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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

AUG 05 2019

Sherril R. Carter, Executive Officer/Clerk of Court  
By *[Signature]*, Deputy  
Steven Drew

Attorneys for Petitioner  
SANTA BARBARA CHANNELKEEPER

[Additional Attorneys on p. 2]

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER,  
a California non-profit corporation,

Case No. 19STCP01176

Petitioner,

Judge: Honorable William F. Highberger

v.

Exempt From Filing Fees Pursuant to Cal.  
Gov't Code § 6103

STATE WATER RESOURCES  
CONTROL BOARD, a California State  
Agency;  
CITY OF SAN BUENAVENTURA, a  
California municipal corporation,  
incorrectly named as CITY OF  
BUENAVENTURA,

JOINT INITIAL STATUS CONFERENCE  
STATEMENT

CMC: Aug. 12, 2019  
Time: 10:00 a.m.  
Dept: SS10

Respondents.

Action Filed: Sept. 19, 2014  
FAC Filed: Sept. 7, 2018  
Trial Date: Not Set

CITY OF SAN BUENAVENTURA, a  
California municipal corporation,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

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10 Attorneys for Respondent and Cross-Complainant  
11 CITY OF SAN BUENAVENTURA  
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1           1.       WHAT HAS BEEN DONE IN THE CASE

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3           A.       STATUS OF THE PLEADINGS

4  
5           In September 2014, Channelkeeper filed a Complaint and Petition for Declaratory Relief  
6 and a Writ of Mandate pursuant to Code of Civil Procedure section 1085 against the City and the  
7 State Board. The Petition asked the Court to declare the City’s use of Reach 4 of the Ventura  
8 River from April through October is unreasonable, in violation of article X, section 2 of the  
9 California Constitution, and to direct the State Board to perform alleged mandatory duties under  
10 article X, section 2, Water Code section 275, and the public trust doctrine to prevent that  
11 unreasonable use.

12           In response, City filed a Cross-Complaint, and later a First Amended Cross-Complaint,  
13 against other surface water and groundwater users who it alleged affect the flow of water in the  
14 Ventura River. Pursuant to Channelkeeper’s motion, the Court struck City’s First Amended  
15 Cross-Complaint. City appealed the decision to strike its First Amended Cross-Complaint, and  
16 the Court of Appeal reversed the decision in a published decision. (*Santa Barbara*  
17 *Channelkeeper v. City of San Buenaventura* (2018) 19 Cal.App.5th 1176.)

18           Following the appeal, Channelkeeper filed a First Amended Complaint and Petition (“1st  
19 Am. Complaint”). State Board’s Answer to the original Complaint and Petition was deemed its  
20 answer to the 1st Am. Complaint. City filed an Answer and a Second Amended Cross-Complaint  
21 (“2nd Am. Cross-Complaint”).

22           In its 2nd Am. Cross-Complaint, City named approximately one hundred Cross-  
23 Defendants who divert water from the Ventura River or pump groundwater from the Upper  
24 Ventura River, Ojai Valley, Lower Ventura River, and Upper Ojai Valley Groundwater Basins  
25 (collectively “Ventura Groundwater Basins”), which it contends affect the flow of water in the  
26 Ventura River. City’s 2nd Am. Cross-Complaint alleges the following claims: (1) violation of  
27 reasonable use under Article X, section 2 by Cross-Defendants; (2) violation of public trust by  
28 Cross-Defendants; (3) declaratory relief regarding pueblo and/or treaty water rights; (4)

1 declaratory relief regarding prescriptive water rights; (5) declaratory relief regarding  
2 appropriative water rights; (6) comprehensive adjudication and physical solution; (7) declaratory  
3 relief regarding municipal priority; (8) declaratory relief regarding human right to water; and (9)  
4 declaratory relief. As an adjudication action that includes adjudication of the Ventura  
5 Groundwater Basins, the 2nd Am. Cross-Complaint involves, among other things, the  
6 Streamlined Groundwater Adjudication Statutes (Code Civ. Proc., §§ 830-52) and the Sustainable  
7 Groundwater Management Act (“SGMA”) (Wat. Code, §§ 10720-37.8).

8 Most Cross-Defendants have not filed responsive pleadings pursuant to an extension of  
9 time granted by the San Francisco Superior Court allowing them to respond to the 2nd Am.  
10 Cross-Complaint within 60 days after receipt of a Court-approved Form Answer. Also, as  
11 discussed in section 1(B) below, it is likely additional parties will join this lawsuit. Therefore,  
12 City believes it is premature to set deadlines to amend or file new pleadings. (Cal. Rules of  
13 Court, rule 3.750(b)(2)(b)(3).)

