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12 CITY OF SAN BUENAVENTURA

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

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

Case No. 19STCP01176

17 Petitioner,

Judge: Hon. William F. Highberger

18 v.

STATUS CONFERENCE REPORT

19 STATE WATER RESOURCES CONTROL  
20 BOARD, etc., et al.,

Date: October 18, 2021  
Time: 1:30 p.m.  
Dept: SS10

21 Respondents.

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

22 CITY OF SAN BUENAVENTURA, etc.,

23 Cross-Complainant,

24 v.

25 DUNCAN ABBOTT, an individual, et al.,

26 Cross-Defendants.  
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STATUS CONFERENCE REPORT

Defendant and Cross-Complainant City of San Buenaventura (City of Ventura or City) submits this status conference report (Report) in advance of the status conference scheduled for October 18, 2021 at 1:30 p.m. On October 6, 2021, the City emailed a draft of this Report to all parties who have appeared and invited input and joinder. The City received a request from Cross-Defendant Claude Baggerly to add a section on his motion for a court-appointed expert, which has been added at section 6. The City of Ojai submitted comments on this Report regarding the scope of Phase 1 trial. The City revised this Report based on the City of Ojai’s feedback and has also identified areas of dispute as set forth in section 3. Cross-Defendant Senior Canyon Mutual Water Company also provided feedback on this Report as set forth in section 3. Cross-Defendants Meiners Oaks Water District and Ventura River Water District have joined in this Report, as reflected on the signature page. Consistent with the Court’s instructions, some parties may submit their own status conference reports.

1. CASE STATISTICS

In previous status conference reports, the City has updated the Court on the status of the notice and service process and the status of the default process. As this case moves forward toward the February 14, 2022 Phase 1 trial, it is now timely to provide the Court with a more comprehensive update on key statistics related to the litigation. The parties hope that these statistics will help the Court understand the scope of the case and the active parties as the parties prepare for the Phase 1 trial. Key statistics related to the case are summarized for the Courts consideration:

1	Total number of named Cross-Defendants <sup>1</sup>	2,763
2	Total number of parcels overlying the groundwater basins in the Ventura River Watershed that were provided notice of adjudication per CCP § 836	12,803
3	Cross-Defendant and noticed parties who have appeared (parties)	292
4	Parties who have answered	183
5	Parties who served initial disclosures	73
6	Parties whose initial disclosures report no current extraction	19
7	Parties whose initial disclosures report extraction of less than 5 acre-feet per year (AFY)	16
8	Parties whose initial disclosures report extraction of more than 5 AFY or in an unknown amount	38
9	Parties who have stipulated to the physical solution	93
10	Filed stipulations	32
11	Pending stipulations	61
12	Dismissals	180
13	Defaults entered	1,380
14	Defaults pending with the Court	758

15                   2.       EXPERT WITNESS DISCLOSURES AND DEPOSITIONS

16                   On or before September 24, 2021, the City of Ojai, the California State Water Resources  
17 Control Board, the East Ojai Group, and the California Department of Fish and Wildlife served  
18 expert witness reports for the Phase 1 trial issues pursuant to the Court’s approved discovery and  
19 pretrial schedule. Counsel for the parties that have served expert witness reports are meeting and  
20 conferring on the timing and logistics for expert depositions. Pursuant to the Court’s order, all  
21 other expert witness reports are due on October 22, 2021, and Supplemental Expert Disclosures  
22 are currently due on December 10, 2021. Counsel for the parties that have served expert witness  
23 reports met and conferred on October 8, 2021 and agreed to jointly request that the Court advance  
24 the Supplemental Expert Disclosure date from December 10, 2021 to December 3, 2021 in order  
25 to give the parties more time to complete expert depositions.  
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27 \_\_\_\_\_  
28 <sup>1</sup> All named Cross-Defendants have been served with the exception of the heirs and devisees of four deceased Cross-Defendants, whose service is in progress by publication of summons in the Ventura County Star as authorized by the Court.

1           3.       SCOPE OF PHASE 1 ISSUES

2           Certain parties have raised questions about the scope of the Phase 1 trial issues. As the  
3 Court explained in its tentative ruling for the City’s June 21, 2021 motion to bifurcate issues for a  
4 Phase 1 trial, no party “opposed the bifurcation request, as such. The only dispute is the timeline  
5 to a Phase I trial [emphasis added].” Accordingly, and as reflected in the City’s Notice of Ruling  
6 dated July 2, 2021, to which no party objected, the Court granted the City’s motion to bifurcate  
7 and lifted the discovery stay only as to the Phase 1 trial issues, as set forth in the City’s motion.  
8 In the City’s moving papers, the City requested that the Court bifurcate the following two issues  
9 for the Phase 1 trial: (1) a determination of the Ventura River Watershed boundaries and the  
10 boundaries of the four groundwater basins; and (2) a determination of the interconnection  
11 between the surface water and groundwater in the Ventura River Watershed, including the  
12 interconnection between surface water and the four groundwater basins, and the interconnection  
13 between those groundwater basins and the Ventura River and its tributaries.

