 

22 SHAWN HAGERTY  
23 CHRISTOPHER M. PISANO  
24 SARAH CHRISTOPHER FOLEY  
25 PATRICK D. SKAHAN  
26 Attorneys for Respondent and  
27 Cross-Complainant  
28 CITY OF SAN BUENAVENTURA

# **EXHIBIT A**



19STCP01176

*Santa Barbara Channelkeeper v. State Water Resources Control Board, etc.  
City of San Buenaventura v. Abbott, et al.*

Feb. 9, 2021 Tentatives

**State of Pleadings:**

To the Court's understandings, there are two operative pleadings presently pending in this case (not counting responsive pleadings). They are:

1. Plaintiff/Petitioner Santa Barbara Channelkeeper's First Amended Complaint For Declaratory Relief And Verified Petition For Writ Of Mandate, filed on Sept. 7 & 10, 2018 while this case was pending in San Francisco Superior Court (pursuant to the grant of a motion for leave to amend on July 25, 2018)(hereafter simply "1<sup>st</sup> Amended Complaint"), and
2. Respondent And Cross-Complainant City Of San Buenaventura's Third Amended Cross-Complaint, filed January 2, 2020, in this Court's docket (hereafter simply "3<sup>rd</sup> Amended Cross-Complaint").

1<sup>st</sup> Amended Complaint by Santa Barbara Channelkeeper (hereafter "SBChannelkeeper") names two respondents/defendants, State Water Resources Control Board ("SWRCB") and City Of Buenaventura (hereafter simply "City of Ventura"). It includes one cause of action against City of Ventura and four causes of action against SWRCB. The particular issue of concern to SBChannelkeeper is the taking of water from Reach 4 of the Ventura River (Casitas Vista Road to Camino Cielo Road) from April through October because of its detrimental effect on southern California steelhead trout and other endangered and threatened species. City of Ventura filed an Answer on Sept. 24, 2018. ***This Court finds no entry in the records of the San Francisco Superior Court or in the records of Los Angeles Superior Court showing that SWRCB has filed a responsive pleading in this action. If it did so, please serve a conformed copy on FSX as soon as possible.*** It is clear that this government party has appeared in this action whether or not a formal pleading response has been filed. As such, it should be possible to get this pleading at issue in the near future, if it is not at issue already. Proceedings have been stayed pending service of 3<sup>rd</sup> Amended Cross-Complaint.

3<sup>rd</sup> Amended Cross-Complaint names over 2,100 riparian land-owners along the Ventura River and its tributaries as Cross-Defendants. It includes nine causes of action, each brought against all named Cross-Defendants, and the 6<sup>th</sup> Cause of Action, by invocation of C.C.P. § 830 et seq., commences a Comprehensive Groundwater Adjudication Action involving the rights of the named Cross-Defendants (i.e. riparian land owners) as well as the rights of an additional unnamed 10,000+ land owners of fee simples in the Groundwater Basin(s) at issue.

SWRCB and California Department of Fish & Wildlife successfully moved to intervene in the Cross-Complaint on December 4, 2019, and neither was required to file a Complaint-in-Intervention.

As of Feb. 2, 2021, the date of the latest report from Cross-Complainant, approximately 319 of the riparian owners are not yet served with the Summons and Cross-Complaint (pursuant to

traditional methods of service required for service of such items), and 115 of over 10,000 unnamed land owners in the Groundwater Basin(s) have not yet been served via the alternative methods authorized by C.C.P. § 836(d)(1)(B) (i.e. registered or certified U.S. Mail, return receipt requested). In cases where no such Return Receipt is obtained, Cross-Complainant is obligated to give notice by posting on the affected property pursuant to C.C.P. § 836(d)(1)(C). Cross-Complainant was separately obligated to give notice to such unnamed parties by publication pursuant to C.C.P. § 836(d)(1)(D), and this Court has additional power to order other methods of notice pursuant to C.C.P. § 836(i). Compliance with these methods of notice to the interested unnamed land owners has been deemed sufficient for *in rem* jurisdiction over the disputed water to attach pursuant to C.C.P. § 836(j).

As to the ≈319 named riparian owners, the Cross-Complainant is continuing its skip-tracing research. Before any request to provide substitute notice to any such person or entity by publication (i.e. fictitious notice) is made, the Court will want a current report from the Ventura County Tax Collector specific to each Assessor's Parcel Number at issue showing whether or not property taxes have been timely paid. If they have, the Court will be very reluctant to authorize publication notice. If the taxes are in arrears for 12 months or longer, the Court will be much more willing to authorize publication notice on the theory that the record title owner has lost interest in his, her or its rights to the land. Assuming publication is authorized, the process takes a month or longer to accomplish before the time to respond even starts to run. C.C.P. § 415.50(c).

The Court does not know how many of the ≥2,100 named riparian land owners have been served but not yet entered a timely appearance. The City of Ventura as Cross-Complainant will need to default each of these Cross-Defendants (a process handled by clerical staff of the Court, not the judge or his courtroom staff). ***The defaults need to be entered (not just lodged or, worse yet, lodged and rejected for any of the many technical reasons why a default request may be incomplete or inaccurate) before this case proceeds into discovery on the merits and before any trial or other evidentiary hearing is set.*** If there are going to be 50, 100 or more such Requests For Entry Of Default, limitations on available court clerical resources will limit how fast the full inventory of such requests can be processed, and experience teaches that there are often technical but fixable defects which require resubmission once the first request has been evaluated and rejected. Whether or not the operative pleading (i.e. 3<sup>rd</sup> Amended Cross-Complaint) can support entry of an adverse Default Judgment against some or all of these parties (i.e. whether it provides sufficient due process notice for what a given cross-defendant may lose by not appearing to protect his, her or its legal rights) is a matter to be determined much later when the case is otherwise near completion.

Cross-Complainant says it hopes to accomplish the posting process for the remaining unnamed land owners by end of February, and this seems feasible given the small number of properties involved, i.e. 115. Since these parties are not named and *in rem* jurisdiction provides the basis for a binding legal adjudication, Cross-Complainant has no obligation to default land owners who have been properly served via mail or posting, and the Court does not even know the name of all of these affected unnamed land owners.

All of this suggests that the two pleadings will not realistically be at issue any time sooner than July 1, 2021, if then. This assumes that ALL requests for publication are submitted to the Court by March 1, 2021 and reviewed and approved by the judge by March 15, 2021, that publication occurs during the period April 1 to 29, 2021 and that such defendants have until May 29 to respond, and that Cross-Complainant then lodges technically perfect Requests For Default as to each such Cross-Defendant by June 15, 2021 and that Court staff is thereafter able to approve each of these by July 1, 2021. The posting process should be readily accomplished by then, assuming the City of Ventura gets on with all the posting by February 28, 2021 as promised in the latest report.

