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SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

19 **SANTA BARBARA CHANNELKEEPER,**
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 Petitioner,
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 v.
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STATE WATER RESOURCES CONTROL
 23 **BOARD, a California State Agency; CITY**
OF BUENAVENTURA, a California
 24 **municipal corporation,**
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 Respondents.
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Case No. 19STCP01176
**SWRCB AND CDFW'S STATUS
 CONFERENCE REPORT**
 Date: June 21, 2021
 Time: 1:30 p.m.
 Dept.: 10
 Judge: Honorable W. Highberger
 Trial Date: None Set
 Action Filed: September 19, 2014

1 **CITY OF SAN BUENAVENTURA,**
2 **California municipal corporation,**
3 Cross-Complainant,
4 **v.**
5 **DUNCAN ABBOTT, an individual; et al.,**
6 Cross-Defendants.
7

8 Respondent and intervenor State Water Resources Control Board (the “State Water Board”)
9 and intervenor California Department of Fish and Wildlife (the “Department”) respectfully
10 submit this status conference report. The purpose of this report is to: (1) provide an update on
11 the ongoing progress on the State Water Board’s groundwater and surface water model; (2)
12 comment on the proposal by cross-complainant City of San Buenaventura (the “City”) to provide
13 its proposed physical solution to the Court; and (3) object to the City’s proposal that some parties
14 be excused from providing initial disclosure. The State Water Board and the Department have
15 separately filed a response to the pending motions to bifurcate and to appoint a scientific advisor.

16 **I. THE STATE WATER BOARD’S GROUNDWATER AND SURFACE WATER MODEL**

17 As the Court and most of the parties know, the State Water Board has been working on a
18 model of the interaction between the groundwater and surface water in the Ventura River
19 watershed. Development of this model is an extraordinarily complex task, being performed under
20 a contract worth approximately \$1.75 million. Creation of this model involves the integration of
21 many interdisciplinary sets of data into a complex computer model, including the hydrogeologic
22 characteristics of the groundwater basins, precipitation rates, evaporation rates, natural and
23 human land uses, and groundwater pumping and surface water diversion rates. The necessary
24 work also includes calibration and validation of the model and an evaluation of potential
25 scenarios. The State Water Board will use the model as a tool to evaluate potential scenarios,
26 such as changes in water management, land use, water infrastructure, and the environmental
27 changes (for example, climate change).
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1 **A. Historical Work**

2 Since 2016, the State Water Board has been committed to a transparent and rigorous public
3 engagement process designed to build understanding and confidence in the model development
4 process. This has included regular participation in local watershed group meetings and water
5 management or fisheries conferences, at which the State Water Board has presented and provided
6 updates on its efforts. The State Water Board’s past, present, and planned public engagement
7 actions for model development, described below, also demonstrate an ongoing commitment to
8 public engagement. While these actions add time and cost, they are designed to improve the
9 model and the public’s understanding and confidence in the model. Additionally, the State Water
10 Board decided to build the model using a free public domain modeling software that is
11 maintained by the United States Geological Survey. Using a free public domain modeling tool is
12 consistent with the State Water Board’s effort to provide transparency, building a tool that (once
13 finalized) can be used by the public, and the Department of Water Resources best management
14 practices for groundwater modeling under the Sustainable Groundwater Management Act.

15 The State Water Board’s modeling contractor was hired in June 2017, pursuant to a
16 publicly bid contract, and shortly afterwards the State Water Board used feedback from local
17 agencies and stakeholders to form a Technical Advisory Committee (“TAC”) of local subject
18 matter experts to solicit input throughout the model development process. The TAC includes
19 technical representatives from the Department, Casitas Municipal Water District, Farm Bureau of
20 Ventura County, Ojai Basin Groundwater Management Agency, , University of California at
21 Santa Barbara, Upper Ventura River Groundwater Agency, Ventura County Watershed Protection
22 District, Ventura Water (a department of the City), and the Ventura Watershed Instream Flow
23 Enhancement and Water Resiliency Regional Framework Program (a group focused on
24 streamflow enhancement through grant funded landowner projects and voluntary agreements).

25 State Water Board engagement with the public and TAC has included four comment
26 periods on draft model development documents, email updates, public meetings, and site visits of
27 the watershed. State Water Board engagement with the TAC on model development has included
28 two in-person meetings and a three-part webinar series. Furthermore, the State Water Board has

1 worked with parties on the TAC to conduct site visits and exchange technical information, such
2 as providing or requesting data or identifying appropriate data sources, to help inform model
3 development.

