

1 SHAWN HAGERTY, Bar No. 182435
shawn.hagerty@bbkllaw.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

5 CHRISTOPHER M. PISANO, Bar No. 192831
christopher.pisano@bbkllaw.com
6 SARAH CHRISTOPHER FOLEY, Bar No. 277223
sarah.foley@bbkllaw.com
7 Best Best & Krieger LLP
300 South Grand Avenue, 25th Floor
8 Los Angeles, California 90071
Telephone: (213) 617-8100
9 Facsimile: (213) 617-7480

10 Attorneys for Respondent and Cross-Complainant

11 CITY OF SAN BUENAVENTURA

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14 SPRING STREET COURTHOUSE

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

17 Petitioner,

18 v.

19 STATE WATER RESOURCES CONTROL
BOARD, a California State Agency; CITY OF
20 SAN BUENAVENTURA, a California
municipal corporation, etc.,

21 Respondents.

22
23 CITY OF SAN BUENAVENTURA, a
California municipal corporation,

24 Cross-Complainant

25 v.

26 DUNCAN ABBOTT, an individual, et al.

27 Cross-Defendants.
28

Case No. 19STCP01176

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

**NOTICE OF DISSEMINATION OF
PROPOSED PHYSICAL SOLUTION
AND JUDGMENT**

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

FAC Filed: September 7, 2018

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TO ALL PARTIES AND TO ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 15, 2020, Cross-Defendants Ventura River Water District, Meiners Oaks Water District, Rancho Matilija Mutual Water Company and the Wood-Claeysens Foundation, and Cross-Complainant and Respondent City of San Buenaventura (“City”) (collectively “Proposing Parties”) disseminated a proposed Physical Solution and Judgment for the Ventura River watershed in accordance with the schedule set forth in the August 10, 2020 Status Report.

The Proposing Parties commit that between September 15 and October 30, 2020, they will meet and confer with all parties to this action regarding the Proposed Physical Solution. During this time the Proposing Parties will make their expert consultants available once per week for a telephone call or other virtual meeting during which time the other parties will be able to ask questions regarding the scientific bases for the terms in the Physical Solution, provided that such parties must sign the attached written agreement, which provides that all such communications will be for settlement purposes only, and that the communications with the Proposing Parties or their consultants shall not be deemed a waiver of the attorney-client privilege, attorney work product doctrine or any other applicable privilege.

Dated: September 15, 2020

BEST BEST & KRIEGER LLP

By: 
SHAWN HAGERTY
CHRISTOPHER M. PISANO
SARAH CHRISTOPHER FOLEY
Attorneys for Respondent and
Cross-Complainant CITY OF
SAN BUENAVENTURA

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Dated: September 15, 2020

BROWNSTEIN HYATT FARBER SCHRECK
LLP

By: 

SCOTT SLATER
BRADLEY HERREMA
CHRISTOPHER GUILLEN

Attorneys For Cross-Defendant
WOOD-CLAEYSSSENS FOUNDATION

Dated: September 15, 2020

HERUM CRABTREE SUNTAG

By: _____
JEANNE ZOLEZZI

Attorneys For Cross-Defendants
MEINERS OAKS WATER DISTRICT
AND VENTURA RIVER WATER
DISTRICT

Dated: September 15, 2020

FERGUSON CASE ORR PATTERSON LLP

By: _____
NEAL P. MAGUIRE

Attorneys For Cross-Defendants
RANCHO MATILJA MUTUAL
WATER COMPANY; BETTINA
CHANDLER, TRUSTEE OF THE
BETTINA CHANDLER TRUST

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Dated: September 15, 2020

BROWNSTEIN HYATT FARBER SCHRECK
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By: _____

SCOTT SLATER
BRADLEY HERREMA
CHRISTOPHER GUILLEN

Attorneys For Cross-Defendant
WOOD-CLAEYSSSENS FOUNDATION

Dated: September 15, 2020

HERUM CRABTREE SUNTAG

By:  _____

JEANNE ZOLEZZI

Attorneys For Cross-Defendants
MEINERS OAKS WATER DISTRICT
AND VENTURA RIVER WATER
DISTRICT

