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12 CITY OF SAN BUENAVENTURA

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

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

Case No. 19STCP01176

17 Petitioner,

Judge: Honorable William F. Highberger

18 v.

JOINT STATUS CONFERENCE REPORT

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

Date: November 2, 2021

Time: 2:00 p.m.

Dept: SS10

21 Respondents.

Action Filed: September 19, 2014

Trial Date: February 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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JOINT STATUS CONFERENCE REPORT

Defendant and Cross-Complainant City of San Buenaventura (City) and the East Ojai Group submit this joint status conference report (Report) in advance of the status conference scheduled for November 2, 2021 at 2:00 p.m. At the October 18, 2021 status conference, the Court scheduled the November 2 status conference for limited purpose of addressing any required adjustments to the schedule for expert disclosures. The Court further directed the City and the East Ojai Group to submit this Report by October 28, 2021. On October 25, 2021, the City emailed a draft of this joint report to all parties who have appeared and invited input and joinder consistent with the Court’s instructions.

After meeting and conferring, counsel for the City and counsel for East Ojai Group could not agree about any proposed adjustments to the schedule for expert disclosures. Therefore, the parties summarize their positions below for the Court.

Position of the City of Ventura

It is the City’s position that no further adjustments to the expert disclosures are necessary or warranted. On July 23, 2021, the Court approved a discovery and pre-trial schedule for the phase 1 trial. Over the City’s objections, the Court ordered the City to unilaterally disclose its expert witnesses and reports by August 31, 2021, giving all parties ample opportunity to review the City’s experts’ opinions well prior to the date on which their expert disclosures were due. In accordance with the approved schedule, certain specific parties had to disclose experts and reports by September 24, 2021, and all other parties had to disclose experts and reports by October 22, 2021. On October 18, 2021, the Court, pursuant to agreement of the parties, advanced the date for supplemental expert disclosures from December 10 to December 3 to provide additional time

1 for expert depositions<sup>1</sup>. Any other change to the approved schedule would augment the prejudice  
2 the City contends it has already incurred by having to unilaterally disclose its expert witnesses  
3 and reports in advance of all other parties. Because the phase 1 issues have been established  
4 since June 21, 2021, and because all parties have had sufficient time to prepare any required  
5 expert disclosures for those issues, no changes to the schedule are required or warranted.  
6

7 The East Ojai Group’s request to change the expert schedule is not based on good cause,  
8 is unnecessary, and will only result in needless additional delay of a case that was originally filed  
9 in 2014. For more than a year, this Court has encouraged all parties to coordinate with like-  
10 minded parties and pool their resources. It is unfair to permit a change in a schedule and a  
11 process that has been well-known to all parties for many months. The East Ojai Group’s request  
12 appears solely motivated by a desire to reduce costs to a limited number of parties at the expense  
13 of others. In addition, Phase 1 will not evaluate individual water extractions or extractors; it will  
14 determine interconnection between surface water and groundwater in the Ventura River  
15 Watershed and its groundwater basins. Therefore, the existing expert reports provide sufficient  
16 information for the Court to determine the Phase 1 issues, and there is no need for individual  
17 parties to join the existing expert reports. While the East Ojai Group says that is it not currently  
18 requesting a delay in the Phase 1 trial, it is apparent that a delay is the desired result and that one  
19 will be requested given the change in the schedule. Such a delay will only add to the prejudice  
20 the City contends has already occurred.  
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26 <sup>1</sup> It is the City’s position that December 3, 2021 is the deadline for supplemental and rebuttal experts and that only  
27 those parties who have previously and timely designated experts and provided reports may make further designations  
28 on this date. A “reservation” of the right to designate witnesses does not constitute a disclosure. (*Fairfax v. Lords*  
(2006) 138 Cal.App.4th 1019, 1026-1027.) As ordered by the Court, any requested relief from the Court-imposed  
schedule for expert disclosures was required to be made before the relevant deadline.

1 Position of East Ojai Group

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3 The East Ojai Group currently consists of eight parties who have collectively retained  
4 Aquilogic, Inc., as their joint expert. The initial disclosure and Aquilogic's report on behalf of  
5 those eight parties was served on September 24<sup>th</sup>. For reasons explained below, the East Ojai  
6 Group is of the position that the Court should modify the current schedule to allow other parties  
7 to either join in the current expert witness designations and reports or submit a new designation of  
8 and expert and service of that report on December 3<sup>rd</sup>, 2021, the date already agreed to by all  
9 parties as the date for supplemental designation and reports.

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11 Why this proposal?

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13 Since the service of the various reports on September 24<sup>th</sup>, counsel for the East Ojai Group  
14 has been approached by a number of parties who have expressed an interest in either joining the  
15 group or, at the very least, participating with respect to the expert reports. The East Ojai Group is  
16 receptive to these requests because it helps reduce the significant financial burden on the parties  
17 the City has sued, who otherwise will have no voice in these proceedings because they do not  
18 have the assets the City does and must seek other collective party participation if their voice will  
19 be heard. Such a joint participation effort creates multiple administrative issues, including  
20 preparing and executing multiple conflict waiver agreements, cost sharing agreements and  
21 confidentiality agreements. Given the number of parties, this takes substantial time and certainly  
22 more than time than the City has proposed to allow parties who had not previously designated an  
23 expert to determine if that party needed an expert, identify that expert and engage that expert,  
24 again likely with other parties. One wonders why the City seeks to foreclose these parties from  
25 meaningfully responding.

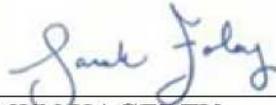
26  
27 The East Ojai Group is not currently suggesting a continuance of the trial date. The East  
28 Ojai Group proposes that these additional parties have until December 3<sup>rd</sup> 2021, the current date

1 for submittal of supplemental expert witness designation and reports, to submit either notice of  
2 joining with the East Ojai Group and its expert or proffering a new expert. This will allow for a  
3 more reasonable time for parties to organize and coordinate and have a meaningful say in the  
4 case, without the need to continue the trial.

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6 The City argues it will be prejudiced if any extension is granted for these parties. How?  
7 If the City needs more time to respond to new parties' submission of expert(s), the Court can  
8 provide that time and the East Ojai Group will certainly agree to any extension. Such a procedure  
9 allows the Court to have a fuller understanding of the case, allows a fuller representation by the  
10 parties sued by the City, and at no material prejudice to the City.

11 Dated: October 28, 2021

BEST BEST & KRIEGER LLP

12  
13 By: 

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16 SARAH CHRISTOPHER FOLEY  
17 PATRICK D. SKAHAN  
Attorneys for Respondent and  
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CITY OF SAN BUENAVENTURA

18 Dated: October 28, 2021

MUSICK, PEELER & GARRETT LLP

19  
20 By: /s/ Gregory J. Patterson (with permission)

21 GREGORY J. PATTERSON  
22 Attorneys for Cross-Defendants EAST  
23 OJAI GROUP  
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