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11 CITY OF SAN BUENAVENTURA

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

15 SANTA BARBARA CHANNELKEEPER,
16 a California non-profit corporation,
17
18 Petitioner,
19
20 v.
21 STATE WATER RESOURCES
CONTROL BOARD, a California State
22 Agency;
CITY OF SAN BUENAVENTURA, a
23 California municipal corporation,
incorrectly named as CITY OF
24 BUENAVENTURA,
25
26 Respondents.

27
28 AND RELATED CROSS-ACTION.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 21 2019

Sherri K. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

Case No. 19STCP01176

Judge: Honorable William F. Highberger

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

FOLLOW-UP REPORT RE INITIAL STATUS
CONFERENCE

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

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

1 FOLLOW-UP REPORT RE INITIAL STATUS CONFERENCE

2
3 Pursuant to the Court’s Order at the Initial Status Conference, Defendant City of San
4 Buena Ventura (“City”) submits this Follow-Up Report regarding the Stipulation and Order for
5 Stay, and City’s Motion for Approval of Notice and Answer (“Motion to Approve”).

6 The parties have agreed to the form of the Stipulation for Stay and Order for Stay attached
7 as Exhibit A. City is filing the executed Stipulation and [Proposed] Order re Stay concurrently
8 with this Report. Accordingly, City believes counsel for Moving Cross-Defendants Casitas
9 Municipal Water District, Meiners Oaks Water District, Rancho Matilija Mutual Water Company,
10 and Ventura River Water District (collectively “Moving Cross-Defendants”) do not intend to
11 renew their Motion for Stay at this time. City also understands Moving Cross-Defendants will
12 not oppose the Motion to Approve by challenging the jurisdiction over surface water
13 users. Moving Cross-Defendants do not waive their right to file a motion to stay or challenge the
14 jurisdiction over surface water users at a later time.

15 City and certain Cross-Defendants are concerned about the problems facing the hundreds
16 or thousands of new cross-defendants that may be joining this action. Many parties will be
17 landowners who do not pump groundwater but nevertheless must be served because they are
18 overlying the groundwater basins. Other parties will be those who are pumping a small amount
19 of groundwater. These “non-pumpers” and “small pumpers” may be exempted as de minimis
20 parties under Civil Procedure Code section 833(d). Accordingly, City will propose in its Motion
21 to Approve that payment of the initial appearance fee be suspended until the parties and Court
22 have a better idea of the numbers of new cross-defendants involved, how many are likely to be de
23 minimis parties that will be exempted, and what concerns the new cross-defendants have.

24 Based on the above, City requests the Court allow the filing of the Motion to Approve and
25 set it for hearing. Unless Court has any questions or concerns, City believes the CourtCall
26 conference set for August 26, 2019, may be taken off-calendar.

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Dated: August 21, 2019

BEST BEST & KRIEGER LLP

By: *Gene Tanaka*

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EXHIBIT A

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22 Respondents.

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

Case No. 19STCP01176
Judge: Honorable William F. Highberger
STIPULATION FOR STAY
[Filed with [Proposed] Order]
Action Filed: Sept. 19, 2014
Trial Date: Not Set

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STIPULATION FOR STAY

The parties to this Stipulation (collectively “Stipulating Parties”) are all the parties who have appeared in this lawsuit. The Stipulating Parties, through their attorneys, recite and agree as follows:

RECITALS

1. In September 2014, Petitioner Santa Barbara Channelkeeper (“Channelkeeper”) filed a Complaint and Petition for Declaratory Relief and a Writ of Mandate pursuant to Code of Civil Procedure section 1085 against the City of San Buenaventura (“City”) and the State Water Resources Control Board (“State Board”). Channelkeeper asked the Court to declare the City’s use of Reach 4 of the Ventura River from April through October is unreasonable, in violation of article X, section 2 of the California Constitution, and to direct the State Board to perform alleged mandatory duties under article X, section 2, Water Code section 275, and the public trust doctrine to prevent that unreasonable use.