### **Request Of City Of Ventura To Lift Stay And Set Discovery Schedule And Evidentiary Hearing On Proposed Physical Solution In November 2021**

Cross-Complainant and certain of the larger users of water from the Ventura River and the groundwater basin(s) associated therewith (aka “Consumptive Users”) propose that the Court set a 19-day period for further negotiation of a draft Physical Solution, aka Proposed Stipulated Judgement (which to date has intentionally NOT been shared with this Court with the Court’s consent so far), to then lift the stay on discovery on March 1, 2021 and to then set an adjudication pursuant to C.C.P. § 850(b) of the proposed Physical Solution this November. This proposal is supported by two water districts, a mutual water company and one ranch to date though the Court has also received a dozen or more Stipulations For Entry Of Stipulated Judgment from other interested parties.

This request is opposed by one of the largest users of the disputed water (Casitas Municipal Water District, hereafter “Casitas MWD”), the three interested state agencies (SWRCB, Fish & Wildlife and Cross-Defendant California Department of Parks and Recreation), the original plaintiff/petitioner in this case, public interest litigant SBChannelkeeper, and others. Casitas MWD suggests more time should be allowed for client-to-client negotiation regarding the draft Physical Solution. The state agencies and SBChannelkeeper alert the Court that SWRCB and Fish & Wildlife have been analyzing the water flow requirements for the steelhead trout fishery of concern, and the results of this effort will finally be available to the public on Feb. 26, 2021 in draft form as to the lower Ventura River with the “remaining flow investigation work ... scheduled to be finished this year.” Further, the same two agencies have been studying “the interconnectedness of groundwater and surface water in this watershed” and the fruits of this effort are now predicted to be available “next year” with month unstated.

Other interested land-owners<sup>1</sup> object on the grounds that the City of Ventura’s request appears to assume that all of the other claims and defenses related to the 1<sup>st</sup> Amended Complaint and 3<sup>rd</sup> Amended Cross-Complaint are swept into the Comprehensive Adjudication (i.e. 6<sup>th</sup> Cause of Action in 3<sup>rd</sup> Amended Cross-Complaint) with no due process right for named Cross-Defendants and voluntarily appearing unnamed land owners (i.e. Cross-Defendants by voluntary appearance in the in rem action) to dispute their liability or right not to suffer a diminution of existing water rights. The state agencies join in this objection and also note that City of Ventura hopes to adjudicate its desired Physical Solution, aka Proposed Stipulated Judgement, without attempting

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<sup>1</sup> This includes the many institutional clients of Musick Peeler, such as Ojai Valley Inn, The Thatcher School and Ojai Valley School.

to satisfy the express statutory prerequisite for any such proceeding as required by C.C.P. § 850(b):

(b) If a party or group of parties submits a proposed stipulated judgment that is **supported by more than 50 percent of all parties who are groundwater extractors in the basin or use the basin for groundwater storage and is supported by groundwater extractors responsible for at least 75 percent of the groundwater extracted in the basin during the five calendar years** before the filing of the complaint, the court may adopt the proposed stipulated judgment, as applied to the stipulating parties, if the proposed stipulated judgment meets the criteria described in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates the water rights of the objecting party. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting party. (bold emphasis added)

This objection appears to have substantial merit, and, in turn, *it greatly concerns the Court that the City of Ventura and other parties are suggesting that the timely provision of the Initial Disclosures otherwise required of each appearing party by C.C.P. § 842 be waived indefinitely.* It appears to the Court that only by the receipt of timely Initial Disclosures from each interested land owner (i.e. interested enough to voluntarily appear even if not expressly named) will we be able to get the denominator required to answer the first test in C.C.P. § 850(b), i.e. how many “groundwater extractors” presently take in the relevant basin(s) such that we can determine if X number of supporters of a Proposed Stipulated Judgment is 0.50 of ALL groundwater extractors. Likewise, until this data is supplied (e.g. the “quantity of any groundwater extracted from the basin by the party and the method of measurement used ... for each of the previous 10 years proceeding the filing of the complaint”), we will have no idea what is the denominator acre feet of water extracted for the second test under C.C.P. § 850(b), which must also be met if a Proposed Stipulated Judgment is adjudicated under the unique provisions of C.C.P. § 850(b), which puts the onus and burden of proof on the Opponents of a Proposed Stipulated Judgment, rather than on its Proponents.

For obvious due process reasons, City of Ventura cannot turn the tables on the hold-outs and make them satisfy the burden of proof unless it can clearly show that the two tests under § 850(b) are met. Tentatively, the Court is of the view that no hearing on the 6<sup>th</sup> Cause of Action in the 3<sup>rd</sup> Amended Cross-Complaint should be set until this showing is made. If the showing cannot be made (or if the City of Ventura is willing to waive reliance on the provisions of § 850(b)), then presumably a hearing on the comprehensive adjudication would be set under C.C.P. § 850(a) where the City of Ventura and its consumptive user allies would bear the burden of proof. *It also appears true that the named Cross-Defendants are entitled to a trial on the other eight causes of action in the 3<sup>rd</sup> Amended Cross-Complaint before any judgement is entered unless City of Ventura voluntarily dismisses all such claims.*

Another similar objection to the setting of any Comprehensive Groundwater Adjudication hearing is made by both the state agencies and certain land owners who dispute any connectedness of their groundwater basin to Reach 4 of the Ventura River. These include Dr.



Robin Bernhoft, the Frankl Living Trust, and Loa Bliss and David Gilbert. As noted by the state agencies, the provisions in the Comprehensive Groundwater Adjudication statute do not automatically apply to surface waters in the same area. Only if a necessary factual showing is made under C.C.P. § 833(c) will joinder of riparian owners be authorized:

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

*To this Court's understanding no such factual showing has been made in the history of this case, by this judge or any prior judge. If there was such a finding, please point it out to me.*

This case started as a riparian dispute only about the sufficiency of water flow for steelhead trout and other species and mutated later by the theories advanced by Defendant/Cross-Complainant City of Ventura into a hybrid riparian/groundwater suit. That does not mean that each and all of the claims of SBChannelkeeper are subsumed into its adversary's 6<sup>th</sup> Cause of Action in the 3<sup>rd</sup> Amended Cross-Complaint, and it likewise does not mean that the rights of parties named as Cross-Defendants in the 1<sup>st</sup> through 5<sup>th</sup> and 7<sup>th</sup> through 9<sup>th</sup> causes of action in the 3<sup>rd</sup> Amended Cross-Complaint are subsumed into a trial of the issues tendered by the 6<sup>th</sup> Cause of Action therein.

