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11 Owned Properties; Sharon H. Booth, Trustee of The Survivor's Trust Created Under Declaration
12 of Trust of Richard G. Booth and Sharon H. Booth Dated July 10, 1980; David Robert Hamm; Ojai
13 Oil Company; Ojai Valley School; Reeves Orchard, LLC and Ojai Valley Inn (Collectively, the
14 East Ojai Group.)

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF LOS ANGELES**

17 **SANTA BARBARA CHANNELKEEPER, a**
18 **California non-profit organization**

19 **Petitioner,**

20 **vs.**

21 **STATE WATER RESOURCES CONTROL**
22 **BOARD, a California State Agency; CITY OF**
23 **SAN BUENAVENTURA, a California**
24 **municipal corporation,**

25 **Respondents.**

26 **CITY OF SAN BUENAVENTURA, etc.,**

27 **Cross-Complainant,**

28 **DUNCAN ABBOTT, an individual, et al.,**

Cross-Defendants.

CASE No. 19STCP01176

Judge: Hon. William F. Highberger

**EAST OJAI GROUP'S BRIEF; PROPOSED
PHASE ONE TRIAL ISSUES**

Action Filed: September 19, 2014
Trial Date (Phase One): February 14, 2022

1 The East Ojai Group submits their Brief regarding the Proposed Phase One Trial Issues as
2 presented in the Notice of Phase I Trial Issues dated November 1, 2021. Counsel for the East Ojai
3 Group was not able to participate in discussions regarding these issues, but offers the following for
4 the Court's consideration.

5 The Notice presented 5 issues. The East Ojai Group is in agreement with the Issues 1-3: 1)
6 A determination of the Ventura River Watershed boundaries; 2) A determination of the boundaries
7 of the four groundwater basins in the Ventura River Watershed; and 3) a determination of the
8 interconnection between the surface water and groundwater in the Ventura River Watershed,
9 including the interconnection between surface water and the four groundwater basins, and the
10 interconnection between those groundwater basins and the Ventura River and its tributaries.¹

11 The East Ojai Group thinks the City of Ojai's proposed Issues 4-5 are the appropriate
12 phrasing of the issues presented based on the City's Complaint and the relief it seeks, the City's
13 proposed Physical Solution and the burden of proof placed on the City under its causes of action
14 based on unreasonable use of water, the Public Trust Doctrine and the Sustainable Groundwater
15 Management Act (SGMA).

16 The City's Complaint and Proposed Physical Solution

17 The City asserts nine causes of action in its Third Amended Complaint. Causes of Action
18 3-8 relate to the City's alleged water rights not specifically relevant to the Phase One Trial. The
19 remaining causes of action: 1) Violation of Reasonable Use; 2) Violation of Public Trust; 6)
20 Comprehensive Adjudication (under SGMA) and 9) Declaratory Relief are relevant. Causes of
21 Action 1, 2 and 9 essentially seek a permanent injunction reducing the Cross-Defendants use
22 surface and/or subsurface and groundwater "affecting the surface and/or subsurface flow of the
23 Ventura River..." (See Third Amended Complaint at Page 67, lines 1-7).

24 The City's goal in these cases is to require all Cross-Defendants in the entire watershed
25

26 ¹ As stated in the Notice, the term "interconnection," and how it should be defined and applied in
27 this case is disputed. The City has indicated it intends to brief the court on its concept of
28 interconnection in its November 8, 2021 filing. The East Ojai Group reserves the right to respond
to that briefing.

1 involving four separate basins to equally participate in the restoration of the steelhead habitat and
2 fishery in the Ventura River and its tributaries. (See for example the City's Proposed Physical
3 Solution And Judgment at Page 3, Lines 17-28; Page 10, lines 18-28; Section 7.3.3 starting at page
4 46.)

5 Based on these causes of action and the proposed Physical Solution, each of these causes
6 of action will require the City to prove that the groundwater pumping and water use by the East
7 Ojai Group is somehow affecting surface water flow and that effect, if any, is harming the fishery.

8 With respect to groundwater pumping, it is the East Ojai's position that the City must
9 show, with reasonable particularity, that the pumping by the East Ojai Group from the Ojai Valley
10 Basin, a confined aquifer, is a waste of water that is harming the fishery and, further, under
11 SGMA, that the Court must make a finding that it must include an "interconnected" surface water
12 (*i.e.*, the Ventura River and its tributaries) to determine groundwater rights (California Code of
13 Civil Procedure section 833(c).)

14 The East Ojai Group agrees with the City of Ojai that before the Court can begin to
15 adjudicate water use and water rights through a Physical Solution of four basins and a surface
16 watershed, the Court must first determine whether it has the authority to comprehensively
17 determine rights to extract groundwater among all rights holders in the four basins and Ventura
18 River and its tributaries in one legal proceeding; and whether the evidence shows that it can
19 include the four groundwater basins in a proceeding that, based on the Proposed Physical Solution
20 is solely intended to address surface water flows and the environment along the Ventura River to
21 improve the fishery and provide the City with a mechanism to control water use within the Ojai
22 basins.

23 The East Ojai Group suggests that the legal authority under the City of Ojai's Issue 4 can
24 be briefed and argued prior to the February 14, 2021 trial date. The East Ojai Group also suggests
25 that the definition and scope of "interconnection" between surface water and groundwater and how
26 that applies to the legal issues framed by the City's complaint can also be briefed and argued prior

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1 to a trial date. The trial can then focus on the evidence put forward on the issue on interconnection
2 as framed by these pre-trial decisions.

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4 DATED: November 8, 2021

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6 By: 

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