14           Based on the June 21, 2021 ruling of the Court, which granted the City’s motion except as  
15 to the trial date, and as set forth in the City’s July 2, 2021 notice of ruling, the scope of Phase 1 is  
16 as described above, as ordered by the Court. All parties reserve all rights and claims that are  
17 beyond the scope of Phase 1 trial, and no party is waiving any such claims.

18           On October 7, 2021, the City of Ojai provided comments on this section of the Report,  
19 seeking to add two issues to the scope of the Phase 1 trial. First, the City of Ojai believes that  
20 Phase 1 should include the following question: “whether the Code of Civil Procedure, section 832  
21 et. seq., provides that the Court can, or should, comprehensively determine rights to extract  
22 groundwater among all rights holders across four separate basins in one legal proceeding.” The  
23 City of Ventura agrees that the parties may ask and the Court can answer this question within the  
24 scope of Phase 1 trial. While not specifically part of the City of Ventura’s motion, which the  
25 Court granted, the City of Ventura agrees that the City of Ojai properly raised this issue during  
26 the hearing of the City’s motion.

27           The City of Ojai also argues that Phase 1 trial should address “whether there is sufficient  
28 evidence to support a finding that there is a surface water body or subterranean stream flowing

1 through known and definite channels that is interconnected with the groundwater that is used, or  
2 subject to, the named Cross-Defendants’ right to pump from, such that any pumping would  
3 impact the flow of that surface water body or subterranean flow.” However, such determinations  
4 regarding party-specific pumping and/or diversions and individual impacts and rights are outside  
5 the scope of Phase 1 trial. They are, however, reserved for a later phase of trial, if such  
6 determinations of individual water rights become necessary.

7 The City of Ventura agrees, however, that the City of Ojai and other parties have  
8 previously raised the applicability of Code of Civil Procedure section 833(c) as an issue that can  
9 be addressed as part of the Phase 1 trial. Section 833(c) provides that “[i]f the court finds that  
10 including an interconnected surface water body or subterranean stream flowing through known  
11 and definite channels is necessary for the fair and effective determination of the groundwater  
12 rights in a basin, the court may require the joinder of persons who claim rights to divert and use  
13 water from that surface water body or subterranean stream in a comprehensive adjudication  
14 conducted pursuant to this chapter.” The City of Ventura agrees that the Phase 1 trial will  
15 provide the parties with the opportunity to raise with the Court the applicability of Section 833(c)  
16 and seek any determination they believe is required under that provision.

17 Relatedly, Cross-Defendant Senior Canyon Mutual Water Company has raised concerns  
18 about its specific water rights claims and whether they are at issue in Phase 1 trial. The City  
19 agrees that Senior Canyon Mutual Water Company will have the ability to raise in a later phase of  
20 the case the relationship between rights to groundwater from non-Basin areas and rights to  
21 groundwater within a Basin, and how, if at all, they interrelate. All parties are reserving these  
22 individualized water rights claims because their determination is not part of the Phase 1 trial.

23  
24 4. DRONE VIDEO

25 The City emailed drone video footage of the Watershed, prepared based on the agreement  
26 of the parties, to all parties for review. A meet and confer occurred on October 7, 2021 to review  
27 the video and discuss its presentation to the Court. A second meet and confer is scheduled for  
28 October 14, 2021. The parties will update the Court on these issues at the status conference.

1           5.       ONGOING MEET AND CONFER SESSIONS

2           Various parties to the litigation are engaging and will continue to engage in meet and confer  
3 and/or settlement negotiation sessions with the City and the other proponents of the proposed  
4 physical solution. At this time, the parties do not request action by the Court to facilitate these  
5 discussions. If necessary, the parties will request the Court's assistance to facilitate efficient case  
6 management, culminating in the Phase 1 trial in February of 2022.

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8           6.       BAGGERLY MOTION

9           At the September 20, 2021 status conference, the Court continued the pending motion by  
10 Cross-Defendant Claude Baggerly to appoint a scientific advisor for hydrogeology to October 18,  
11 2021, concurrently with the status conference. The Court ordered that parties may unilaterally  
12 file further briefing, in the form of status conference reports, by October 14, 2021. The City will  
13 separately submit a supplemental status conference report regarding Mr. Baggerly's pending  
14 motion.

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16           7.       CONCLUSION

17           The parties are actively preparing for the Phase 1 trial. The parties will be prepared to  
18 update the Court on the status of trial preparation or answer questions about the issues described  
19 above. The parties respectfully request that the Court take the following actions at the October  
20 18, 2021 status conference:

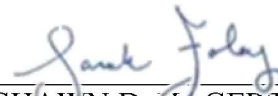
- 21           • Pursuant to the agreement of parties who have made expert witness designations  
22 and disclosures, advance the supplemental expert report due date from December  
23 10, 2021 to December 3, 2021, in order to allow the parties more time to complete  
24 expert depositions.
- 25           • Consider argument on the pending motion by Cross-Defendant Claude Baggerly to  
26 appoint a scientific advisor for hydrogeology.

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Dated: October 12, 2021

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Dated: October 12, 2021

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DISTRICT

Dated: October 12, 2021

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