Finally, it is noted by several of the parties presently opposed to City of Ventura's proposed schedule that a question as serious as the lifting of the present stay and the setting of this matter for a trial on a single cause of action under C.C.P. § 850(b) presents a serious question which should only be resolved on motion with due notice and a full opportunity to oppose. The Court agrees with this point.

#### **Initial Disclosures:**

As noted above, this Court believes that notwithstanding any other stay on discovery in this case, the information to be provided by the Initial Disclosures provided by C.C.P. § 842 is essential to the orderly management of this case, including but not limited to the question of whether or not C.C.P. § 850(b) can be invoked by the proponents of a Proposed Stipulated Judgment. If there is any stay in place as to this obligation, it should and will be canceled forthwith. This Court will NOT agree to a further delay in the provision of this essential information.

#### **Site Visit:**

Notwithstanding that it would be premature to lift the stay on discovery generally on March 1, 2021, the Court is agreeable to the concept of an educational trip to key sections of the Ventura River and its tributaries at the parties' earliest convenience.

#### **Provision Of Current Draft Physical Solution To Court?:**

Up to now the Court has accepted the loudest advocates assertion that it would be confusing for the Court to see a possible settlement document while still in draft and subject to material change. The Court is, however, finding it increasingly difficult to adequately the process

objections and other comments of interested parties<sup>2</sup> who ARE informed of the Draft Physical Solution and wish to make reference to it. How much longer am I supposed to wait?

### **Speeding Up SWRCB And Fish & Wildlife Studies:**

To a point, the Court agrees with SBChannelkeeper and the state agencies that the results of these ongoing studies are highly relevant to a reasonable settlement of this important case and to the adjudication of the respective rights of the many interested parties absent global settlement. That being noted, SWRCB first appeared in this action on October 16, 2014 with the filing of a Stipulation Re: Briefing Schedule. Fish & Wildlife moved to intervene in the Cross-Complaint on or about Nov. 4, 2019, and the pendency of this suit and the concerns about the sufficiency of water flows in the Ventura River were presumably matters of public knowledge long before that date. For this reason and notwithstanding the understandable burdens created by the covid pandemic on the orderly workings of government researchers, the Court is frankly quite disappointed with the slow pace of these studies.

Do other parties, such as SBChannelkeeper, City of Ventura or Casitas MWD have their own analyses of (a) minimum flows in Reach 4 needed for a healthy fishery and/or (b) the connectedness of that surface watercourse with groundwater basin(s) which underly the course of the Ventura River and its tributaries? One would assume that counsel for City of Ventura had some good faith factual basis for making the assertions in the 3<sup>rd</sup> Amended Cross-Complaint that the entirety of the groundwater basins referenced in such pleading at ¶ 103 and Exhibit A thereto had a connectedness to the water flows in Reach 4 before filing such pleading so as to satisfy their ethical obligations under C.C.P. § 128.5. If so, have these studies been provided to other interested parties in this case to date? If not, why not? Attorney-work product? Other?

### **[Proposed] Stipulation And Order For Entry Of Physical Solution And Judgement:**

Mindful of the provisions of C.C.P. § 850(b), which requires 50 percent of groundwater extractors to endorse a Proposed Stipulated Judgment, the Court is aware of City of Ventura's natural desire to have as many of these Stipulations entered as possible (assuming there is independent proof that each such signatory has a working well such that he, she or it is, in fact, a groundwater extractor). In cases where the signing party is already named in the 3<sup>rd</sup> Amended Cross-Complaint, use the exact name by which such person has been named in the Stipulation such that court staff will see an exact match to the party name already in our records.<sup>3</sup> If, as was the case for Eric Jenssen and Kathleen Janetatos Smith, you have an "erroneously named as X" situation, make this evident on the face of the document (as did NOT happen for those two submissions) with language such as "erroneously sued as Gridley Road Water Group," or, better yet, submit a Roe Amendment or name correction on LASC Form LACIV 105 Amendment To

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<sup>2</sup> For example, the objection of the Krankl Living Trust to having "to pay a basin replenishment fee to fund the correction of the direct extraction of water from the Ventura river by those actors when the Krankl well is not in the Ventura river," etc. is essentially incomprehensible (through no fault of theirs) without reference to the draft Physical Solution.

<sup>3</sup> Getting the name to exactly match the party name in our records is very important for first appearances (which includes the filing of such Stipulations in lieu of Answer), requests for default and requests for dismissal. This includes references to someone named as Trustee of a specifically named trust dated X date. Missing middle names, small misspellings, incomplete description of a party appearing as a Trustee of a Trust and not in an individual capacity, and the like should lead to a rejection when staff has the time to carefully check the paperwork before proceeding to accept it.

Complaint (Fictitious/Incorrect Name). You use the same form to add a Doe/Roe party (check “Fictitious Name” box and no judicial approval required) OR to fix a naming/spelling error in a party name (check “Incorrect Name” box, and I will have to counter-sign before it is filed).

**Filing Fees:**

The Court agrees that no further Complex fees should be charged to any parties newly appearing in this action. The Court will take this up with Court management (at Mosk where such papers are submitted). Parties who have paid such fees recently should make a request for refund in writing on the correct form.

**Next Status Conference:**

Given that City of Ventura and certain consumptive users now believe that this case can go from stuck in the mud to warp speed, this Court is inclined to set this case for monthly Status Conferences, perhaps on a regular date, e.g. third Wednesday at 1:30 p.m.

# **EXHIBIT B**



**19STCP01176 *Santa Barbara Channelkeeper v. SWRCB***

**Feb. 9, 2021 Agenda for Status Conference**

**1. 3<sup>rd</sup> Amended Cross-Complaint Party-Naming Clean Up:**

For a situation like the several persons who comprise the Gridley Road Water Group, please prepare an Application For Name Correction And Order Thereon on pleading paper similar to the relevant text on LASC Form LACIV 105 but with space to state with clarity that each of these four (?) individuals was previously named in the singular as Cross-Defendant Gridley Road Water Group, and you now wish to have each of these four (?) names listed as Cross-Defendants in lieu thereof, providing the exact way you want each name shown. This will be for judge approval. There should be no filing fee, and this can be purely ex parte without service on others.

Do NOT try to use LASC Form LACIV 105 to swap in two or more new parties for one previously named party. That form is suitable for use when there is a spelling variation or some difference like “LLC” instead of “Co.” or “Corp.” or a party named by its DBA which has a different legal name.