14 The parties stipulated to transfer venue from San Francisco County Superior Court to Los  
15 Angeles County Superior Court because venue in San Francisco imposed an unnecessary burden  
16 on the numerous parties who reside or own property in Ventura County. The parties agreed that  
17 the Los Angeles County Superior Court, Complex Civil Litigation Division, is a proper and  
18 convenient venue for the complex adjudication of the Ventura River Watershed.

19  
20 B. STATUS OF SERVICE<sup>2</sup>

21  
22 As explained in section 1(A) above, City and State Board have answered the 1st Am.  
23 Complaint.

24 With regard to additional parties, specific provisions of the Streamlined Groundwater  
25 Adjudication Statutes require the City to apply for and obtain the Court’s approval of a “Notice of  
26 Adjudication and Form Answer” that will be the vehicle for serving property owners within the

27 \_\_\_\_\_  
28 <sup>2</sup> Cal. Rules of Court, rule 3.750(b)(1) - (3).

1 Ventura River Groundwater Basins. (Cal. Code Civ. Proc., § 836.) City will seek this Court's  
2 approval of the required Notice of Adjudication and Form Answer under Code of Civil Procedure  
3 section 836 as soon as possible. This procedural step is critical for the purpose of moving this  
4 case forward.

5 City has served nearly all named Cross-Defendants, but some Cross-Defendants are  
6 avoiding service despite the City's diligent efforts. Accordingly, the San Francisco Superior  
7 Court extended the time for City to file proof of service of the Summons and 2nd Am. Cross-  
8 Complaint until 60 days after City is permitted to serve by mail and by publication as authorized  
9 by California Civil Procedure Code section 836.

10 To date, the following Cross-Defendants have been served and appeared (the first four of  
11 which are referred to as the "Moving Cross-Defendants"):

12 Casitas Municipal Water District  
13 Meiners Oaks Water District  
14 Rancho Matilija Mutual Water Company  
15 Ventura River Water District  
16 Senior Canyon Mutual Water Company  
17 Ventura County Watershed Protection District  
18 Wood-Claeysens Foundation

19 The following Cross-Defendants have been served and appeared through the Case  
20 Management Conference statement filed on January 14, 2019:

21 AGR Breeding, Inc.  
22 Troy Becker  
23 Bentley Family Limited Partnership  
24 Robin Bernhoft  
25 Janet Boulten  
26 Michael Boulten  
27 Michael Caldwell  
28 Casitas Municipal Water District  
Joe Clark  
Linda Epstein  
Ernest Ford  
Friend's Ranches, Inc.  
Lawrence Hartmann  
Krotona Institute of Theosophy  
Ole Konig  
Meiners Oaks Water District

1 North Fork Springs Mutual Water Company  
2 Rancho Matilija Mutual Water Company  
3 Shlomo Raz  
4 Sylvia Raz  
5 Rudd Ranch, LLC (specially appearing)  
6 Senior Canyon Mutual Water Company  
7 Siete Robles Mutual Water Company  
8 St. Joseph's Associates of Ojai, California, Inc.  
9 The Thacher School  
10 Tico Mutual Water Company  
11 Topa Topa Ranch Company, LLC  
12 John Town  
13 Trudie Town

14 The following Cross-Defendants have been served and appear through this Joint Initial  
15 Status Conference Statement:

16 Michael Cromer  
17 Robert C. Davis, Jr.  
18 Etchart Ranch  
19 James Finch  
20 Stephen Mitchell  
21 Soule Park Golf Course, Ltd.  
22 Telos, LLC  
23 Victor Timar

24 The following Cross-Defendants have been served, but have not yet appeared:

25 Duncan Abbott  
26 Asquith Family Ltd.  
27 Dewayne Boccali  
28 Dwayne Bower  
29 James R. Burgess  
30 Casitas Mutual Water Company  
31 Kevin Clark  
32 Lisa Clark  
33 Rebecca Collins  
34 Thomas Collins  
35 Essick Farm Management Company, LLC  
36 Flying H. Ranch, Inc.  
37 Wayne Francis  
38 J&G Trust  
39 John Galaska  
40 Jurgen Gramckow  
41 Gridley Road Water Group  
42 Stephanie Gustafson  
43 Dorothy Homes

1 Hermitage Mutual Water Company  
2 Stephen Huyler  
3 Cheryl Jensen  
4 Brett Kantrowitz  
5 Denise Kantrowitz  
6 Jerry Kenton  
7 Tim Krout  
8 Betina La Plante  
9 Lutheran Church of the Holy Cross of Ojai  
10 Scott Luttenberg  
11 Jeffrey Luttrull  
12 Frederick Menninger  
13 Margaret Menninger  
14 Bill Moses  
15 Ojai Water Conservation District  
16 Old Creek Road Mutual Water Company  
17 Rincon Water and Road Works  
18 William Rusin  
19 Mark Saleh  
20 Sisar Mutual Water Company  
21 Andrew Stasse  
22 Thacher Creek Citrus, LLC  
23 Lou Tomesetta  
24 Ernesto Vega  
25 Calvin Zara