4 Moreover, over the past four years, the State Water Board has provided the public and the
5 TAC with significant documentation of model development. In November 2017, the State Water
6 Board released a draft study plan describing the model development approach for a 30-day public
7 and TAC comment period. After the Thomas Fire devastated the region in December 2017, the
8 State Water Board extended the comment period into January 2018. In August 2018, the State
9 Water Board released a draft memorandum describing its geologic analysis of the Ventura River
10 Watershed for a 30-day public and TAC comment period. The draft geologic analysis described
11 the modeling team's three-dimensional analysis of the geological features (including the alluvial
12 and bedrock elements). The geologic analysis formed the framework for the groundwater portion
13 of the model, which simulates groundwater flow rates and levels, and helps simulate
14 groundwater-surface water interactions. In December 2019, the State Water Board released the
15 final study plan for development of the model. Release of the final study plan, and subsequent
16 documents, was partly delayed because of changes in response to public and TAC input, new
17 state requirements that public documents meet Americans with Disabilities Act accessibility
18 requirements, and the Thomas Fire, which affected the physical and hydrologic properties in the
19 watershed. In April 2020, the State Water Board released a revised geologic analysis
20 memorandum of the Ventura River watershed. In July 2020, the State Water Board released a
21 draft data compilation report, explaining the data sources that will be used in the model, and
22 solicited public and TAC comments to check if the data sources are appropriate for the model and
23 to identify any additional data sources. In October 2020, the State Water Board released a draft
24 sensitivity analysis approach memorandum for a 30-day public and TAC comment period. This
25 document explained the planned methodology for conducting a sensitivity analysis of the model,
26 which is testing how the model responds to varying key input parameters. All of these reports are
27 available on the State Water Board's website:

28 https://www.waterboards.ca.gov/waterrights/water_issues/programs/instream_flows/cwap_enhan

1 [cing/ventura_river.html](http://www.waterboards.ca.gov/ventura_river.html). The State Water Board's counsel can provide these reports to the Court
2 or any party upon request.

3 As indicated, the State Water Board has made available to the public the data it is relying
4 on in model development, including the publication of the draft data compilation report last
5 summer. As to any additional data the State Water Board has obtained since then, most of that
6 data was identified during recent webinars, discussed below. Only the following three sets of
7 data have not been provided, described, or summarized to the public by the State Water Board:
8 (1) groundwater level and surface water monitoring data in the Lower Ventura River groundwater
9 basin, provided by the Wood-Claeyssens Foundation in a comment letter sent to the State Water
10 Board related to the draft geologic analysis; (2) a Lake Casitas bathymetry survey, provided by
11 the Casitas Municipal Water District; and (3) estimates of the historic stage-storage relationship
12 of Matilija Reservoir, provided by the Ventura County Watershed Protection District. The State
13 Water Board will provide any publicly available data to any party upon their request.

14 **B. Recent Webinars**

15 Recently, the State Water Board held three webinars for the public and TAC where State
16 Water Board staff and its consultants presented model development information and solicited
17 technical comments. These three webinars were held on May 5, 2021, May 19, 2021, and June 9,
18 2021, and covered updates to the revised geologic analysis that was released last year, water
19 demand and distribution inputs to the model, and the preliminary draft calibration results, which
20 are necessary to demonstrate and ensure model accuracy. Each webinar lasted approximately
21 three hours, and provided a substantial amount of additional information about the model to the
22 public. Each webinar included both a technical presentation by the State Water Board modeling
23 team and question and answer period. The webinars were recorded and are available for viewing
24 on the State Water Board's website referenced above. The State Water Board is soliciting public
25 and TAC comments on the information provided in these webinars through June 25, 2021.

26 After evaluation of public and TAC comments related to the webinars, and completion of
27 draft model documentation, the State Water Board will release the draft model and documentation
28 to the public and TAC for a formal, at-least-60-day comment period. After consideration of those

1 comments on the draft model and documentation, the State Water Board will release a final
2 version of the model and documentation.

3 **C. Recent Changes in the Schedule**

4 We had anticipated, as late as March 2021, that the State Water Board would release the
5 draft model and documentation before the end of 2021. There is a fair amount of work still to be
6 done, in evaluating public comments and writing and reviewing the comprehensive draft model
7 documentation.

8 However, in consideration of the Court's and the public's desire for earlier access to the
9 model, the State Water Board has modified the schedule. These changes were announced at the
10 third of the webinars, on June 9, 2021. The highlights of these changes are discussed below.