You should not handle title transfers by sale or inheritance as a naming correction. Dismiss the prior owner and name the new owner(s) as Roe cross-defendant(s).

When you use LACIV 105 or a custom-drafted Stipulation And Order as suggested for Gridley Road Water Group, the filing of such Application And Order Thereon automatically resolves the status of wrongly named party, i.e. it is gone for good.

If you are adding an ADDITIONAL party to the case not erroneously named to date, then use LASC Form LACIV 105 to add them as a Roe defendant (some Roe # between 1 and 1000, given the text of the Summons and the 3<sup>rd</sup> Amended Cross-Complaint).

**2. Treatment Of Walk-On Cross-Defendants Going Forward:**

The voluntary, “walk-on” cross-defendants were NOT named in the 3<sup>rd</sup> Amended Cross-Complaint and their voluntary appearance does not change this historic fact. For this reason, it is very confusing to include any language which asserts that they are “named” cross-defendants. Use some alternative language that they were “noticed” and “voluntarily appeared” so we understand where, if at all, to look for these people in our records.

**3. Burden On Judge And Court Staff From Unusual Sequence Of Voluminous List Of Cross-Defendants In 3<sup>rd</sup> Amended Cross-Complaint.**

Because City of (Buena)Ventura used a very odd alphabetizing convention for the 3<sup>rd</sup> Amended Cross-Complaint, I find it very hard (and I assume court staff likewise finds it very hard) to locate parties in our records to match up lodged Stipulations and any first-appearance filings with our party entries. You appear to have sorted the parties listed in the 2<sup>nd</sup> Amended Cross-

Complaint and earlier filings (e.g. Stephanie Gustafson) by the surname (when a natural person), but for the hundreds and hundreds of Riparian and Riparian/Overlying land owners added to the 3<sup>rd</sup> Amended Cross-Complaint for the first time, you did a weird alpha sort by the first given name in a property title (e.g. Tyler Labine and Carrie Ruscheinsky are sorted right after Tyler and Maria Barrell, and Lisa Smith and Nathaniel Cox follow Lisa Lopez and Brian Merrill). Worse yet they are presented as two separate alpha sorts since you group the Riparian new names separately from the Riparian/Overlying list of weirdly sorted names. This makes it very time intensive to try to locate a party name in our records when determining as a Judge whether a given Stipulation For Physical Solution should be approved.

Note also the Excel new party lists which we got from City of Ventura counsel a year ago did NOT include the previously named cross-defendants and it appears that some or all of these party names did not carry over as cross-defendants for the 3<sup>rd</sup> Amended Cross-Complaint. To my understanding court management and Best, Best & Krieger are aware of this and we will hopefully get a list of the missing names (via a new Excel spreadsheet) shortly. Note: this is entirely separate and apart from our need for periodic updates from City of Ventura as to the identity of “walk-on” noticed landowners who voluntarily appear in this action.

#### **4. Need For Ventura City Attorney To Work Closely With Court Staff To See That Party Records Are Correct.**

As noted in the Tentative, it is in this litigant’s interest to be sure that our records are correct. The volume of paper and the uniqueness of having new persons self-identify as additional parties is such that close review of records made to date is needed. Many obviously are in error, e.g. the 11 Cross-Defendants tied as responsive parties to Santa Barbara Channelkeeper’s 1<sup>st</sup> Amended Petition filed 2/19/2019 (date of inbound transfer from SF Superior, hence filing date error) as well as the one Real Party in Interest erroneously tied to the same Amended Petition.

As noted previously, the identity of a party to a Stipulation For Physical Solution needs to tie exactly to how that party is shown in our records, including spelling, middle name and any reference to a Trustee’s relation to a Trust.

#### **5. Primacy Of Fixing Party Records Before Defaults Are Sought; Need For Conformed Copy Of Filed POS Of Summons And Complaint With Each Request For Default.**

If, as predicted, we should expect 1,000+ Requests For Default (remembering that each application is specific to one named cross-defendant only), it is essential that the court records against which these Requests For Default will be tested need to be complete and accurate. Please do NOT submit any Requests For Default until the docket clean-up has proceeded to this Judge’s satisfaction. Note also, that you should be able to see how each named cross-defendant’s name appears in our record by careful review of the free, public lacourt.org website. Remember also that you MUST include a conformed copy of any previously filed Proof Of Service Of Summons And Complaint with each Request For Default (including conformed copies of all such proofs as necessary to show proper substituted service, if this method employed) so that Court staff does not have to invest the time in finding the “needle in the

haystack,” e.g. one of hundreds of such proofs filed on March 2, 2020 or on some other date. *If the relevant POS of Summons And Complaint was not previously filed, then you should attach it to the Request For Default to which it relates.*

#### **6. No Use Of E-Filing Until Express Approval By Judge Highberger**

While the Court hopes to move to e-filing for Complex in May 2021, the need to match up Requests For Default to the needed substantiation that a valid POS of personal service or of valid substituted service exists and is part of the court record is such that you must submit all of this in hard copy pending further order of this Court.

#### **7. Mr. Blatz’s Stipulations:**

I haven’t seen an example of this document yet, but I have no quarrel with the quoted language in your posting that an unnamed party noticed pursuant to C.C.P. §836 is “incorrectly identified as a Cross-Defendant.” Such a party was certainly not “named” (aka “identified”) in the 3<sup>rd</sup> Amended Cross-Complaint by name. Note, however we have no practical way to add these names to our party records (as we consider necessary to make a proper record of these parties’ submission of Answers and other documents to our public files) than by use of the inartful term “cross-defendant.” “Defendant” would be even less accurate and Real Party In Interest seems no better.

#### **8. Other Matters**

The Court will be prepared to talk about other issues of concern to the parties once it has confidence that the basic steps needed to have a correct factual record on which this case is to proceed will be addressed by City of Ventura’s counsel. Until then, it is premature to address such matters.

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

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

Sherri R. Carter, Executive Officer/Clerk of Court

Attorneys for Respondent and Cross-Complainant  
CITY OF SAN BUENAVENTURA

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER,  
a California non-profit corporation,

Case No. 19STCP01176

Petitioner,

PROOF OF SERVICE

v.

Status Conf.: February 9, 2021  
Time: 1:30 p.m.  
Dept.: SS10

STATE WATER RESOURCES  
CONTROL BOARD, a California State  
Agency;

Action Filed: September 19, 2014  
Trial Date: Not Set

Respondents.

CITY OF SAN BUENAVENTURA, a  
California municipal corporation,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.