16 The following Cross-Defendants have been dismissed:

17 Peter Cheney  
18 Dave Dollan  
19 Boyd Dron  
20 Richard La Plante  
21 Robert Martin  
22 Stephen McLaughlin  
23 Maynard Family Trust  
24 Edward Mercer  
25 Hixon Trust  
26 Mercer Family Trust  
27 Dave Mollan  
28 Alice Newsom  
Red Rock Ranch Properties, LLC  
Sims Family Trust

25 The following Cross-Defendants have not been served:

26 Charles Cho  
27 Richard Gilleland  
28 Rancho de Cielo Mutual Water Company



1 George S. Stuart  
2 John Taft

3 Following the Initial Status Conference and the Court's approval of the Notice of  
4 Adjudication and Form Answer under Code of Civil Procedure section 836, subdivision (b), City  
5 will serve by mail and publication pursuant to Code of Civil Procedure section 836, subdivision  
6 (d), the Cross-Defendants it has not been able to serve personally.

7 City expects additional parties will join the lawsuit as either cross-defendants or  
8 intervenors. Pursuant to Code of Civil Procedure sections 835, 836, subdivision (d), and 836.5,  
9 City must provide notice to affected public agencies, California Native American tribes, persons  
10 who have a permit or license to store or divert stored water, interested parties who have requested  
11 notice from a groundwater management agency, and owners of real property in the Ventura River  
12 watershed and Ventura River Groundwater Basins. This last category, in particular, will involve  
13 providing notice to hundreds or thousands of additional entities who may become Cross-  
14 Defendants. Accordingly, City believes it is premature to set a deadline by which all parties must  
15 be served.

16 City has already provided notice to the following interested entities pursuant to Civil  
17 Procedure Code section 835(a)(1)-(7):

18  
19 Upper Ventura River Groundwater Agency  
20 Ojai Basin Groundwater Management Agency  
21 Ventura County  
22 Santa Barbara County  
23 City of Ojai  
24 California Attorney General  
25 California Department of Fish and Wildlife  
26 State Water Resources Control Board  
27 Department of Water Resources  
28 United States Department of Agriculture Forest Service  
Bureau of Reclamation  
Bureau of Land Management  
United States Attorney General

26 It is possible that the above-named parties will file answers (including form answers) or seek to  
27 intervene in this case.

1 Furthermore, these new parties and named Cross-Defendants may want to sue additional  
2 parties. City estimates that it will likely be about six months before all of these potential  
3 additional parties receive notice and appear. Therefore, City believes it is premature to set  
4 deadlines to serve or add new parties or define classes of parties. (Cal. Rules of Court, rule  
5 3.750(b)(2)–(b)(3).)

6 A copy of the current Proof of Service is attached as Ex. A.  
7

8 C. ISSUES OF JURISDICTION, VENUE AND ARBITRATION CLAUSES  
9

10 The parties are not aware of any issues regarding jurisdiction, venue, or arbitration  
11 clauses. The State Board submitted a letter to the Honorable Kevin C. Brazile, Presiding Judge of  
12 Los Angeles Superior Court, dated March 8, 2019 regarding judicial assignment of the case and  
13 specifically requested coordination with the Judicial Council. The State Board asks this Court to  
14 address the concerns raised in that March 8, 2019 correspondence.  
15

16 D. RELATED ADMINISTRATIVE PROCEEDINGS AND LITIGATION  
17

18 There are two existing administrative proceedings related to flows in the Ventura River.  
19 First, the State Board and the California Department of Fish and Wildlife (“CDFW”), pursuant to  
20 the California Water Action Plan (“WAP”), have identified the Ventura River as one of five  
21 priority water streams for the development of water flow conditions that support habitat for  
22 anadromous fish. CDFW is conducting an instream flow study to estimate the flows needed for  
23 anadromous fish in the Ventura River. The State Board is also developing an integrated  
24 groundwater-surface water model for the Ventura River that is expected to be completed in 2021.  
25 Upon receipt of CDFW’s instream flow recommendation and completion of the model, the State  
26 Board represents that it will consider the development and implementation of a plan to achieve  
27 reasonable minimum flows in the Ventura River.  
28

1 Second, the Upper Ventura River Groundwater Agency (“UVRGA”) was formed in  
2 December 2016 by the Ventura River Water District, Casitas Municipal Water District, Meiners  
3 Oaks Water District, Ventura Water (a City Department) and Ventura County.<sup>3</sup> It is a  
4 groundwater sustainability agency under SGMA and is charged with developing and  
5 implementing a Groundwater Sustainability Plan (“Sustainability Plan”) that “must outline  
6 measurable objectives and interim milestones to achieve the sustainability goal for the basin  
7 within a 20-year time frame.”<sup>4</sup> Because the Upper Ventura Basin is a medium priority basin not  
8 currently in overdraft, UVRGA must complete its Sustainability Plan by January 31, 2022. Id.