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

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

1 4. In its 2nd Am. Cross-Complaint, City named approximately one hundred Cross-
2 Defendants who divert water from the Ventura River or pump groundwater from the Upper
3 Ventura River, Ojai Valley, Lower Ventura River, and Upper Ojai Valley Groundwater Basins
4 (collectively “Ventura Groundwater Basins”), which it contends affect the flow of water in the
5 Ventura River. As a water rights adjudication action that includes adjudication of the Ventura
6 Groundwater Basins, the 2nd Am. Cross-Complaint involves, among other things, the
7 Streamlined Groundwater Adjudication Statutes (Civ. Proc. Code, §§ 830-52) and the Sustainable
8 Groundwater Management Act (“SGMA”) (Wat. Code, §§ 10750-37.8).

9 5. Most Cross-Defendants have not yet filed responsive pleadings pursuant to an
10 order by the transferor San Francisco Superior Court, dated November 15, 2018, that extended the
11 time for Cross-Defendants to answer the Cross-Complaint until sixty (60) days after receipt of a
12 Court-approved Form Answer. A Form Answer has not yet been approved by the Court.

13 6. City expects additional parties will join the lawsuit as either cross-defendants or
14 intervenors. Pursuant to Code of Civil Procedure sections 835, 836, subdivision (d), and 836.5,
15 City must provide notice to affected public agencies, California Native American tribes, persons
16 who have a permit or license to store or divert stored water, interested parties who have requested
17 notice from a groundwater management agency, and owners of real property in the Ventura River
18 watershed and Ventura River Groundwater Basins. This last category, in particular, will involve
19 providing notice to hundreds or thousands of additional entities who may become Cross-
20 Defendants. Furthermore, these new parties and named Cross-Defendants may want to sue
21 additional parties. City estimates that it will likely be at least six months before all of these
22 potential additional parties receive notice and appear.

23 7. Channelkeeper, City, State Board, and Cross-Defendants Casitas Municipal Water
24 District, Friend's Ranches, Inc., Krotona Institute of Theosophy, Topa Topa Ranch Company,
25 LLC and The Thacher School, Meiners Oaks Water District and Ventura River Water District,
26 Rancho Matilija Mutual Water Company, Wood-Claeyssens Foundation and Department of Fish
27 and Wildlife (collectively “Mediating Parties”), have begun preliminary settlement discussions.

28 8. The Mediating Parties believe that the proposed temporary stay will save the costs

1 and time of engaging in litigation while they are trying to settle the case. At the same time, the
2 matters that are not stayed will assist in ensuring that all of the parties necessary to a settlement
3 will be joined in the lawsuit, the parties have a process to exchange information necessary for
4 settlement discussions, and the case will not be delayed if mediation is unsuccessful.

5
6 TERMS OF STAY

7 1. This proceeding shall be stayed, except with respect to:

8 A. The following actions to notify and name any additional parties to this
9 proceeding:

- 10 (1) Motion for approval of notice of adjudication and form answer
11 made pursuant to Code of Civil Procedure section 836;
12 (2) Notice to and service of any and all interested parties to the
13 comprehensive adjudication necessary to establish in rem
14 jurisdiction and the comprehensive effect of the comprehensive
15 adjudication pursuant to Code of Civil Procedure sections 835 and
16 836;
17 (3) Requests for information made pursuant to Code of Civil Procedure
18 section 836.5;
19 (4) Intervention pursuant to Code of Civil Procedure sections 837 and
20 387.5;

21 B. The following actions to exchange information necessary to negotiate the
22 terms of a physical solution:

- 23 (1) Initial disclosures under Code of Civil Procedure section 842.
24 Parties who have appeared in this action and have less than 60 days
25 under section 842 to provide their initial disclosures shall have 60
26 days to do so;
27 (2) The voluntary exchange of information by the Mediating Parties
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pursuant to the Memorandum of Understanding agreed to on April 22, 2019;

(3) Information requested pursuant to the California Public Records Act; and

(4) Any other information the parties agree is necessary for settlement discussions;

C. Actions necessary to conduct case management, including but not limited to case management conducted pursuant to Code of Civil Procedure section 840.

