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Superior Court of California
County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk of Court

10 Attorneys for Respondent and Cross-Complainant
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 Petitioner,
18 v.
19 STATE WATER RESOURCES
CONTROL BOARD, etc., et al.,
20 Respondents.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

STATUS CONFERENCE REPORT

Date: February 9, 2021

Time: 1:30 p.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set

22 CITY OF SAN BUENAVENTURA, etc.,
23 Cross-Complainant
24 v.
25 DUNCAN ABBOTT, an individual, et al.
26 Cross-Defendants.

1 Parties agreed to delay making the request until the November 16, 2020 Status Conference. The
2 Proposing Parties again delayed making this request at the November 16, 2020 Status Conference
3 to allow the meet and confer process to continue.

4 At this time, the Proposing Parties contend that it is necessary for the Court to exercise its
5 duty to consider the proposed Physical Solution on an expedited basis and to implement the
6 Physical Solution if the Court determines that it is consistent with the reasonable and beneficial
7 use requirements and the prohibition against waste contained in Article X, section 2 of the
8 California Constitution. The Proposing Parties believe that the proposed Physical Solution will
9 resolve the legal issues in this matter and provide practical, expert-driven solutions to the
10 challenges that the Ventura River Watershed is currently facing in a manner that protects water
11 rights priorities, consumptive, environmental, and other reasonable and beneficial uses in the
12 Watershed. The Proposing Parties contend that it is not in the best interest of the Parties or the
13 Watershed to delay consideration of actions that would be imposed by the proposed Physical
14 Solution to improve conditions in the Ventura River Watershed.

15 Accordingly, the Proposing Parties request that Court implement the proposed schedule
16 that is attached hereto as Exhibit A. Specifically, the Proposed Parties request that the Court:

- 17 • Order the parties to continue to meet and confer regarding the terms of the
18 Physical Solution until February 26, 2021. On February 26, 2021, the Proposing
19 Parties shall lodge with the Court the then current iteration of the Physical
20 Solution.
- 21 • Order that the discovery stay be lifted on March 1, 2021, and set a schedule for
22 fact and expert discovery.
- 23 • Set a Final Status Conference on or around October 29, 2021, and set a date for the
24 parties to file and serve trial briefs, witness lists, and exhibit lists.
- 25 • Set an evidentiary hearing date for Court's consideration of the proposed Physical
26 Solution on or around November 8, 2021.
- 27 • Order that obligation to provide initial disclosures is waived unless and until the
28 Court orders otherwise.

1 B. Areas of Dispute

2 The Proposing Parties acknowledge that certain parties do not support this request at this
3 time or do not support the proposed schedule. At least one party has expressed a position that the
4 first portion of any trial should address issues of the interconnection of groundwater and surface
5 water in the Ventura River Watershed. Additionally, Cross-Defendants Loa E. Bliss 2006
6 Revocable Trust, the Manfred Krankl and Elaine V. Krankl Living Trust, and Robert Martin have
7 requested to argue about and/or object to the proposed Physical Solution in this Report. Many of
8 these issues were identified in the Status Conference Report for the November 16, 2020 Status
9 Conference and were discussed during that Status Conference. In general, these parties believe
10 that certain portions of the Watershed should be excluded from the Physical Solution or that the
11 Physical Solution suffers from other defects. The Proposing Parties do not believe arguments
12 regarding the proposed Physical Solution are appropriate for this Status Conference because the
13 Court has not seen the document, and its contents are not before the Court for consideration. The
14 Proposing Parties thus identify this as a point of dispute among the Parties. The Proposing
15 Parties also believe that other parties will explain their positions in separately filed Status
16 Conference Reports. The Proposing Parties will be prepared to respond to these issues at the
17 Status Conference and would also be ready to brief any of the issues in advance of the Status
18 Conference if the Court desires such a briefing.