9 There is also a related court proceeding.<sup>5</sup> On November 2, 2017, Channelkeeper filed a  
10 petition for writ of mandate against the State Board in San Francisco Superior Court, Case No.  
11 CPF-17-515919. On April 20, 2018, Channelkeeper filed a first amended petition for writ of  
12 mandate, challenging State Board’s decision to delist Reaches 3 and 4 of the Ventura River from  
13 the State’s list of impaired waterways as impaired by pumping and diversions. There have not yet  
14 been any further proceedings in that related proceeding. The State Board does intend to bring a  
15 demurrer to the petition in this related proceeding.

16 Additionally, on July 9, 2019, Channelkeeper served City with a 60-Day Notice of  
17 Violation and Intent to File Suit Under the Endangered Species Act (the “ESA”). In the 60-Day  
18 Notice, Channelkeeper alleges that City’s operation of the Foster Park subsurface diversion  
19 results in the unauthorized take of endangered Southern California Steelhead in violation of the  
20 ESA, and that upon expiration of the 60 days Channelkeeper intends to file suit in federal court  
21 seeking injunctive and other relief. City strongly disputes Channelkeeper’s claims and will assert  
22 all available procedural and substantive defenses and will seek to have the case stayed or  
23 dismissed should Channelkeeper proceed to filing suit.

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26 \_\_\_\_\_  
27 <sup>3</sup> <http://www.uvrgroundwater.org/about/>

28 <sup>4</sup> <http://www.uvrgroundwater.org/gsa-formation/sgma-overview/>

<sup>5</sup> Cal. Rules of Court, rule 3.727(1).

1 E. PAYMENT OF COMPLEX FEE

2  
3 The Court's Order dated May 15, 2019 requires each party to pay \$1,000 for complex fees  
4 pursuant to Government Code section 70616. This section also provides that the total amount of  
5 complex fees shall not exceed \$18,000. (Gov't Code § 70616(b).) The parties request that this  
6 Court waive the complex litigation fees and refund those parties who have already paid the fee.  
7 Precedent exists to grant this request. Judge Thomas P. Anderle—who is presiding over the  
8 comprehensive adjudication of the Las Posas Valley Groundwater Basin, which is located in  
9 Ventura County and similarly involves numerous parties and the determination of rights to an  
10 important water resource—determined that it was not appropriate to levy complex fees in  
11 groundwater adjudications and waived them.<sup>6</sup>

12 Alternatively, in light of the number of parties, already exceeding 100, and because the  
13 \$18,000 cap would be exceeded, the parties propose that the Court modify the order “to ensure  
14 that the total complex fees paid by the defendants, intervenors, respondents, or other adverse  
15 parties appearing in the case do not exceed the limit and that the complex fees paid by those  
16 parties are apportioned fairly among those parties.” (Gov't Code § 70616(d).) The parties also  
17 request that the Court consider the issue of whether small or “de minimis” Cross-Defendants  
18 should be excused from payment of any complex fee. City maintains that it is exempt from  
19 paying the \$1,000 complex fee pursuant to Government Code section 6103. Additionally, even  
20 though all parties stipulated to transfer venue to this Court, City paid for the entirety of transfer  
21 fees, totaling \$1,435. The Court should also be aware that the following parties have already paid  
22 the \$1,000 complex fee, and any equitable allocation should include partial reimbursement to  
23 these parties, depending on the final allocation:

24  
25 Topa Topa Ranch  
26 Friends Ranch  
The Thacher School

27 <sup>6</sup> See Complex Case Management Conference Order in *Las Posas Valley Water Rights Coalition*  
28 *et al. v. Fox Canyon Groundwater Management Agency et al.*, Case No. VENC100509700.

1 Krotona Insitute of Theosophy  
2 Rancho Matilija Mutual Water Company  
3 Ventura River Water District  
4 Meiners Oaks Water District  
5 Wood-Claeyssens Foundation

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13 2. CORE LEGAL AND FACTUAL ISSUES

14  
15 This is a complex case both procedurally and substantively. It involves complex  
16 questions about the Ventura River Watershed and the groundwater basins in the Watershed. It  
17 also involves one of the first applications of the Streamlined Groundwater Adjudication Statute.  
18 As described below, certain threshold questions need to be resolved before a complete plan for  
19 the case can be prepared.