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 St. Suite 390, Walnut Creek, CA 94596. On February 19, 2021, I served the following document(s):

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Daniel Cooper  
Sycamore Law  
1004 O'Reilly Ave.  
San Francisco CA 94129  
Tel: (415) 360-2962  
daniel@sycamore.law

Matthew Bullock  
Deputy Attorney General  
California Department of Justice  
Natural Resources Law Section  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102-7004  
Tel: (415) 510-3376  
matthew.bullock@doj.ca.gov

Attorneys for Petitioner and Plaintiff  
Santa Barbara Channelkeeper

Attorneys for Respondent and Defendant State  
Water Resources Control Board

Marc N. Melnick  
Deputy Attorney General  
Attorney General's Office  
1515 Clay Street, 20th Floor  
P.O. Box 70550  
Oakland, CA 94612-0550  
Tel: 510-879-0750

Eric M. Katz  
Supervising Deputy Attorney General  
Noah Golden – Krasner  
Deputy Attorney General  
Carol Boyd  
Deputy Attorney General  
300 South Spring Street, Suite 1702

Marc.melnick@doj.ca.gov

Los Angeles, CA 90013  
Tel. (213) 269-6343  
Fax (213) 897-2802  
Eric.Katz@doj.ca.gov  
Noah.goldenrasner@doj.ca.gov  
Carol.boyd@doj.ca.gov

Attorneys for Respondent and Defendant State  
Water Resources Control Board

Attorneys for Proposed Intervenor California  
Department of Fish & Wildlife

Edward J. Casey  
Clynton Namuo  
Alston & Bird LLP  
333 South Hope Street, 16th Floor  
Los Angeles, CA 90071  
Tel: 213.576.1000  
ed.casey@alston.com  
clynton.namuo@alston.com

Paul Blatz  
Ryan Blatz  
Blatz Law Firm  
206 N. Signal St. Suite G  
Ojai, CA 93023  
Tel: (805) 646-3110  
blatzlawfirm@gmail.com  
ryan@ryanblatzlaw.com

Attorneys for Cross-Defendants Bentley  
Family Limited Partnership; AGR Breeding,  
Inc.; and Southern California Edison  
Company

Attorneys for Cross-Defendants Troy Becker  
and Jeri Becker; Janet Boulton; Michael  
Boulton; Michael Caldwell; Joseph Peter  
Clark, successor in interest to the Joseph  
Clark and Linda Epstein Family Trust; Linda  
Louise Epstein, successor in interest to the  
Joseph Clark and Linda Epstein Family Trust;  
Michael I. Cromer and Jody D. Cromer;  
Michel A. Etchart, Trustee of the Michel A.  
Etchart Separate Property Trust, and Mark W.  
Etchart, Trustee of the Mark W. Etchart  
Sepertate Property Trust; Lawrence  
Hartmann; Ole Konig; Krotana Institute of  
Theosophy; Stephen Michtell and Kathleen  
Reid Mitchell, Trustees of the Stephen  
Mitchell and Byron Katie Trust; North Fork  
Springs Mutual Water Company; Stephen  
Robert Smith, Trustee of the Charles R. Rudd  
and Lola L. Rudd Trust, dated May 20, 2976;  
Shlomo Raz; Sylvia Raz; Senior Canyon  
Mutual Water Company; Siete Robles Mutual  
Water Company; Soule Park Golf Course,  
Ltd.; Telos, LLC; Victor C. Timar, Jr. Trustee  
of the Timar Family Trust; John Town; Trudie  
Town; Asquith Family Limited Partnership,  
Ltd.; Burgess Ranch; Cary Cheldin; Cynthia  
Daniels; Wayne Francis; David Friend; The  
Larry & Pat Hartmann Family Trust; The John  
N. Hartmann Trust; Gary Hirschcron; Cheryl  
Jensen; Lutheran Church of the Holy Cross of  
Ojai, California; Janice Sattler (Mineo); Eitan  
Sloustcher; Rogers-Cooper Memorial  
Foundation; Robert Norris (not yet appeared);  
Patricia Norris; Old Creek Road Mutual  
Water Company (not yet appeared); Margaret  
Vanderfin; Telos Ojai, LLC (not yet

appeared); Jennifer Ware; The Walker Jr. Living Trust; David Altman, Trustee of the 1190 El Toro Trust ; Babtiste Foundation; Sean A. Bennett and Leslie Bennett, Trustees of the Bennett Family Trust; Dwayne A. Bower and Marilyn E. Bower Trustees of the 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  
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.  
Vondrisk and Carolyn J. Vondrisk, Trustees  
of The Vondrisk Living Trust; William D.  
Rusin, Sr., Trustee of the William D. Rusin  
Sr. Revocable Trust;

William G. Short, Esq.  
Law Offices of William G. Short  
Post Office Box 1313  
Ojai, California 93024-1313  
Tel: (805) 490-6399  
Fax: (805) 640-1940  
billshortesq@me.com

Anthony Lee Francois  
Jeremy Talcott  
David Deerson  
Pacific Legal Foundation  
930 G Street  
Sacramento, CA 95814-1802  
Tel: (916) 419-7111  
Fax: (916) 419-7111  
alf@pacificlegal.org  
TFrancois@pacificlegal.org  
jtalcott@pacificlegal.org  
ddeerson@pacificlegal.org

Attorney for Cross-Defendant Robin Bernhoft

Attorney for Cross-Defendant Robin Bernhoft

Robert N. Kwong  
Dennis O. La Rochelle  
Arnold Larochele Mathews Vanconas &  
Zirbel, LLP  
300 Esplanade Dr Ste 2100  
Oxnard, CA 93036  
Tel: (805) 988-9886  
rkwong@atozlaw.com

Attorneys for Cross-Defendant Casitas  
Municipal Water District

Gregory J. Patterson  
Musick, Peeler & Garrett LLP  
2801 Townsgate Road, Suite 200  
Westlake Village, CA 91361  
Tel: (805) 418-3103  
Fax: (805) 418-3101  
g.patterson@musickpeeler.com

Attorneys for Cross-Defendants Robert C.  
Davis, Jr.; James Finch; Topa Topa Ranch  
Company, LLC; The Thacher School;  
Thacher Creek Citrus, LLC; Ojai Oil  
Company; Ojai Valley School; Sharon  
Hamm-Booth and David Robert Hamm, Co-  
Trustees of The Hamm 2004 Family Trust  
Dated April 29, 2004; and Reeves Orchard,  
LLC

Jeanne Zolezzi  
Herum Crabtree Suntag  
5757 Pacific Avenue, Suite 222  
Stockton, CA 95207  
Tel: (209) 472-7700  
Fax: (209) 472.7986  
jzolezzi@herumcrabtree.com