19
20 2. SITE VISIT

21 The Proposing Parties also believe that it would be useful for the Court to conduct a
22 viewing of the Ventura River and Ventura River Watershed so that the Court has a better
23 understanding of the physical nature of the river and larger watershed area. This site visit could
24 occur during the discovery period and in advance of the consideration of the Physical Solution.
25 The Proposing Parties request that the Court discuss potential dates for this site visit at the
26 February 9, 2021 Status Conference.

1 3. UPDATE RE SERVICE OF THE THIRD AMENDED CROSS-COMPLAINT
2 AND NOTICE OF COMMENCEMENT OF ADJUDICATION

3 The City diligently continues to work to complete service of the Third Amended Cross-
4 Complaint on all named Cross-Defendants and to provide the notice of adjudication and form
5 answer to all overlying landowners within the Ventura River Watershed's groundwater basins,
6 while being mindful of Covid-19-related public health and safety constraints. The City has made
7 substantial progress on these efforts and hopes to have the notice and service process completed
8 by the end of February.

9 A. Service

10 The City mailed 738 service packets, requesting return of an acknowledgement of receipt,
11 to un-served Cross-Defendants in mid-August, 2020 and 506 service packets in December 2020.
12 Numerous acknowledgments of receipt have been returned. Out of over 2,100 Cross-Defendants,
13 there are now only approximately 319 unserved Cross-Defendants remaining. The City will
14 continue to attempt to locate and serve these un-served Cross-Defendants and will resume
15 personal service to complete this process. Additional service attempts may also include further
16 research of updated County Assessor records, additional correspondence to Cross-Defendants,
17 another attempt at mail service, and telephone and email outreach to individual Cross-Defendants
18 to schedule service. In addition, it is anticipated that unserved parties may make an appearance
19 prior to the January 29 deadline to respond.

20 The City will ultimately seek to serve any remaining un-served Cross-Defendants that it
21 cannot locate via publication. The City believes that this number will be small. The City is
22 cognizant of the Court's prior statements regarding service by publication and will make all
23 diligent efforts to perfect service on the named Cross-Defendant prior to seeking approval to
24 serve by publication.

25 B. Notice

26 The City mailed 3,072 notice of adjudication packets, return receipt requested, to owners
27 of parcels for which it had not yet received a return receipt in mid-August 2020 and in December
28 2020. The response to this additional mailing was positive, and there are now only approximately

1 115 parcels out of the original number of over 10,000 for which the City has not received a return
2 receipt for the notice of adjudication. The City will make additional attempts to provide notices
3 of adjudication but will also proceed with the posting of the notice of adjudication in a
4 conspicuous place on the real property for any parcels for which the City does not obtain a return
5 receipt pursuant to Code of Civil Procedure section 836, subdivision (d)(1)(C). The City will take
6 additional steps to complete the required notice process such as additional research from County
7 Assessor records, attempting another notice packet mailing, and outreach to individual property
8 owners to schedule delivery of the notice of adjudication. The City hopes to complete this
9 process by the end of February.

10 The City continues to maintain and update the neutral adjudication website, available at:
11 <https://www.venturariverwatershedadjudication.com>.

12
13 4. NEWLY APPEARING PARTIES AND PROCESS AND TIMING OF
14 DEFAULTS

15 As of February 2, 2021, the following additional parties have filed an answer to the City's
16 Third Amended Cross-Complaint:

- 17 1. Ventura Unified School District, November 10, 2020.
- 18 2. Robert Martin, November 12, 2020.
- 19 3. Rancho Matilija Mutual Water Company, January 19, 2021.
- 20 4. Jurgen Gramckow and Geraldine Gramckow, individually and as Trustees
21 of the J&G Trust, January 19, 2021.
- 22 5. Martin Gramckow and Linda Gramckow individually; Martin Gramckow,
23 Trustee of the Monika G. Huss Irrevocable Trust, Trustee of the Karin W.
24 Gramckow Irrevocable Trust, and Trustee of the Kurt J. Gramckow
25 Irrevocable Trust, January 19, 2021.
- 26 6. Bettina Chandler, Trustee of the Bettina Chandler Trust , January 19, 2021.
- 27 7. George and Sigrid Bressler, January 21, 2021.
- 28 8. Warren W. Green and Bonnie M. Green, January 22, 2021.

