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14 East Ojai Group.)

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF LOS ANGELES, COMPLEX CIVIL DIVISION**

17 **SANTA BARBARA CHANNELKEEPER, a**
18 **California non-profit organization**

19 **Petitioner,**

20 **vs.**

21 **STATE WATER RESOURCES CONTROL**
22 **BOARD, a California State Agency; CITY OF**
23 **SAN BUENAVENTURA, a California**
24 **municipal corporation,**

25 **Respondents.**

CASE No. 19STCP01176

Judge: Hon. William F. Highberger

**EAST OJAI GROUP'S COMMENTS TO
PROPOSED DRAFT PHYSICAL
SOLUTION**

Date July 19, 2021
Time: 3:00 p.m.
Dept. SS10

Action Filed: September 19, 2014
Trial Date (Phase One): February 14, 2022

26 **AND RELATED CROSS-COMPLAINT**

27 The East Ojai Group, collectively provides the following comments and objections to the
28 City's proposed draft Physical Solution as requested by the Court.

As a general comment, the proposed "Physical Solution" is not really a Physical Solution
intended to manage the four groundwater basins and the surface water flow of the Ventura River
to sustain the basins or the river. By the City's own admission, the core goal is to move the
condition of the Southern California Steelhead in the watershed from Baseline Conditions to Good

1 Condition as both terms are defined. (See Draft Physical Solution at page 43, Section 7.3, lines
2 15-18.) It is, essentially, an effort by the City to require all water users within the entire basin to
3 fund the effort to restore the fishery in response to plaintiff, Santa Barbara Channelkeeper's
4 lawsuit and the City's settlement with Channelkeeper. Fundamental to any participation in the
5 lawsuit is the determination of whether any groundwater pumping or other water use actually
6 impairs the flow of the river and fishery habitat. If a party's water use does not impact or affect
7 flow or habitat necessary to sustain or improve the fishery, then it should not be a party to this
8 Physical Solution or be required to fund the restoration of the fishery habitat.

9 As a second general comment, the Ventura River watershed is already governed by
10 multiple federal, state and local agencies, and the City seeks to add yet another layer of public
11 agency oversight for the sole purpose of complying with its settlement agreement with
12 Channelkeeper and funding that effort. As shown below, this new agency is duplicative of the
13 various agencies already involved in the management of the watershed and these agencies already
14 have, in many cases, overlapping jurisdiction involving the management of both surface water and
15 groundwater uses within the watershed. Adding yet another agency may complicate an already
16 complicated regulatory system.

17 The multiple agencies already involved in management of the watershed include: 1.) the
18 National Marine Fisheries Service charged with stewardship of national marine resources,
19 conservation and management of marine resources, the promotion of sustainability, and lost
20 economic potential associate with overfishing, declining species and impaired habitats, including
21 the steelhead population at issue here; 2) the State Water Resources Control Board, a defendant in
22 the Channelkeeper litigation and a party in this lawsuit, whose mission is to preserve, restore and
23 enhance the quality of California's water resources and drinking water for the protection of the
24 environment, public health and beneficial uses, and to ensure proper water resources allocation
25 and efficient use for the benefit of present and future generations; 3) The State Department of Fish
26 and Wildlife, a party to this lawsuit, whose mission is to manage California's diverse fish, wildlife
27 and plant resources, the habitats upon which they depend, and for their ecological values, for their
28 use and enjoyment by the public; 3) The Ojai Basin Groundwater Management Agency, charged

1 with developing a groundwater management plan for its basin to provide sustainability within that
2 basin; 4) the Upper Ventura River Groundwater Management Agency, also a groundwater
3 management agency charged with developing a groundwater management plan for the upper
4 basin; and 5) the Ventura County Watershed Protection District; whose mission is to protect life,
5 property, water courses, watersheds, and public infrastructure. These various agencies have some
6 overlapping jurisdictions and sometimes contradictory regulatory objectives. The addition of yet
7 another public agency created at an unknown cost with unknown future requirements is of great
8 concern. While the protection of the environment and fishery within the watershed are laudable
9 goals, and the Physical Solution states that the parties involved in implementing a physical
10 solution will work with the various agencies, one wonders whether an additional public agency is
11 required and if so, who should fund it.

12 A few specific comments regarding the draft Physical Solution.

13 In Section 7.7.2 of the draft Physical Solution, the City proposes an Annual Assessment
14 based on the a pro rata amount equal to each Producer's percentage share of the total Watershed
15 production in five-year increments. This proposed assessment assumes that each producing party
16 equally impacts the flow and fishery habitat, and fails to weigh the actual impact to the fishery.
17 Any assessment must weight the impact to the fishery and assess accordingly. For example, the
18 City takes surface water from the River creating an immediate impact on flow. An agricultural
19 user pumping water from a well deep within one of the basins may have a very minimal impact of
20 surface flow and fish habitat, if any at all. Assuming the Court finds that all or most groundwater
21 pumpers must be part of this solution, then the assessment should reflect this minimal impact as
22 opposed to those, like the City, who have a direct and immediate impact on flow and habitat.

23 Section 7.6 "Uncontrollable Conditions" lists water for human consumption, but does not
24 directly address agricultural interests. This section must include conditions that affect agricultural
25 interests (drought, access to water and priority over flow, etc.). Landowners and agricultural
26 interests are concerned that they will not be able to access water during drought conditions and
27 available water would be diverted to municipal water use using this section.


28 Section 7.7 "Management Committee," 7.7.3.4 "Voting Requirements"

1 The East Ojai Group has concerns regarding the governance as expensive and overlapping
2 with other agencies. It is entirely possible that members of the management committee could be
3 on multiple agencies creating conflict of interests and multiple voting rights because a member
4 may represent more than one committee member. This section needs to be clarified to avoid
5 conflicts and protect each parties interests.

6
7 DATED: July 15, 2021

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9 By:


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Orchard, LLC and Ojai Valley Inn (Collectively,
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Ventura, State of California. My business address is 2801 Townsgate Road, Suite 200, Westlake Village, California 91361.

On July 15, 2021, I served true copies of the following document(s) described as **EAST OJAI GROUP'S COMMENTS TO PROPOSED DRAFT PHYSICAL SOLUTION** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

By transmission via E-Service to File & ServExpress: to the person(s) set forth below. Local Rules of Court 2.10(P)

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

Executed on July 15, 2021, at Westlake Village, California.



Claudia Sherman

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