Dated: September 15, 2020

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Dated: September 15, 2020

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JEANNE ZOLEZZI

Attorneys For Cross-Defendants
MEINERS OAKS WATER DISTRICT
AND VENTURA RIVER WATER
DISTRICT

Dated: September 15, 2020

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RANCHO MATILJA MUTUAL
WATER COMPANY; BETTINA
CHANDLER, TRUSTEE OF THE
BETTINA CHANDLER TRUST

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ATTACHMENT

AGREEMENT FOR CONFIDENTIAL SETTLEMENT COMMUNICATIONS

This Agreement for Confidential Settlement Communications (“Agreement”) is entered into and effective as of September 15, 2020 (the "Effective Date"), by and between the City of San Buenaventura (“City”), Ventura River Water District (“VRWD”), Meiners Oaks Water District (“Meiners Oaks”), Rancho Matilija Mutual Water Company (“Rancho”), and the Wood-Claeyssens Foundation (“Foundation”), (collectively “Proposing Parties”), and any other Party that agrees to be bound by the terms of this Agreement, as evidenced by their signatures to this Agreement. The parties that execute this Agreement shall be referred to herein as a (“Party”) or collectively as (“Parties”).

WHEREAS, on September 19, 2014, Santa Barbara Channelkeeper (“Channelkeeper”) filed a Complaint for Declaratory Relief and Petition for Writ of Mandate against the City and the State Water Resources Control Board (“State Board”) in a lawsuit entitled Santa Barbara Channelkeeper v. State Water Resources Control Board and the City of San Buenaventura, Los Angeles County Superior Court, Case No. 19STCP01176, and whereas the City filed a Cross-Complaint on May 14, 2015.

WHEREAS, Channelkeeper has filed a First Amended Complaint (“FAC”), which is the operative complaint, and the City has filed a Second Amended Cross-Complaint (“SACC”), which is the operative cross-complaint.

WHEREAS, the FAC and SACC are together referred to herein as the (“Action”), and whereas the Parties to this Agreement are all parties to the Action.

WHEREAS, on September 15, 2020, the Proposing Parties disseminated a proposed Physical Solution for the Ventura River watershed in accordance with the schedule set forth in the August 10, 2020 Status Report.

WHEREAS, the Proposing Parties have committed that between September 15 and October 30, 2020 (the “Meet and Confer Period”), they will meet and confer with all parties to this Action to see if all parties to the Action can reach a consensus as to the application of the Physical Solution to the Ventura River watershed.

WHEREAS, the Proposing Parties have agreed that during this meet and confer period, they will make their expert consultants available once per week for a telephone call or other virtual meeting, during which time the expert consultants will discuss the scientific bases for the proposed Physical Solution, will respond to questions from other Parties regarding the scientific bases for the proposed Physical Solution, and will consider disclosing additional materials regarding the bases for the proposed Physical Solution (collectively “Expert Consultant Information”), provided that any such Party wishing to participate in this meet and confer process or receive such Expert Consultant Information must first agree that all such communications with the Proposing Parties and their consultants shall be deemed confidential settlement communications, and not be deemed a waiver of the attorney-client privilege, attorney work product doctrine or any other applicable privilege.

THEREFORE, the Parties agree as follows:

1. The foregoing recitals are incorporated by this reference as part of this Agreement.
2. The term “Counsel” shall include outside, personal, and in-house counsel for the Parties, including any attorneys that any of the Parties retain or employ presently, have retained or employed in the past, or may retain or employ in the future, as well as any non-testifying experts, consultants, or investigators that outside or in-house counsel for the Parties may retain in connection with the Action.
3. References to the terms "Party" or "Parties" in this Agreement shall include not only the Parties but also, to the extent applicable, their officers, directors, members, employees, agents, subcontractors, and Counsel whose duties or responsibilities on behalf of a Party encompass representation in, analysis of, advice about, or work concerning the Action, and who have a legitimate need to analyze and understand the Expert Consultant Information in an effort to reach an agreement on a proposed Physical Solution. It is the intent of the Parties that this Agreement shall bind all such persons and both Counsel and clients.