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A. SEVERANCE / BIFURCATION<sup>7</sup>

Channelkeeper requests that its Constitutional and Public Trust claims proceed separately from the City's cross claims and the adjudication. Channelkeeper believes that its claims can be resolved without discovery, without involvement of the Cross-Defendants, and on an expedited basis.

City believes Channelkeeper's proposed bifurcation will not avoid discovery or issues involving Cross-Defendants as explained in the Court of Appeal's published decision. (*Santa Barbara Channelkeeper, supra*, 19 Cal.App.5th at p. 1188.)

State Board believes Channelkeeper's request for severance is inconsistent with the Court of Appeal's published decision, and would be a waste of time and resources given the expected completion of CDFW's instream fish study in the next year.

City proposes that this case ultimately be trifurcated for expert discovery and trial into the following three phases: (1) establishment of the Ventura River watershed boundaries and

<sup>7</sup> Cal. Rules of Court, rule 3.750(b)(4); Civ. Proc. Code, § 840(b)(5).

1 characteristics, establishment of the Ventura Groundwater Basins boundaries and characteristics,  
2 and establishment of the interconnection, if any, between the surface waters and the basins; (2)  
3 determination of the nature and proportionate quantity of the parties' water production rights, as  
4 well as the needs of instream uses; and (3) establishment of a physical solution. (See also  
5 MANAGEMENT OF COMPLEX CIVIL LITIGATION § 3.102.) Percipient discovery would not be phased.

6 The State Board does not object to the City's proposed phases for expert discovery and  
7 trial of its 2nd Am. Cross-Complaint. As a part of phase 2, or as a separate phase that precedes  
8 the determination of the parties' water rights, there should be a determination of the water  
9 necessary to protect instream beneficial uses, such as the water necessary to protect anadromous  
10 fish in the Ventura River and its tributaries. City agrees with State Board this issue should be part  
11 of phase 2, but believes deciding it prior to phase 2 is inconsistent with the Court of Appeal's  
12 published decision. (*Santa Barbara Channelkeeper, supra*, 19 Cal.App.5th at p. 1188.)

13 Moving Cross-Defendants do not object to City's proposed phase for expert discovery and  
14 trial of its 2nd Am. Cross-Complaint. However, determination of the interconnection, if any,  
15 between the surface waters and groundwater in the watershed must be a threshold determination  
16 before initiation of any phases. City is proceeding with a comprehensive adjudication pursuant to  
17 Code of Civil Procedure sections 830 to 852, which establish procedures by which "courts may  
18 conduct comprehensive determinations of all rights and priorities to groundwater in a basin.  
19 Surface water right holders may be included in the comprehensive adjudication portion of the  
20 City's 2nd Am. Cross-Complaint only if the Court finds that including such surface water sources  
21 "is necessary for the fair and effective determination of the groundwater rights in a basin. . . ."  
22 (Code Civ. Proc., § 833, subd. (c).)

23 City believes Code of Civil Procedure section 833, subdivision (c), provides a mechanism  
24 to ensure necessary surface water parties are joined, but does not preclude City from naming such  
25 users now. The interconnectedness of a surface water body and groundwater basin is an element  
26 that must be proven at trial. Section 833, subdivision (c), does not change the order of proof at  
27 trial or create a threshold issue / phase for an adjudication.

1                   B.     PENDING AND POTENTIAL MOTIONS

2  
3             Pursuant to the statutory deadline of Code of Civil Procedure section 836, subdivision (b),  
4 City previously filed a Motion for Approval of Notice of Adjudication and Form Answer, which  
5 the City took off-calendar pending transfer of this matter to this Court. The City plans to re-file  
6 this Motion for Approval of Notice of Adjudication and Form Answer and seeks to set it for  
7 hearing as soon as possible. Court approval of the Notice of Adjudication and Form Answer is  
8 necessary for City to serve landowners in the Ventura River Watershed and to obtain information  
9 about persons reporting extractions and/or diversions from the Ventura River Watershed.

10            Moving Cross-Defendants previously filed a Motion to Stay the entire proceeding,  
11 pursuant to Code of Civil Procedure section 848, which was also taken off-calendar. The State  
12 Board supports that Motion. Channelkeeper may join Cross-Defendants' Motion, or file its own  
13 motion, to stay the City's 2nd Am. Cross Complaint and the adjudication until Channelkeeper's  
14 claims are resolved. Certain other Cross-Defendants support this Motion. City believes the  
15 Motion to Stay will unnecessarily delay this action because the administrative proceedings will  
16 not resolve the issues in this action.

17            Recently, the parties negotiated a stipulation for a partial stay to avoid the need for a  
18 motion to stay. The partial stay will allow the parties to continue their preliminary  
19 settlement/mediation discussions (see section 4(B), below), ensure other necessary parties are  
20 joined in the lawsuit, provide a process to exchange information necessary for settlement  
21 discussions, and will not delay the case if mediation is unsuccessful. Immediately after the Initial  
22 Status Conference, the parties will seek to file a stipulation for partial stay.