- 1 9. Janice and Jesse Hillestad, January 25, 2021.
- 2 10. Dale and Patricia Givner, January 25, 2021.
- 3 11. California Department of Parks and Recreation, January 25, 2021.
- 4 12. Kenton Lee Gibson, Trustee of the Gibson Family Trust, dated June 6,
5 2006, January 25, 2021.
- 6 13. Dennis and Nadine Corte, January 26, 2021.
- 7 14. Krishnamurti Foundation of America, January 26, 2021.
- 8 15. St. Joseph's Health and Retirement Center, January 26, 2021.
- 9 16. St. Joseph's Associates of Oaji, California Inc., January 26, 2021.
- 10 17. AGR Breeding, Inc., January 27, 2021.
- 11 18. Santa Barbara Channelkeeper, January 27, 2021.
- 12 19. Bentley Family Limited Partnership, January 27, 2021.
- 13 20. Danny Everett and Tiarzha Taylor, January 27, 2021.
- 14 21. County of Ventura, January 27, 2021
- 15 22. Ventura County Watershed Protection District, January 27, 2021.
- 16 23. Old Creek Road Mutual Water Company, January 28, 2021.
- 17 24. Margaret Vanderfin, January 28, 2021.
- 18 25. Patricia Norris, January 28, 2021.
- 19 26. The Walker Jr. Living Trust, January 28, 2021.
- 20 27. Rebecca C. Collins, January 28, 2021.
- 21 28. Thomas M. Collins, Jr., January 28, 2021.
- 22 29. William D. Moses Jr. Separate Trust No. 1, January 28, 2021.
- 23 30. City of Ojai, January 28, 2021.
- 24 31. Aera Energy LLC, January 28, 2021.
- 25 32. Jennifer Ware, January 28, 2021.
- 26 33. Ernest Ford, January 28, 2021.
- 27 34. Tico Mutual Water District, January 28, 2021.
- 28 35. Susan Cooper, January 28, 2021.

- 1 36. Michael Lombardo and Charles L. Ward III, as Co-Trustees of the Ward-
- 2 Lombardo Living Trust, January 29, 2021.
- 3 37. Claude R. and Patricia E. Baggerly, January 29, 2021.
- 4 38. Mercer Family Trust Agreement of 1992
- 5 39. Susan Moll, January 29, 2021.
- 6 40. Southern California Edison Company, January 29, 2021.
- 7 41. David Altman, Trustee of the 1190 El Toro Trust, January 29, 2021.
- 8 42. Baptiste Foundation, January 29, 2021.
- 9 43. Sean A. Bennett and Leslie Bennett, Trustees of the Bennett Family Trust,
- 10 January 29, 2021.
- 11 44. Dwayne A. Bower and Marilyn E. Bower Trustees of the Bower Family
- 12 Trust, January 29, 2021.
- 13 45. Joseph Peter Clark, successor in interest to the Joseph Clark and Linda
- 14 Epstein Family Trust, January 29, 2021.
- 15 46. Linda Louise Epstein, , successor in interest to the Joseph Clark and Linda
- 16 Epstein Family Trust, January 29, 2021.
- 17 47. Mark Terry Cline and Bonnie Burreson Cline, Trustees of the Mark Terry
- 18 Cline and Connie Burreson Cline Revocable Trust, January 29, 2021.
- 19 48. Michael I. Cromer and Jody D. Cromer, January 29, 2021.
- 20 49. Robert R. Daddi and Darlene J. Daddi, January 29, 2021.
- 21 50. Lucille A. Elrod, Trustee of the John and Lucille Elrod Family Trust,
- 22 January 29, 2021.
- 23 51. Friend's Stable & Orchard Inc., January 29, 2021.
- 24 52. Brent A. Jacobs and Rachel Jacobs, January 29, 2021.
- 25 53. Michel A. Etchart, Trustee of the Michel A. Etchart Separate Property
- 26 Trust, and Mark W. Etchart, Trustee of the Mark W. Etchart Separate
- 27 Property Trust, January 29, 2021.
- 28 54. Stephen Robert Smith, Trustee of the Charles R. Rudd and Lola L. Rudd