11 In August 2021, the State Water Board will release a preliminary draft of the model, with a
12 user manual to assist those in using it, but without the full model documentation. This new step,
13 releasing an initial version of the model four months early, will allow any experts in this case to
14 use the model to analyze the issue of interconnectivity that is central to the proposed first phase of
15 this case (as proposed by the City).

16 In October 2021, the State Water Board will hold a webinar to explain, and solicit
17 comments on, its methodology for the creation of eight scenarios of hypothetical situations using
18 the model. There are a handful of currently contemplated scenarios, and they include an
19 unimpaired flow scenario. An unimpaired flow scenario shows the movement and volume water
20 in the watershed if no pumping or diversions occurred within the modern, modified, physical
21 landscape of the watershed. The scenario will provide the budget of water that is available in the
22 watershed for all beneficial uses.

23 In December 2021, the State Water Board will release an update of the draft model along
24 with a report containing full comprehensive documentation. The State Water Board anticipates
25 that this report will include results of the unimpaired flow scenario. The State Water Board will
26 solicit public comment on the draft model and report.

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1 The State Water Board and the Department hope that the Court and the parties appreciate
2 the State Water Board's efforts to be responsive to the Court's concerns about the timing of this
3 important work. Counsel will be pleased to answer any questions at the status conference.

4 **II. THE CITY'S PROPOSED PHYSICAL SOLUTION**

5 The City has proposed to share with the Court its current settlement proposal, its current
6 proposed stipulated judgment and physical solution. The State Water Board and the Department
7 find this unusual, as the general practice is for the trier of fact to not be engaged in settlement
8 conversations. Like other parties to this case, the State Water Board and the Department are
9 engaged in confidential and privileged settlement discussions with the City about the proposed
10 physical solution, and hope that those conversations will lead to a dramatically different
11 document than is currently proposed by the City. The City's proposal to provide the Court with
12 the City's proposed physical solution gives the Court a one-sided view of those discussions. We
13 therefore suggest that the Court refrain from accepting the City's submission of the current status
14 of their settlement proposal in the form of a physical solution.

15 Nevertheless, should the Court accept receipt of the City's proposed physical solution, the
16 State Water Board and the Department request that the Court also allow the other parties
17 (including the State Water Board and the Department) to provide the Court with their high-level
18 critiques of the proposed physical solution and their suggestions for improvement. Some of those
19 critiques are previewed in the State Water Board and the Department's February 2, 2021 status
20 report (at pages 4, 7, and 8), but the Court is entitled to a more thorough discussion of the ways in
21 which the current draft of the proposed physical solution does too little to reasonably protect
22 beneficial uses, and in particular to improve the water conditions for Southern California
23 steelhead that are at the center of this lawsuit. The State Water Board and the Department (and
24 many other parties) cannot support the proposed physical solution in its current form.

25 **III. INITIAL DISCLOSURES**

26 As the Court is aware, the Court previously set a June 1, 2021 deadline for initial
27 disclosures by parties who have appeared by March 1, 2021. Parties who have appeared after that
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1 date have, under the statute, six months to provide initial disclosures. (Code Civ. Proc., § 842,
2 subd. (a).)

3 Some parties have filed requests, or stipulations with the City, for extensions of the June 1,
4 2021 initial disclosure deadline. The State Water Board and the Department have no objection to
5 those reasonable requests for extensions.

6 In its draft status conference report, however, the City proposed that those cross-defendants
7 that have stipulated to the current version of the City's proposed physical solution be excused
8 from the statutory and court-ordered initial disclosure requirements. This would be wholly
9 inconsistent with the Court's previous direction, when it set the June 1, 2021 deadline:

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

17 (Feb. 9, 2021 Tentatives, served Feb. 7, 2021, p. 5.) There is no reason to change this direction.
18 All parties should provide their initial disclosures at some point in this near future.
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Dated: June 14, 2021

Respectfully Submitted,
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Dated: June 14, 2021

Respectfully Submitted,

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PROOF OF SERVICE OF ELECTRONIC TRANSMISSION
VIA FILE & SERVE XPRESS

Case Name: **Santa Barbara Channelkeeper v. State Water Resources Control Board, et al.**

Case No.: **19STCP01176**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, California 90013.

On June 14, 2020, I electronically served the document described below via File & Serve Xpress, on the recipients designated on the Transaction Receipt located on the File & Serve Xpress website:

SWRCB AND CDFW'S STATUS CONFERENCE REPORT

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 14, 2020, at Los Angeles, California.

Carol Chow
Declarant

/s/Carol Chow
Signature