23            Channelkeeper intends to file a Motion for Separate Trial pursuant to Code of Civil  
24 Procedure section 1048(b) within 30 days of the Case Management Conference. As explained in  
25 section 2(A) above, City believes a separate trial of Channelkeeper's claims against it is neither  
26 efficient nor permissible.

27            At an appropriate time, and especially if the Court severs the 1st Am. Complaint from the  
28 2nd Am. Cross-Complaint or dismisses the claims against the State Board, the State Board may

1 move to intervene on the City’s 2nd Am. Cross-Complaint, since it is technically only a party on  
2 the Channelkeeper’s 1st Am. Complaint, is not yet a party to the 2nd Am. Cross-Complaint, and  
3 has an institutional interest in any water rights adjudication. Other state agencies may join the  
4 State Board or file separate motions to intervene. In addition, City is considering naming the  
5 State Board and CDFW in the adjudication.

6 Various Cross-Defendants, whose water usage could be considered de minimis compared  
7 to other water users, anticipate bringing a motion to create a “cut-off” point that dismisses all  
8 water users under a certain threshold of water usage, likely after initial disclosures have been  
9 completed. Alternatively, the motion would classify those small water users separately to help  
10 manage the case more efficiently and mitigate the litigation costs for those small users by  
11 allowing them to be handled on a collective or class basis. The Streamlined Comprehensive  
12 Adjudication Statute explicitly provides for such a case management order. (See Code. Civ.  
13 Proc., § 833, sub. (d).) City agrees de minimis parties should be dismissed or classified  
14 separately. This will depend upon the number of such parties and their water usage. The State  
15 Board does not have an objection to such a cut-off, provided it is set an appropriate place.

16  
17 3. DISCOVERY ISSUES

18  
19 A. REFERENCE / SPECIAL MASTER

20  
21 At an appropriate point, the State Board believes the Court should consider whether it  
22 should appoint a special master or make a reference to the State Board to assist it in resolving the  
23 highly technical issues that the 2nd Am. Cross-Complaint raises. The Streamlined  
24 Comprehensive Adjudication Statute explicitly provides for this. (See Code Civ. Proc., § 845;  
25 see also Wat. Code, §§ 2000-48.) The parties have begun to discuss this. A motion may be  
26 appropriate at some point. City believes a reference to the State Board or appointment of a  
27 special master by the Court is not necessary and will delay this action.



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B. DISCOVERY IN THE CHANNELKEEPER CASE

Channelkeeper believes that its Section 1085 Writ of Mandamus Petition is a record case, and Channelkeeper submitted its evidentiary support with the Petition. Channelkeeper’s case can be resolved on the documents submitted by the parties via an expedited trial. No disclosures or discovery are required or appropriate for resolution of Channelkeeper’s action.

City believes Channelkeeper’s proposed bifurcation will not avoid discovery, trial witnesses and exhibits, or issues involving Cross-Defendants as explained in the Court of Appeal’s published decision. (*Santa Barbara Channelkeeper, supra*, 19 Cal.App.5th at p. 1188.)

The State Board does not have a position as to whether there can or should be discovery on Channelkeeper’s first cause of action against City. The State Board agrees with Channelkeeper that there is no need for discovery on the writ of mandate claims brought against the State Board. Channelkeeper’s claims against the State Board are in the nature of challenging an omission, not a decision, and so the State Board believes there will not be an administrative record as one would normally expect in a writ of mandate case; however, Channelkeeper and the State Board can submit their evidence on the writ of mandate claims when they are briefed and prior to the hearing on the merits of those claims. The State Board does not agree that these procedural attributes of Channelkeeper’s claims justifies proceeding on them first, as is discussed elsewhere in this case management statement and in the Court of Appeal’s opinion.

C. INITIAL DISCLOSURES<sup>8</sup>

As mentioned in section 3(B) above, Channelkeeper does not believe initial disclosures apply to its claims.

City proposes that the parties who have appeared as of this Initial Status Conference shall

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<sup>8</sup> Civ. Proc. Code, § 842; Cal. Rules of Court, rule 3.750(b)(10); MANAGEMENT OF COMPLEX CIVIL LITIGATION § 2.30[2].

1 provide their initial disclosures under Code of Civil Procedure section 842 on September 27,  
2 2019. The initial disclosures would also include information related to surface water and would  
3 be related to all phases. Other parties shall provide their initial disclosure within six months of  
4 appearing in this action. City further proposes that the initial disclosures include the same surface  
5 water information as required for groundwater information under section 842, and that the  
6 disclosures may include supporting documents. Thereafter, every party shall have a continuing  
7 duty to supplement its disclosures as it becomes aware of further information.