4. The Parties agree that the Expert Consultant Information that is shared and otherwise disclosed pursuant to this Agreement shall be treated as confidential settlement communications pursuant to California Evidence Code Sections 1152 and 1154, and none of the information provided may be used by any Party to this Action for any purpose in any subsequent motion, hearing, trial, arbitration or otherwise. The Parties further agree that in sharing Expert Consultant Information, the Proposing Parties shall not be deemed to have waived any privileges applicable to the Expert Consultant Information, including but not limited to the attorney/client privilege, the attorney work product doctrine, the deliberative process privilege, and/or the common interest privilege.

5. The Parties agree that all such Expert Consultant Information shall be held in confidence by each Party to this Agreement, and all such Expert Consultant Information shall not be disseminated to any person or entity other than the Party to whom it was presented, unless the Party that received the Expert Consultant Information has first obtained the written consent of an authorized representative of the Party which provided such Expert Consultant Information. Each Party agrees to make reasonable efforts to ensure that the confidentiality of all Expert Consultant Information is maintained at all times and will avoid making any disclosure which would result in a waiver or loss of any otherwise available protection. No Party shall disclose any Expert Consultant Information received from any of the Proposing Parties to any consulting or testifying expert without the written consent of an authorized representative of the Party which provided such Expert Consultant Information, and each such consulting or testifying expert must likewise agree to be bound by the terms of this Agreement by signing the Consent Form attached hereto as Exhibit "A."

6. If any party, person or entity not a Party to this Agreement requests or demands the disclosure of any Expert Consultant Information, by subpoena or otherwise, from any Party to this Agreement, counsel for such Party shall (a) immediately give written notification to counsel for all Proposing Parties, and (b) assert a written objection to the disclosure of such Expert Consultant Information on the ground that such disclosure would constitute a violation of the attorney/client privilege, the attorney work product doctrine, the deliberative process privilege, and/or the common interest privilege. Each such Party shall take all necessary and appropriate steps to assure that the

requested or demanded information or material is kept confidential and is not disclosed to any party not authorized by this Agreement to receive it. The Party from whom such Expert Consultant Information is sought shall not disclose such information unless one of following conditions is met: (a) the Party that provided the Expert Consultant Information gives its written consent to disclose such information, or (b) the Party is required to disclose the information by formal court order.

7. Nothing contained in this Agreement shall be deemed to create or reflect an attorney/client, agency, or similar relationship between any attorney and anyone other than the client(s) expressly retaining such Counsel. The fact that any attorney is treated as the attorney for a Party under this Agreement shall not (a) in any way preclude the attorney or his or her firm from continuing to represent the client on whose behalf he or she has entered into this Agreement, even if the client's interest may be construed to be adverse to any other Party (whether with respect to the defense against or the pursuit of claims in the Action, inter-Party Disputes, or otherwise), or (b) be used as a basis for seeking to disqualify any counsel from representing any Party to this Agreement in any other present or future proceeding whether or not related to the defense against or the pursuit of claims in the Action, including any inter-Party Disputes. Each Party hereby waives any actual, perceived or potential conflict of interest arising out of the sharing of Expert Consultant Information under this Agreement.

8. No Party shall have authority to waive any applicable privilege or doctrine on behalf of any other Party; and any waiver of an applicable privilege or doctrine by the conduct of a Party shall not be construed to apply to any other Party.

9. Any notice or other communication required or permitted hereunder shall be deemed sufficiently given if (a) hand delivered, (b) transmitted by commercial overnight delivery service, or (c) sent by email to the appropriate email addresses set forth below, addressed to the Party's representatives. Any such notice shall be effective, respectively, as of (a) the date of delivery established by proof of service as provided by law, (b) the date of delivery reflected in the records of such delivery service, or (c) the date and time of confirmed transmission report on the sender's equipment.

10. Unless otherwise extended in writing, this Agreement shall terminate at the conclusion of the Meet and Confer Period. At such time, all Parties receiving Expert Consultant Information shall either return or destroy all such Expert Consultant Information received from the Proposing Parties, and all Parties shall provide a declaration to the Proposing Parties confirming the return or destruction of all Expert Consultant Information. Regardless of the obligation to return or destroy the Expert Consultant Information, all Parties agree that all Expert Consultant Information shall remain confidential, and that the obligations under the Agreement shall survive the termination of this Agreement.