- 1 Trust, dated May 20, 2976, January 29, 2021.
- 2 55. Stephen Michtell and Kathleen Reid Mitchell, Trustees of the Stephen
3 Mitchell and Byron Katie Trust, January 29, 2021.
- 4 56. Victor C. Timar, Jr. Trustee of the Timar Family Trust, January 29, 2021.
- 5 57. John Town, January 29, 2021.
- 6 58. Trudie Town, January 29, 2021.
- 7 59. Troy Becker and Jeri Becker, January 29, 2021.
- 8 60. Daniel Hultgen, Trustee of the Hultgen Living Trust, January 29, 2021.
- 9 61. The Wood-Claeysens Foundation, January 29, 2021.
- 10 62. Giannetti Living Trust (Stipulation for Entry of Physical Solution and
11 Judgement) served January 29, 2021.
- 12 63. Harry D. Sims, III and Raymond P. Sims, Trustees of the Sims Survivor's
13 Trust UA dtd 8/21/1978 and the Sims Exemption Trust US dtd 8/21/1978,
14 January 29, 2021.
- 15 64. Brian A. Osborne, January 29, 2021.
- 16 65. Encanto Del Mar Apartments, L.P., January 29, 2021.
- 17 66. Housing Authority of the City of San Buenaventura, January 29, 2021.
- 18 67. Soho Associates, L.P., January 29, 2021.
- 19 68. Triad Properties, Inc, January 29, 2021.
- 20 69. Villages at Westview I LP, January 29, 2021.
- 21 70. Vista Del Mar Commons, LP, January 29, 2021.
- 22 71. Andrew K. Whitman and Heidi A. Whitman, February 1, 2021.
- 23 72. Nancy L. Whitman, John R. Whitman and Nancy L. Whitman Family
24 Trust, February1, 2021.
- 25 73. Janis Long Nicholas, John Jay Nicholas, Jess Earl Long (aka Jess E. Long),
26 Johanna Rae Long, and Mary Margaret Long, Janis Long Nicholas and Jess
27 E. Long as Trustees of the Long Family Trust, February 1, 2021.
- 28

1 Because of the complexity of the issues presented in this case, and the large number of
2 named Cross-Defendants involved, the City has told parties that it does not intend to immediately
3 seek defaults against non-responding parties, unless the Court orders otherwise. The City
4 requests the Court's permission to wait to request entries of default until May 3, 2021. This will
5 provide the City with time to work with parties who may not be familiar with the Court process
6 and with the filing of answers or stipulations. The City would also like to request guidance from
7 the Court regarding its preferred formatting and method for requesting the entry of default for the
8 many hundreds of Cross-Defendants who have not timely responded.

9
10 5. CONCLUSION AND SUMMARY OF REQUESTS

11
12 Based on the above Report, the Proposing Parties request that the Court consider taking
13 the following actions:

- 14 • Order the parties to continue to meet and confer regarding the terms of the
15 Physical Solution until February 26, 2021. On February 26, 2021, the City shall
16 lodge with the Court the then current iteration of the Physical Solution.
- 17 • Order that the discovery stay be lifted on March 1, 2021, and set a schedule for
18 fact and expert discovery.
- 19 • Set a Final Status Conference on or around October 29, 2021 and set a date for the
20 parties to file and serve trial briefs, witness lists, and exhibit lists.
- 21 • Set an evidentiary hearing date for Court's consideration of the proposed Physical
22 Solution on or around November 8, 2021.
- 23 • Order that obligation to provide initial disclosures is waived unless and until the
24 Court orders otherwise
- 25 • Discuss potential dates for a site visit for the Court to view the Ventura River.
- 26 • Order that the City does not have to request entry of default until on or after May
27 3, 2021.