Attorneys for Cross-Defendant Meiners Oaks  
Water District and Ventura River Water  
District

Patrick Loughman  
Cristian Arrieta  
Lowthorp, Richards, McMillan, Miller &  
Templeman  
300 Esplande Drive, Suite 850  
Oxnard, CA 93036  
Tel: 805.804.3848  
Ploughman@lrmmmt.com  
Carrieta@lrmmmt.com

Attorneys for Cross-Defendants Ernest Ford,  
Tico Mutual Water Company, and Betty  
Withers and Betty Bow Withers Trust

Lindsay F. Nielson  
Law Office of Lindsay F. Nielson  
845 E Santa Clara Street  
Ventura, CA 93001  
Tel: 805-658-0977  
nielsonlaw@aol.com

Attorneys for Cross-Defendant Meiners Oaks  
Water District and Ventura River Water  
District

Neal P. Maguire  
Ferguson Case Orr Patterson LLP  
1050 South Kimball Road  
Ventura, CA 93004  
Tel: (805) 659-6800  
nmaguire@fcoplaw.com

Attorneys for Cross-Defendants Rancho  
Matilija Mutual Water Company; Bettina  
Chandler, Trustee of the Bettina Chandler  
Trust; Martin Gramckow and Linda  
Gramckow individually; Martin Gramckow,  
Trustee of the Monika G. Huss Irrevocable  
Trust, Trustee of the Karin W. Gramckow  
Irrevocable Trust, and Trustee of the Kurt J.  
Gramckow Irrevocable Trust

1 Thomas S. Bunn III  
2 Elsa Sham  
3 Lagerlof Senecal Gosney & Kruse LLP  
301 N. Lake Avenue, 10th Floor  
4 Pasadena, CA 91101-5123  
Tel.: (626) 793-9400  
5 Fax: (626) 793-5900  
tombunn@lagerlof.com  
esham@lagerlof.com

7 Attorneys for Cross-Defendant St. Joseph's  
Associates of Ojai, California, Inc. and St.  
8 Joseph's Health and Retirement Center, Janis  
Long Nicholas, John Jay Nicholas, Jess Earl  
9 Long (aka Jess E. Long), Johana Rae Long,  
and Mary Margaret Long, Janis Long  
10 Nicholas and Jess E. Long as Trustees of the  
Long Family Trust

11 Alberto Boada  
12 Karen V. Marble  
Ventura County Counsel's Office  
13 800 South Victoria Avenue  
Ventura, CA 93009-1830  
14 Tel.: (805) 654-2590  
Fax: (805) 654-2185  
15 alberto.boada@ventura.org  
karen.marble@ventura.org

17 Attorneys for Cross-Defendant Ventura  
18 County Watershed Protection District and  
County of Ventura

Michael J. Van Zandt  
Nathan A. Metcalf  
Sean G. Herman  
Hanson Bridgett LLP  
425 Market Street, 26 Floor  
San Francisco, CA 94105  
Tel: 415-777-3200  
Fax: 415-541-9366  
mvanzandt@hansonbridgett.com  
nmetcalf@hansonbridgett.com  
sherman@hansonbridgett.com

Attorneys for Cross-Defendant Ventura  
County Watershed Protection District and  
County of Ventura

Scott Slater  
Bradley Herrema  
Christopher Guillen  
Brownstein Hyatt Farber Schreck LLP  
1021 Anacapa Street, 2nd Floor  
Santa Barbara, CA 93101  
Tel: (805) 963-7000  
Fax: (805) 965-4333  
sslater@bhfs.com  
bherrema@bhfs.com  
cguillen@bhfs.com

Attorneys for Cross-Defendant The Wood-  
Claeyssens Foundation

Joseph C. Chrisman  
Hathaway, Perrett, Webster, Powers,  
Chrisman & Gutierrez  
5450 Telegraph Road  
Ventura, CA 93003  
(805) 644-7111  
jchrisman@hathawaylawfirm.com

David B. Cosgrove  
Jeffrey M. Oderman  
Douglas J. Dennington  
Jeremy N. Jungreis  
Rutan & Tucker, LLP  
611 Anton Boulevard, Suite 1400  
Costa Mesa, CA 92626-1931  
Tel: 714-641-5100  
Fax: 714-546-9035  
dcosgrove@rutan.com  
joderman@rutan.com  
ddennington@rutan.com  
jjungreis@rutan.com

Attorneys for Cross-Defendant Wood-  
Claeysens Foundation

Attorneys for Cross-Defendant Casitas  
Municipal Water District

Thomas E. Jeffry  
Debra J. Albin-Riley  
Stefan Bogdanovich  
Arent Fox LLP  
555 West Fifth Avenue, 48th Floor  
Los Angeles, CA 90013-1065  
(213) 629-7400  
(213) 629-7401  
Thomas.jeffry@arentfox.com  
Stefan.bogdanovich@arentfox.com

Andrew Brady  
DLA Piper LLP (US)  
550 South Hope Street, Suite 2400  
Los Angeles, CA 90071-2618  
Tel. (213) 330-7700  
Fax: (213) 330-7701  
andrew.brady@us.dlapiper.com

Attorneys for Cross-Defendant Community  
Memorial Health System

Attorneys for Cross-Defendant Integritas Ojai,  
LLC

Jennifer T. Buckman  
Andrew J. Ramos  
Holly Jacobson  
Bartkiewicz Kronick & Shanahan, PC  
1011 Twenty-Second Street  
Sacramento, CA 95816-4907  
Tel. (916) 446-4254  
Fax (916) 446-4018  
jtb@bkslawfirm.com  
hjj@bkslawfirm.com

David R. Krause-Leemon  
BEAUDOIN & KRAUSE-LEEMON LLP  
15165 Ventura Blvd., Suite 400  
Sherman Oaks, CA 91403  
Tel. (818) 205-2809  
Fax (818) 788-8104  
david@bk-llaw.com

Attorneys for Cross-Defendant City of Ojai

Attorneys for Cross-Defendant RDK Land,  
LLC

Eric J. Schindler  
Michelle J. Berner  
Kroesche Schindler LLP  
2603 Main Street, Suite 200  
Irvine, CA 92614  
Tel. (949) 387-0495  
Fax (888) 588-0034 Fax  
eschindler@kslaw.legal  
mberner@kslaw.legal

