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Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

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.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

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

NOTICE OF RULING ON MOTION FOR APPROVAL OF NOTICE AND FORM ANSWER

Date: Oct. 2, 2019
Time: 10:00 a.m.
Dept: SS10

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

CITY OF SAN BUENAVENTURA, a California municipal corporation,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

NOTICE OF RULING

On October 2, 2019, the Motion for Approval of Notice and Form Answer ("Motion for Approval") of Defendant and Cross-Complainant City of San Buenaventura ("City") came on for hearing, the Honorable William F. Highberger, Judge presiding. The following parties appeared: Daniel Gordan Cooper (by CourtCall) for Petitioner and Plaintiff Santa Barbara Channelkeeper ("Channelkeeper"); Deputy Attorney General Mark Nathaniel Melnick (by CourtCall) for Respondent State Water Resources Control Board ("State Board"); Shawn Hagerty and Gene Tanaka for City; Ryan Blatz (by CourtCall) for Cross Defendants Troy Becker, Janet Boulten, Michael Boulten, Michael Caldwell, Joe Clark, Michael Cromer, Linda Epstein, Etchart Ranch, Lawrence Hartmann, Ole Konig, Krotona Institute of Theosophy, Stephen Mitchell, North Fork Springs Mutual Water Company, Shlomo Raz, Sylvia Raz, Rudd Ranch LLC, Senior Canyon Mutual Water Company, Siete Robles Mutual Water Company, Soule Park Golf Course, Ltd., Telos, LLC, Victor Timar, John Town, and Trudie Town; Robert Kwong and Douglas J. Dennington (by CourtCall) for Cross-Defendant Casitas Municipal Water District; Cristian Arrieta (by CourtCall) for Cross-Defendants Ernest Ford and Tico Mutual Water Company; Gregory John Patterson (by CourtCall) for Cross-Defendants Robert C. Davis, Jr., James Finch, Friend's Ranches, Inc., Topa Topa Ranch Company, LLC, and The Thacher School; Neal Patrick Maguire (by CourtCall) for Cross-Defendant Rancho Matilija Mutual Water Company; Christopher R. Guillen (by CourtCall) for Cross-Defendant Wood-Claeyssens Foundation; Anthony Lee Francois (by CourtCall) for Cross-Defendant Robin Bernhoft; Nathan Andrew Metcalf (by CourtCall) for Cross-Defendant Ventura County Watershed Protection District; Elsa Sham (by CourtCall) for Cross-Defendant St. Joseph's Associates of Ojai, California, Inc.; and Jeanne Marie Zolezzi (by CourtCall) for Meiners Oaks Water District and Ventura River Water District.

The Court listened to the comments of counsel and made the following orders, observations and instructions:

Counsel for City shall ensure a court reporter is present for all future proceedings before this Court. All proceedings in this complex case are important and require a reporter's record.

The Court modified and signed the Order Authorizing File & ServeXpress. Counsel for City shall serve this on the parties. Upon receipt, the parties shall immediately ensure that all of the pleadings and other papers they each filed in this case are filed with File & ServeXpress. In the future, all parties shall serve their papers with File & ServeXpress. The Court is investigating with the court administrator's office whether the parties can use the Los Angeles County Superior Court e-filing protocols available for pleadings in the Stanley Mosk Courthouse ("LASC E-Filing"). Presently, cases in the Complex Division utilize hard copies which entail delay in delivering them to the Court, and require the clerk to make docket entries that LASC E-Filing provides automatically.

Attorney Tanaka informed the Court that City had identified about 10,000 parcels of property overlying the Ventura River watershed groundwater basins and about 500 parcels adjacent to the Ventura River or its tributaries. The number of new cross-defendants will likely be less because some owners may own more than one parcel, and many owners do not use their water rights. City intends to file a Third Amended Cross-Complaint to name each of the riparian landowners individually in the caption. It plans to individually name each of the overlying property owners in an exhibit to the Third Amended Cross-Complaint, but pursuant to the requirements of Code of Civil Procedure section 836, does not plan to name the overlying owners individually in the caption.

Attorney Patterson said the Los Posas adjudication is the only other groundwater adjudication of which he is aware that is proceeding under the new Streamlined Groundwater Adjudication Statutes (Code of Civil Procedure sections 830, et seq.). He estimated that plaintiff in that case sent approximately 10,000 notices to property owners. That matter is set for a Phase 1 trial in November 2019.

City will file and continuously update an Excel spreadsheet that lists the additional property owners by name, address, parcel number, and the status of their involvement, e.g., service, appearance, request for default. Attorney Tanaka informed the Court that City intends to default the parties who do not appear in this case. If LASC E-Filing is available, the Court may modify this requirement.