11. Except for the rights created or expressly preserved by this Agreement as between the Parties, neither this Agreement nor any performance by any Party shall be construed as an admission of any liability or waiver, impairment or modification of any right or remedy, with respect to any person, firm or entity, nor shall this Agreement be construed to confer upon any person, firm or entity other than the Parties or their respective successors and assigns, any right, claim or benefit.

12. This Agreement may be executed in counterparts and delivered by electronic mail, and shall thereupon become a single agreement in accordance with its terms, and a photocopy of any such counterpart showing signature pages for all Parties may be used as a duplicate original of this Agreement for all purposes.

13. The provisions of this Agreement may be modified only by a written agreement signed by each of the Parties that expressly references this Agreement.

14. Any waiver in any particular instance of any right, provision or limitation contained in this Agreement shall not be deemed and is not intended to be a general waiver of any rights or limitations contained in this Agreement and shall not operate as a waiver beyond the particular instance.

15. Each Party and Counsel for each Party acknowledges on its own and its client's behalf, that disclosure of any communication in violation of this Agreement will cause the Parties hereto to suffer irreparable harm for which there is not adequate remedy at law. Each Party hereto acknowledges that immediate injunctive relief is an appropriate and necessary remedy for violation of this Agreement.

16. The undersigned represent that they have the authority to execute this Agreement and, respectively as Party and Counsel, to carry out all their obligations imposed hereunder. The undersigned have read, understand, and agree to the terms of this Agreement and have had the opportunity to consult with their independent counsel regarding this Agreement.

17. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, without reference to principles of choice or conflict of laws.


18. Nothing herein shall be construed as an agreement or acknowledgment by any Party regarding the apportionment of any judgment or settlement.

19. Nothing in this Agreement shall be deemed to create a partnership, joint venture, agency, or fiduciary relationship between or among the Parties, between or among counsel, or between a Party and legal counsel for another Party, and any such relationship is specifically disclaimed and denied.

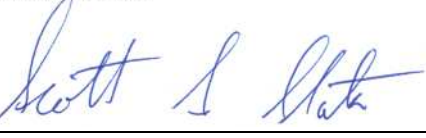
20. If any term or provision in this Agreement is determined to be illegal or unenforceable, all other terms and provisions in this Agreement shall remain effective and shall be enforced to the fullest extent permitted by applicable law.

21. The Parties agree that this Agreement was jointly drafted by each Party, that the Agreement shall not be deemed prepared by any one of the Parties, and no inference or rule of construction shall be applied based upon the assumption that any individual Party or subset of Parties drafted any provision in this Agreement. Each Party waives the doctrine of *contra proferentum* as it may otherwise apply to the interpretation of this Agreement.


22. WHEREFORE, the Parties, intending to be legally bound, have caused this Agreement to be executed by their counsel as of the date written.

<p>Dated: September 15, 2020</p>	<p>BEST BEST & KRIEGER LLP</p> <p></p> <p>By: _____</p> <p>SHAWN HAGERTY CHRISTOPHER M. PISANO SARAH CHRISTOPHER FOLEY</p> <p>Attorneys for Respondent and Cross-Complainant CITY OF SAN BUENAVENTURA</p>
<p>Dated: September 15, 2020</p>	<p>BROWNSTEIN HYATT FARBER SCHRECK LLP</p> <p>By: _____</p> <p>SCOTT SLATER BRADLEY HERREMA CHRISTOPHER GUILLEN</p> <p>Attorneys For Cross-Defendant WOOD-CLAEYSSSENS FOUNDATION</p>
<p>Dated: September 15, 2020</p>	<p>FERGUSON CASE ORR PATTERSON LLP</p> <p>By: _____</p> <p>NEAL P. MAGUIRE</p> <p>Attorneys For Cross-Defendants RANCHO MATILJA MUTUAL WATER COMPANY; BETTINA CHANDLER, TRUSTEE OF THE BETTINA CHANDLER TRUST</p>

22. WHEREFORE, the Parties, intending to be legally bound, have caused this Agreement to be executed by their counsel as of the date written.