8 Moving Cross-Defendants believe that City's requested initial disclosure deadline should  
9 apply only to groundwater right holders until a finding is made by this Court pursuant to Code of  
10 Civil Procedure section 833(c) that including surface water right holders in the comprehensive  
11 adjudication is necessary. City disagrees for the reasons set forth in section 2(A) above.

12  
13 D. DOCUMENTS<sup>9</sup>  
14

15 City proposes that when a party first produces documents, each party shall select a unique  
16 three letter prefix for the bates numbering of the documents it produces in this case. City shall  
17 keep an index of the prefixes. The production of percipient documents will include information  
18 related to all phases. For percipient and expert depositions, Channelkeeper's exhibits shall begin  
19 numbering at 1, Respondents' exhibits shall begin numbering at 5,000, and Cross-Defendants'  
20 exhibits shall begin numbering at 10,000. Each Respondent and Cross-Defendant will begin  
21 numbering at 5,000 and 10,000, respectively, using their unique three letter prefix. Parties shall  
22 not use new numbers for exhibits previously numbered at deposition. Finally, the parties shall  
23 meet and confer on selecting an on-line document depository for all documents, depositions, and  
24 written discovery produced in this case.

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28 <sup>9</sup> Cal. Rules of Court, rule § 3.750(b)(10); MANAGEMENT OF COMPLEX CIVIL LITIGATION § 2.30[2].

1 E. PROTECTIVE ORDER

2  
3 If private parties desire a protective order for confidential information, City proposes the  
4 parties stipulate to a protective order for confidential records of private parties. Cross-Defendant  
5 Wood-Claeysens Foundation proposes the form Stipulation and Protective Order (Confid. and  
6 Highly Confid. Desig.) approved by the Los Angeles County Superior Court.<sup>10</sup> City does not  
7 object provided it is modified to address public agency issues.

8  
9 F. E-FILING AND E-SERVICE<sup>11</sup>

10  
11 Pursuant to California Rules of Court rule 2.251, Code of Civil Procedure section 1010.6,  
12 and the Court's Initial Status Conference Order, the parties request the Court order that all service  
13 be made by electronic service, subject to the exception, based upon a proper showing, that it  
14 would pose an undue hardship on a party. The parties request that electronic service by 5:00 p.m.  
15 be deemed same day personal service. The parties' preferred web-based electronic service  
16 provider is File & ServeXpress. The parties further request that the Court order that all filing be  
17 made by electronic filing once electronic filing is implemented for the Complex Civil Litigation  
18 Division.

19 The Attorney General's Office is concerned about service on Cross-Defendants that City  
20 has named and served but who have not appeared. Cross-Defendants that have not yet made an  
21 appearance did not meet and confer prior to this Initial Status Conference. Nor did City serve  
22 them with its previously filed Motion for Approval of Notice of Adjudication and Form Answer.  
23 City maintains that it has complied with the service requirements of California Code of Civil  
24 Procedure section 1014 and that it need not serve Cross-Defendants who have not appeared with  
25 procedural motions. The Attorney General's Office and City disagree about this issue, and would

26  
27 <sup>10</sup> See MANAGEMENT OF COMPLEX CIVIL LITIGATION app. B.6 at 38-49 (L.A. Cty. Sup. Ct. Stip. and  
Protect. Order – Confid. and Highly Confid. Design.).

28 <sup>11</sup> Civ. Proc. Code, § 839; MANAGEMENT OF COMPLEX CIVIL LITIGATION § 2.30[2].

1 ask the Court for direction. As a courtesy, City plans to serve all parties, including those who  
2 have not appeared, when it re-files its Motion for Approval of Notice of Adjudication and Form  
3 Answer.

4  
5 G. DISCOVERY SCHEDULE<sup>12</sup>

6  
7 Because there are several threshold issues to resolve that may significantly alter the  
8 direction of this case and because settlement discussions are progressing, City and State Board  
9 believe it is premature to set a discovery schedule and a plan for the discovery of electronically  
10 stored information. Moving Cross-Defendants agree with this position. Cross-Defendants Wood-  
11 Claeysens Foundation, Thacher School, Friends' Ranch, Topa Topa Ranch and Krotona Institute  
12 of Theosophy, Tico Mutual Water Company, and Ernest Ford also agree with this position.

13  
14 H. CODE OF CIVIL PROCEDURE SECTION 583.310

15  
16 The parties are willing to stipulate that discovery and/or pleading stays entered by the  
17 Court for case management purposes shall not be considered in determining the statutory period  
18 for bringing the case to trial under Code of Civil Procedure section 583.310.

19  
20 4. RECOMMENDED DATES AND TIMES

21  
22 A. NEXT STATUS CONFERENCE<sup>13</sup>

23  
24 The parties recommend the next status conference bet set in approximately six (6) months.

