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12 CITY OF SAN BUENAVENTURA

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

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

Case No. 19STCP01176

Judge: Hon. William F. Highberger

RESPONDENT AND CROSS-
COMPLAINANT CITY OF SAN
BUENAVENTURA'S SUPPLEMENTAL
OPPOSITION TO MOTION FOR COURT-
APPOINTED SCIENTIFIC EXPERT

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

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

Action Filed: Sept. 19, 2014
Trial Date: Feb. 14, 2022

SUPPLEMENTAL OPPOSITION TO MOTION FOR COURT-APPOINTED
SCIENTIFIC EXPERT

At the July 6, 2021 further status conference, the Court granted Respondent and Cross-Complainant the City of San Buenaventura (“City”) leave to file this supplemental opposition to respond to arguments raised by Cross-Defendants Rosanna Garrison and Gregg Garrison in their July 6, 2021 filing supporting a Court-appointed scientific advisor.

On June 1, 2021, the City filed its opposition to Cross-Defendant Claude R. Baggerly’s motion requesting the Court to appoint a scientific advisor for hydrogeology (the “Opposition”). As explained further in its previously filed Opposition, while the Court has discretion to appoint a scientific advisor under certain factual circumstances, there is no need to appoint one at this time. A court-appointed expert would be duplicative, unnecessary, and contrary to judicial economy because the Court will be provided with the comprehensive technical opinions it needs to fully understand the issues without appointing an independent advisor. The City anticipates that multiple parties, including the State, other public agencies, and private parties, will present significant professional expert testimony on hydrogeology. The Court will also receive as evidence neutral reports and studies that were prepared outside of the context of this litigation. There is no need to appoint an additional expert witness, particularly here as current experts have studied the Ventura River Watershed for decades.

The City emphasizes that, consistent with the authorities cited in the Opposition, the Court may only appoint a scientific advisor when it determines there is a gap in the expert testimony that needs to be filled. (Opp., at p. 3:10-25.) Further, the appointed expert must be neutral because “experts appointed under [Evidence Code] section 730 are necessary only when the court sees the need for an assessment by a disinterested and impartial expert who is not advocating on behalf of a party to the action.” (*In re Eric A.* (1999) 73 Cal.App.4th 1390, 1394, fn. 4, citing *Mercury Casualty Co. v. Superior Court* (1986) 179 Cal.App.3d 1027, 1032-33; see also *People v. Stuckey* (2009) 175 Cal.App.4th 898, 917.)

In contrast here, Cross-Defendants Garrisons and Baggerly are seeking the appointment of an advisor to “represent” them or at least to “counter” the perceived bias from the City. What

1 Cross-Defendants Garrisons and Baggerly want is not a neutral expert but someone who will
2 argue against the City's position. This is not a legal basis for the Court to appoint an expert,
3 particularly because the Court does not yet know the range of opinions that will be expressed by
4 the different experts representing a range of parties.

5 Notwithstanding Cross-Defendants Garrisons' objections, and the inappropriate,
6 accusatory language in Cross-Defendant Baggerly's originally filed reply regarding the City's
7 expert, Cross-Defendants cannot make a showing at this stage that the Court requires an
8 independent expert rather than the use of expert witnesses called by the parties in order to make
9 findings. The Court should deny the motion for a court-appointed scientific expert because
10 Cross-Defendants have made an improper and unsupported request for the appointment of an
11 expert to represent their own interests – at the expense of the other parties to the litigation – but
12 have failed to demonstrate any need at this time for the Court to appoint a neutral expert witness.

13
14 Dated: July 8, 2021

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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 Street, Suite 390, Walnut Creek, CA 94596. On July 8, 2021, I served the following document(s):

**RESPONDENT AND CROSS-COMPLAINANT CITY OF SAN BUENAVENTURA'S
SUPPLEMENTAL OPPOSITION TO MOTION FOR COURT-APPOINTED
SCIENTIFIC EXPERT**

- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
- ☐ I caused such envelope to be delivered via overnight delivery. Such envelope was deposited for delivery by United Parcel Service following the firm's ordinary business practices.
- ☒ by transmission via **E-Service to File & ServeXpress** to the person(s) set forth below. Local Rules of Court 2.10 (P).
- ☒ **By e-mail or electronic transmission.** I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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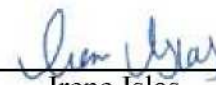
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I declare under penalty of perjury under the laws of the State of California that the
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Executed on July 8, 2021 at Walnut Creek, California


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