<p>Dated: September 15, 2020</p>	<p>BEST BEST & KRIEGER LLP</p> <p>By: _____ SHAWN HAGERTY CHRISTOPHER M. PISANO SARAH CHRISTOPHER FOLEY</p> <p>Attorneys for Respondent and Cross-Complainant CITY OF SAN BUENAVENTURA</p>
<p>Dated: September 15, 2020</p>	<p>BROWNSTEIN HYATT FARBER SCHRECK LLP</p> <p>By:  _____ SCOTT SLATER BRADLEY HERREMA CHRISTOPHER GUILLEN</p> <p>Attorneys For Cross-Defendant WOOD-CLAEYSSSENS FOUNDATION</p>
<p>Dated: September 15, 2020</p>	<p>FERGUSON CASE ORR PATTERSON LLP</p> <p>By: _____ NEAL P. MAGUIRE</p> <p>Attorneys For Cross-Defendants RANCHO MATILJA MUTUAL WATER COMPANY; BETTINA CHANDLER, TRUSTEE OF THE BETTINA CHANDLER TRUST</p>

22. WHEREFORE, the Parties, intending to be legally bound, have caused this Agreement to be executed by their counsel as of the date written.

<p>Dated: September 15, 2020</p>	<p>BEST BEST & KRIEGER LLP</p> <p>By: _____ SHAWN HAGERTY CHRISTOPHER M. PISANO SARAH CHRISTOPHER FOLEY</p> <p>Attorneys for Respondent and Cross-Complainant CITY OF SAN BUENAVENTURA</p>
<p>Dated: September 15, 2020</p>	<p>BROWNSTEIN HYATT FARBER SCHRECK LLP</p> <p>By: _____ SCOTT SLATER BRADLEY HERREMA CHRISTOPHER GUILLEN</p> <p>Attorneys For Cross-Defendant WOOD-CLAEYSSSENS FOUNDATION</p>
<p>Dated: September 15, 2020</p>	<p>FERGUSON CASE ORR PATTERSON LLP</p> <p>By:  _____ NEAL P. MAGUIRE</p> <p>Attorneys For Cross-Defendants RANCHO MATILJA MUTUAL WATER COMPANY; BETTINA CHANDLER, TRUSTEE OF THE BETTINA CHANDLER TRUST</p>


<p>Dated: September 15, 2020</p>	<p>HERUM CRABTREE SUNTAG</p> <p>By:  _____ JEANNE ZOLEZZI</p> <p>Attorneys For Cross-Defendants MEINERS OAKS WATER DISTRICT AND VENTURA RIVER WATER DISTRICT</p>
<p>Dated: _____, 2020</p>	<p>By: _____</p> <p>Attorneys For</p>
<p>Dated: _____, 2020</p>	<p>By: _____</p> <p>Attorneys For</p>

EXHIBIT A

CERTIFICATION RE RECEIPT OF EXPERT CONSULTANT INFORMATION

I hereby acknowledge that I, [NAME], [POSITION AND EMPLOYER], am about to receive Expert Consultant Information supplied in connection with the Action, *Santa Barbara Channelkeeper v. State Water Resources Control Board and the City of San Buenaventura*, Los Angeles County Superior Court, Case No. 19STCP01176. I certify that I understand that the Expert Consultant Information is provided to me subject to the terms and restrictions of the Agreement for Confidential Settlement Communications (“Agreement”) executed by and between the Parties. I have been given a copy of the Agreement; I have read it, and I agree to be bound by its terms.

I understand that confidential nature of the Expert Consultant Information as defined in the Agreement, including any notes or other records that may be made regarding any such materials, shall not be disclosed to anyone except as expressly permitted by the Agreement. I will not copy or use, except solely for the purposes set forth in the Agreement, any Expert Consultant Information obtained pursuant to the Agreement.

I further understand that I am to retain all copies of all materials containing Expert Consultant Information provided to me in a secure manner, and that all copies of such materials are to remain in my personal custody until termination of the Agreement, whereupon the copies of such materials will be returned to counsel who provided me with such materials.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this _____ day of _____, 20__, at _____.

DATED: _____, 2020

BY: _____

Signature

Title

Address

City, State, Zip

Telephone Number

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