25  
26  
27 <sup>12</sup> Cal. Rules of Court, rule 3.750(b)(5)

28 <sup>13</sup> Cal. Rules of Court, rule 3.750(b)(13).

1                   B.     SCHEDULE FOR ALTERNATIVE DISPUTE RESOLUTION<sup>14</sup>

2  
3             Channelkeeper notes the two administrative processes discussed above in section 1(D),  
4 the State Board and CDFW WAP and UVRGA Sustainability Plan, could provide a vehicle for  
5 conducting the Reasonable Use, Waste, and Public Trust analysis of City’s water use that  
6 Channelkeeper seeks. Channelkeeper believes its case can settle based on three elements: 1)  
7 completion of minimum flow standards for the Ventura River; 2) express inclusion of a  
8 reasonable use analysis, and maintenance of the minimum flows identified by CDFW and State  
9 Board, in the Sustainability Plan; and 3) interim minimum flow standards in Reach 4 of the  
10 Ventura River while the administrative processes are completed.

11             Channelkeeper, City, State Board, and Cross-Defendants Casitas Municipal Water  
12 District, Friend’s Ranches, Inc., Krotona Institute of Theosophy, Topa Topa Ranch Company,  
13 LLC and The Thacher School, Meiners Oaks Water District and Ventura River Water District,  
14 Rancho Matilija Mutual Water Company, Wood-Claeyssens Foundation and CDFW and  
15 additional Cross-Defendants (collectively “Mediating Parties”), have begun preliminary  
16 settlement discussions and are participating in formal mediation. The Mediating Parties  
17 participated in an all-day mediation with Judge Komar, JAMS on April 22, 2019. A second  
18 formal mediation sessions was held on June 14, 2019. The Mediating Parties have also  
19 participated in numerous conference calls. The Mediating Parties have focused on interim  
20 settlement measures to apply while negotiating a final settlement, known as a physical solution,  
21 for the next several years. A physical solution is an enforceable judgement setting the parties’  
22 water rights and provides a comprehensive approach to address the needs of the parties and  
23 environmental uses. The Mediating Parties wish to continue these settlement discussions and will  
24 advise the Court if they continue to be productive at the next status conference.

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28 <sup>14</sup> Cal. Rules of Court, rule 3.750(b)(6); MANAGEMENT OF COMPLEX CIVIL LITIGATION § 2.30[2].

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C. FILING DEADLINE FOR PROPOSED MOTIONS

City requests that Court set a hearing date on its Motion for Approval of Notice of Adjudication and Form Answer as soon as possible and that the briefing schedule be set in accordance with Code of Civil Procedure section 1005(b).

Dated: August 5, 2019

COOPER & LEWAND-MARTIN, INC.

By: *Sam July* <sup>w/ permission SCF</sup> For  
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Dated: August 5, 2019

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Dated: August 5, 2019

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Dated: August 5, 2019

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Dated: August 5, 2019

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AGR BREEDING, INC.

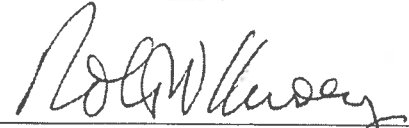
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Dated: August 5, 2019

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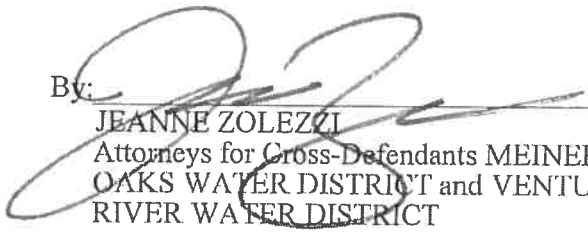
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OAK WATER DISTRICT and VENTURA  
RIVER WATER DISTRICT

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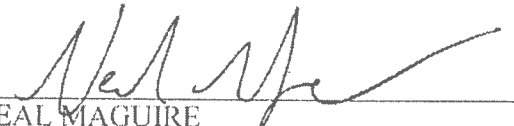
6 Dated: August 5, 2019

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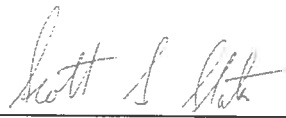
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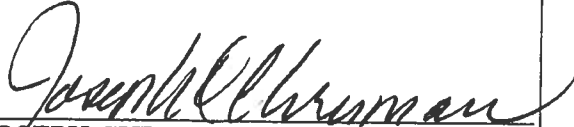
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HATHAWAY, PERRETT, WEBSTER,  
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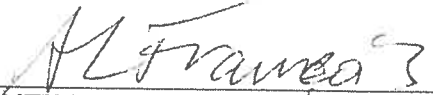
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# EXHIBIT A