After service of the Third Amended Cross-Complaint, Attorney Tanaka suggested that City will hold two public meetings, one probably in the City of Ojai and one probably in the City of Ventura, to provide information to the new cross-defendants to help reduce confusion and help manage the case. Cross-Defendants who have appeared and their attorneys would be invited to attend and participate in the discussion.

City would like to put notice of the date, time and place of these meeting in the Notice of Commencement of Groundwater Basin and Watershed Adjudication ("Notice") served on the Cross-Defendants. The Court said that the revised Notice should also: (1) discuss the filing protocols, LASC E-Service and/or File & ServeXpress, depending upon what the court administration decides; (2) refer to Judge Highberger's Order providing 60 days to file a response; and (3) refer to the Third Amended Cross-Complaint, not the Second Amended Cross-Complaint.

The Court indicated that it will revise its tentative ruling on the Motion for Approval as it relates to a delay or suspension of fees for newly appearing cross-defendants. The Court stated that no additional complex fees were required in accordance with Government Code section 70616. The Court also stated that the first appearance fee of $435 could be waived through the existing indigent fee waiver process. However, the Court stated that without specific authority to do so, the first appearance fee could not otherwise be waived or payment delayed.

The Court instructed City to submit a revised Order for the Motion for Approval that

references: (1) the filing protocols; (2) 60 days to respond to the Third Amended Cross-Complaint; (3) refer to the Third Amended Cross-Complaint; and (4) delete reference to waiver of the appearance fee. The Court asked the parties if anyone objected to the Notice and Order as revised, and there were no objections.

The Court believes a neutral website containing pleadings, reports, and other information about the litigation should be established and managed by City. It would be available to the other parties for reference and filing. It would not be sponsored by the Court.

The Court is still agreeable to a "Science Day" for experts to discuss technical issues with the Court. Attorney Cooper suggested it take place early next year when the California Department of Fish and Wildlife finishes its flow study.

The Court ordered City to file a Joint Status Report with at least Channelkeeper and Casitas on October 25, 2019. City will address the issues presented by the Court's File & ServeXpress message board posting, on October 2, 2019, in the Joint Status Report. The Motion for Approval shall trail until the next Status Conference on November 1, 2019, at 1:30 p.m.

The Court issued the Minute Order attached as Exhibit A.

Dated: October 7, 2019

BEST BEST & KRIEGER LLP

By: Gene Tanaka

GENE TANAKA
SHAWN HAGERTY
SARAH CHRISTOPHER FOLEY
DAKOTAH BENJAMIN
Attorneys for Respondent and Cross-Complainant
CITY OF SAN BUENAVENTURA

Exhibit A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 10

19STCP01176 October 2, 2019
SANTA BARBARA CHANNELKEEPER vs STATE WATER RESOURCES CONTROL BOARD, et al. 10:00 AM

Judge: Honorable William F. Highberger
Judicial Assistant: M. Mata
Courtroom Assistant: D. McKinney

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Daniel Gordon Cooper (Telephonic)

For Defendant(s): Cristian R. Arrieta (Telephonic); Ryan W Blatz (Telephonic); Douglas J. Dennington (Telephonic) -- See additional appearances below.

NATURE OF PROCEEDINGS: Hearing on Motion - Other for approval of notice and form answer;

Matter is called for hearing.

For all future hearings, counsel are ordered to have a court reporter until further notice.

The Court states that no complex fees are owed.

Hearing on Motion - Other for approval of notice and form answer; is continued to 11/01/2019 at 01:30 PM in Department 10 at Spring Street Courthouse.

Counsel are to file a joint report by 10/25/2019.

Counsel Gene Tanaka is to give notice.

Additional appearances for Defendant(s):
Anthony Lee Francois (Telephonic)
Christopher R. Guillen (Telephonic)
Shawn D. Hagerty
Robert N. Kwong (Telephonic)
Neal Patrick Maguire (Telephonic)
Marc Nathaniel Melnick (Telephonic)
Nathan Andrew Metcalf (Telephonic)
Gregory John Patterson (Telephonic)
Elsa Sham (Telephonic)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

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19STCP01176 October 2, 2019
SANTA BARBARA CHANNELKEEPER vs STATE WATER RESOURCES CONTROL BOARD, et al. 10:00 AM

Judge: Honorable William F. Highberger CSR: None
Judicial Assistant: M. Mata ERM: None
Courtroom Assistant: D. McKinney Deputy Sheriff: None

Gene Tanaka
Jeanne Marie Zolezzi (Telephonic)