2. Any dispute arising from the scope of the stay described in Section 1 above shall be resolved through a request for an informal conference before this Court.

3. The stay shall remain in place as long as the parties determine that settlement discussions continue to be meaningful and productive.

4. The stay may be lifted by the request of any party to this proceeding that is filed with at least fourteen (14) days' notice.

5. The parties expressly reserve and do not waive any and all rights to bring preliminary motions, including, but not limited to, motions to stay pursuant to Water Code section 10737.2 and Code of Civil Procedure section 848, and challenging jurisdiction over surface water users after this temporary stay is lifted.

Dated: August 21, 2019

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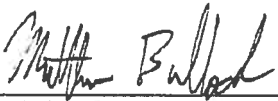
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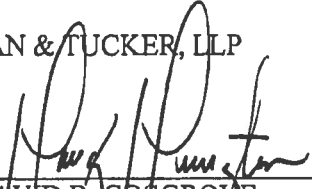
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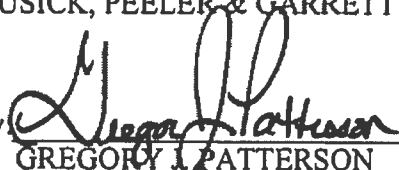
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1 Dated: August __, 2019

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7 Dated: August __, 2019

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15 Dated: August 20, 2019

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VENTURA RIVER WATER DISTRICT

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21 Dated: August 20, 2019

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Stip. for Stay

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER,
a California non-profit corporation,

Petitioner,

v.

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

Respondents.

CITY OF SAN BUENAVENTURA, a
California municipal corporation,

Cross-Complainant,

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

Case No. 19STCP01176
Judge: Honorable William F. Highberger

[Proposed] ORDER FOR STAY

[Filed with Stipulation for Stay]

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

[Proposed] ORDER

Having read and considered the stipulation of the parties and for good cause shown,

IT IS HEREBY ORDERED:

1. This proceeding shall be stayed, except with respect to:

A. The following actions to notify and name any additional parties to this proceeding:

- (1) Motion for approval of notice of adjudication and form answer made pursuant to Code of Civil Procedure section 836;
- (2) Notice to and service of any and all interested parties to the comprehensive adjudication necessary to establish in rem jurisdiction and the comprehensive effect of the comprehensive adjudication pursuant to Code of Civil Procedure sections 835 and 836;
- (3) Requests for information made pursuant to Code of Civil Procedure section 836.5;
- (4) Intervention pursuant to Code of Civil Procedure sections 837 and 387.5;

B. The following actions to exchange information necessary to negotiate the terms of a physical solution:

- (1) Initial disclosures under Code of Civil Procedure section 842. Parties who have appeared in this action and have less than 60 days under section 842 to provide their initial disclosures shall have 60 days to do so;
- (2) The voluntary exchange of information by the Mediating Parties pursuant to the Memorandum of Understanding agreed to on April

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22, 2019;

(3) Information requested pursuant to the California Public Records Act; and

(4) Any other information the parties agree is necessary for settlement discussions;

C. Actions necessary to conduct case management, including but not limited to case management conducted pursuant to Code of Civil Procedure section 840.

2. Any dispute arising from the scope of the stay described in Section 1 above shall be resolved through a request for an informal conference before this Court.

3. The stay shall remain in place as long as the parties determine that settlement discussions continue to be meaningful and productive.

4. The stay may be lifted by the request of any party to this proceeding that is filed with at least fourteen (14) days' notice.

5. The parties expressly reserve and do not waive any and all rights to bring preliminary motions, including, but not limited to, motions to stay pursuant to Water Code section 10737.2 and Code of Civil Procedure section 848, and challenging jurisdiction over surface water users after this temporary stay is lifted.

Dated: August __, 2019

By: _____
The Honorable William F. Highberger
Judge of the Los Angeles County Superior
Court