Attorneys for Cross-Defendant Oak Haven,  
LLC

Adam D. Wieder  
Barry C. Groveman  
Ryan Hiete  
Groveman Hiete LLP  
35 East Union Street, Suite B  
Pasadena, CA 91103  
Tel (626) 747-9383  
Fax (626) 747-9370  
awieder@grovemanhiete.com  
bgroveman@grovemanhiete.com  
rhiete@grovemanhiete.com

Attorneys for Cross-Defendant Michael  
Bradbury; Heidi Bradbury; and The Heidi  
Gramkow Trust

Ernest J. Guadiana  
Elkins Kalt Weintraub Reuben Gartside LLP  
10345 W. Olympic Boulevard  
Los Angeles, CA 90064  
Tel. (310) 746-4425  
eguadiana@elkinskalt.com

Attorneys for Michael Lombardo and Charles  
L. Ward III, as Co-Trustees of the Ward-  
Lombardo Living Trust

Brian A. Osborne  
Osborne Law Firm  
674 County Square Drive, Suite 308  
Ventura, CA 93003  
Tel. (805) 642-9283  
Fax (805) 642-7054  
osbornelawyer@gmail.com

Attorney for Cross-Defendants Brian A.  
Osborne; Ronald W. Rood and Susan B.  
Rood, Trustees of the Rood Family Trust

Peter A. Goldenring  
Mark R. Pachowicz  
Pachowicz | Goldenring A Professional Law  
Corporation  
6050 Seahawk Street  
Ventura, CA 93003-6622  
Tel. (805) 642-6702  
Fax (805) 642-3145  
attorneys@gopro-law.com

Attorneys for Cross-Defendant The Manfred  
Krankl and Elaine V. Krankl Living Trust

Justin M. Alvarez  
Lamdien T. Le  
The Alvarez Firm, A Law Corporation  
24005 Ventura Boulevard  
Calabasas, CA 91302  
Tel. (818) 224-7077  
Fax (818) 224-1380  
jalvarez@alvarezfirm.com  
dle@alvarezfirm.com

Attorneys for Cross-Defendant Rancho Sueño,  
LLC



Patrick L. Rendon  
Lamb and Kawakami LLP  
333 South Grand Avenue, Suite 4200  
Los Angeles, CA 90071  
Tel. (213) 630-5500  
Fax: (213) 630-5555  
prendon@lcfirm.com

Karen A. Feld  
Daniel S. Roberts  
Cole Huber LLP  
3401 Centrelake Drive, Suite 670  
Ontario, CA 91761  
Tel: (909) 230-4209  
Fax: (909) 937-2034  
kfeld@colehuber.com  
droberts@colehuber.com

Attorneys for Real Party in Interest Emily V. Brown

Attorneys for Cross-Defendant Ventura Unified School District

David A. Ossentjuk  
Ossentjuk & Botti  
2815 Townsgate Road, Suite 320  
Westlake Village, CA 91361  
Tel: (805) 557-8081  
Fax: (805) 456-7884  
DOssentjuk@oandblawyers.com

Hermitage Mutual Water Company, and Santa Ana Ranch, Inc.

Attn: J. Roger Essick  
2955 Hermitage Road  
Ojai, CA 93023  
Tel. (805) 320-1406  
rogeressick@gmail.com

Attorney for Cross-Defendant Robert Martin

Julie A. Baker  
2193 Maricopa Hwy  
Ojai, CA 93023  
(805) 646-8700  
Jandjbaker2@gmail.com

The Joseph Fedele 1995 Living Trust,  
Oriana Marie Fedele, Trustee  
Attn. Oriana Fedele  
P.O. Box 298  
Lahaina, HI 96767  
Tel. (818) 601-3161  
orianafedele@gmail.com

T&D Nevada Trust  
Dennis and Antoinette Mitchell  
Mitchell Homes Inc.  
P.O. Box 360  
Ojai, CA 93024  
(805) 340-2890  
amitc74383@aol.com

Michaela Boehm  
12293 topa Lane  
Santa Paula, CA 93060  
Tel. (323) 493-3737  
micboehm@me.com

Anthonie M. Voogd  
918 Palomar Road  
Ojai, CA 93023  
Tel. (805) 646-1512  
avoogd@stanfordalumni.org

Lawrence S. Mihalas  
Trustees of the Mihalas Family Trust  
419 21<sup>st</sup> Place  
Santa Monica, CA 90402  
Tel. (310) 739-0700  
lmihalas@gmail.com  
lmihalas@ucla.edu

Heather Blair  
556 So. Fair Oaks Ave., Ste 101  
Box 356  
Pasadena, CA 91105  
Tel. (626) 755-6566  
Hblair1946@gmail.com

Robert K. Cartin  
Cartin Family LLC  
505 Estremoz Ct.  
Oceanside, CA 92057  
Tel. (760) 429-4738  
bob.cartin@dvm.com

Del Cielo LLC  
Attn. Tim Carey, Managing Member  
22410 Hawthorne Boulevard, Suite 5  
Torrance, CA 90505  
Tel. (310) 787-6569  
tim@calvoterguide.com

Janice and Jesse Hillestad  
9611 N. Ventura Ave.  
Ventura, CA 93001  
Tel. (310) 614-8438  
janicehillestad@icloud.com  
jessehillestad@gmail.com

Carlos A Mejia  
Sophie A Wenzlau  
Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Tel. (916) 210-6379  
Fax: (916) 327-2319  
sophie.wenzlau@doj.ca.gov

Attorneys for California Department of Parks  
and Recreation

Jacob Slujter  
Rabindra Singh  
1070 McAndrew Road.  
Ojai CA 93023; Tel.  
(805) 646-2726  
ED@KFA.ORG

In Propria Persona for Krishnamurti  
Foundation of America

Martin Hartmann  
Whitney Hartmann  
430 S. Carrillo Road  
Ojai, CA 93023  
Tel. (805) 798-2253  
earthbuilding@gmail.com

Loa E. Bliss  
Loa E. Bliss 2006 Revocable Trust  
9030 Ojai Santa Paula Road  
Ojai, CA 93023  
Tel: (617) 750-8500  
loabliss@hotmail.com

Joyce Syme, and  
The Joyce A. Syme Living Trust  
1760 Ocean Avenue  
Santa Monica, CA 90401  
Tel. (310) 403-1760  
seaviewmotel@hotmail.com

Dale and Patricia Givner  
12617 Koenigstein Rd.  
Santa Paula, CA 93060  
Tel. (805) 525-9524  
dalegivner@gmail.com

Dennis and Nadine Corte  
12812 MacDonald Drive  
Ojai, CA 93023  
Tel. (805) 701-1950  
dwcorte@outlook.com

David R. Greifinger  
Law Offices of David R. Greifinger  
15515 West Sunset Blvd., No. 214  
Pacific Palisades, CA 90272  
Tel. (424) 330-0193  
tracklaw@me.com

Attorney for Cross-Defendants Danny Everett  
and Tiarzha Talyor

Kelton Lee Gibson  
878 Oak Grove Court  
Ojai, CA 93023  
Tel. (805) 701-9318  
kgibson@mwglaw.com  
kgibson878@gmail.com

George and Sigrid Bressler  
340 Longhorn Lane  
Ojai, CA 93023  
Tel. (805) 646-1221  
andybsail@gmail.com

Kelton Lee Gibson, Trustee of the Gibson  
Family Trust, dated June 6, 2006

Rebecca C. Collins  
Thomas M. Collins, Jr.  
241 Longhorn Lane  
Ojai, CA 93023  
Tel. 805-312-5894  
tominojai@gmail.com  
collinst3@sbcglobal.net

Peter Duchesneau  
Sigrid R Waggener  
Mannat, Phelps & Phillips, LLP  
One Embarcadero Center, 30<sup>th</sup> Floor  
San Francisco, CA 94111  
Tel (415) 291-7400  
Fax (415) 291-7474  
pduchesneau@manatt.com  
swaggener@manatt.com

Attorneys for Cross-Defendant Aera Energy,  
LLC

Claude R. and Patricia E. Baggerly  
119 S. Poli Avenue  
Ojai, CA 93023-2144  
Tel. (805) 646-0767  
Tel. (805) 766-7317  
russ.baggerly65@gmail.com

Judith L. Mercer  
c/o of Jason Goldman  
Mercer Family Trust Agreement of 1992  
1175 Grand Avenue  
Ojai, CA 93023  
Tel. (310) 625-7795  
jgoldman@begroup.com

Matthew Haffner  
Haffner Law Group  
86 S. Laurel Street  
Ventura, CA 93001  
Tel. (805) 641-9334  
Fax (805) 980-5014  
mhaffner@haffnerlawgroup.com

Brian Moskal,  
Greenberg Glusker Fields Claman &  
Machtiger LLP  
2049 Century Park East, Suite 2600  
Los Angeles, CA 90067  
Tel. (310) 785-6833  
Fax (310) 201-2368  
bmoskal@greenbergglusker.com

Attorneys for Cross-Defendant Susan Moll

Attorneys for Ginnetti Living Trust

1 Harry D. Sims and Raymond P. Sims  
2 P.O. Box 1870  
3 Ojai, CA 93024  
4 Tel. (805) 646-0167  
5 1978simsfamilytrust@gmail.com

Tristan F. Mackprang  
David J. Farkas  
Coleman Frost LLP  
201 Nevada Street, Smoky Hollow  
El Segundo, CA 90245  
Tel. (424) 277-1650  
Fax (31) 648-9739  
tristan@colemanfrost.com  
david@colemanfrost.com

Attorneys for Cross-Defendants Housing  
Authority of the City of San Buenaventura,  
Triad Properties, Inc., Encanto Del Mar  
Apartments, L.P., Villages at Westview I LP,  
Vista Del Mar Commons, LP, and Soho  
Associates, L.P.

6 Andrew K. Whitman  
7 821 N. Signal Street  
8 Ojai, CA 93023  
9 Tel. (805) 444-5671  
10 sfreberg@scr-legaliner  
11 .com

Christopher Danch  
16200 Maricopa Highway  
Ojai, CA 93023  
Tel. (805) 640-8534  
chrisdanch@gmail.com

12 In pro per and Atty for Cross-Defendants  
13 Andrew K. Whitman and Heidi A. Whitman;  
14 Nancy L. Whitman; John R. Whitman and  
15 Nancy L. Whitman Family Trust

Attorney for Cross-Defendants Angie Marie  
Genasci and Christopher Paul Danch, Trustees  
of the Genasci-Danch Family Trust; and  
Donald and Wendy Givens

16 Paul R. Huff  
17 The Huff Law Firm APC  
18 21 S. California Street, Suite 205  
19 Ventura, CA 93001  
20 Tel. (805) 667-8940  
21 Fax (805) 850-7399  
22 phuff@hufffirm.com

Alessandro (Alex) Lobba  
Alessandro Lobba and Mary E. Jackson,  
individually as Trustees of the Lobba-Jackson  
Family Trust  
947 Casitas Vista Road  
Ventura, CA 93001  
Tel. (805) 895-7056  
alobba@gmail.com

23 Attorneys for Barnard Properties, LLC

24 Christine Steiner  
25 2560 Ladera Road  
26 Ojai, CA 93023  
27 Tel. (31) 600-3220  
28 csteiner@csteinerlaw.com

William Slaughter  
Slaughter, Reagan & Cole, LLP  
625 East Santa Clara Street, Suite 101  
Ventura, CA 93001  
Tel. (805) 658-7800  
Fax (805) 644-2131  
slaughter@srllplaw.com

Attorneys for The Boyd S. Dron and Karin  
Dron Joint Living Trust, and Sisar Mutual  
Water Company

1 Julia Taft-Whitman, President CEO  
2 Taft Corporation'  
3 111 West Topa Topa Street  
4 Ojai, CA 93023  
5 Tel. (805) 794-2837  
6 juliawhitman@gmail.com

Jaide Whitman, President  
Julia Whitman, Director  
Conservation Endowment Fund  
P.O. Box 6  
Oak View, CA 93022  
Tel. (805) 649-2333  
Tel. (805) 804-7005  
jaide.whitman@gmail.com  
TaftGardensOffice@gmail.com

6 Kelley M. Rasmussen, Trustee  
7 2420 Park Road  
8 Lake Oswego, OR 97034  
9 Tel. (805) 798-7125  
10 kelleyras@gmail.com

Angela Small Booth, Attorney  
2175 Valley Meadow Drive  
Oak View, CA 93022  
Tel. (805) 765-5413  
angie@angiesmall.org

9 Lindy Goetz  
10 lindygoetz@roadrunner.com

11 Via First Class Mail

Via First Class Mail

11 Warren W. Green  
12 Bonnie M. Green  
13 985 E. Main Street  
14 Ventura, CA 93001  
15 Tel. (805) 652-1080  
16 Fax (805) 652-0400

Salvatore Scarpato  
106 Calhoun Lane  
Georgetown, TX 78633  
(805) 797-8767

15 I declare under penalty of perjury under the laws of the State of California that the  
16 above is true and correct.

17 Executed on February 19, 2021 at Walnut Creek, California.

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19 \_\_\_\_\_  
20 Irene Islas  
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26  
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