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Dated: February 2, 2020

BEST BEST & KRIEGER LLP


By: 
SHAWN HAGERTY
CHRISTOPHER M. PISANO
SARAH CHRISTOPHER FOLEY
Attorneys for Respondent and
Cross-Complainant
CITY OF SAN BUENAVENTURA

EXHIBIT A

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10 Attorneys for Respondent and Cross-Complainant
11 CITY OF SAN BUENAVENTURA

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES
14 SPRING STREET COURTHOUSE

15 SANTA BARBARA CHANNELKEEPER, a
16 California non-profit corporation,
17
18 Petitioner,

Case No. 19STCP01176

Judge: Honorable William F. Highberger

19 v.

20 STATE WATER RESOURCES CONTROL
BOARD, a California State Agency; CITY
OF SAN BUENAVENTURA, a California
21 municipal corporation, etc.,

**CONSUMPTIVE USERS' PROPOSED
SCHEDULE FOR CONTINUED MEET
AND CONFER, DISCOVERY AND
EVIDENTIARY HEARING ON THE
PROPOSED PHYSICAL SOLUTION**

22 Respondents.

23 CITY OF SAN BUENAVENTURA, a
24 California municipal corporation,
25
26 Cross-Complainant

**Action Filed: September 19, 2014
Trial Date: Not Set**

27 v.

28 DUNCAN ABBOTT, an individual, et al.
Cross-Defendants.

PROPOSED SCHEDULE

At the November 16, 2020 Status Conference, the City of San Buenaventura (“City”) and informed the Court that it and other consumptive users (the “Proposing Parties”) had distributed to all parties a proposed stipulated judgment and physical solution (“Physical Solution”). The City further informed the Court that the Proposing Parties had met and conferred with all parties regarding the Physical Solution and that the parties are continuing to meet and confer. The Court ordered a further Status Conference for February 9, 2021, at 1:30 p.m., and it ordered that a joint report, or if necessary unilateral reports, be filed by February 2, 2021.

The parties met and conferred prior to February 2, 2021 in an effort to reach consensus on the preparation of a joint report. Based on this meet and confer process, the Proposing Parties submit the following proposed schedule to the Court.

1. CONTINUED MEET AND CONFER ON PROPOSED PHYSICAL SOLUTION:

The parties commit to continue to meet and confer regarding the terms of the Physical Solution. From the date of the Status Conference until close of business on Friday February 26, 2021, there shall remain in place the stay on all discovery in order to further facilitate the meet and confer efforts. On February 26, 2021, the City shall lodge with the Court the then current iteration of the Physical Solution. The discovery stay will be lifted on March 1, 2021, at which time the parties may conduct discovery in compliance with the Civil Discovery Act.

2. PROPOSED DISCOVERY PLAN AND PRETRIAL PROCEEDINGS:

The discovery phase shall commence on March 1, 2021, and shall close pursuant to the Civil Discovery Act based on the trial date set forth herein. During the discovery phase, any party may serve percipient-based written discovery and notices of deposition in accordance with the Civil Discovery Act. The discovery cut-off for percipient-based discovery shall be September 3, 2021.

1 The parties shall not be bound to provide initial disclosures to all parties in accordance
2 with Code of Civil Procedure Section 842. The parties agree that during the discovery phase the
3 parties and the Court shall jointly view the Ventura River on at least one mutually agreeable date.
4 At the February 9, 2021 Status Conference, the parties and Court will discuss date(s) for such a
5 viewing, and will discuss the locations that will be viewed. The parties will meet and confer and
6 attempt to agree to a mutually agreeable date or dates, and the locations for the Court and parties
7 to view the Ventura River.

8 The exchange of expert witness information shall occur on September 10, 2021, and
9 parties exchanging information shall include all information required under Code of Civil
10 Procedure Sections 2034.260 and 2034.270. The exchange of any supplemental expert witness
11 information shall occur on September 30, 2021. The parties may conduct depositions of expert
12 witnesses in accordance with Code of Civil Procedure Section 2034.410, *et seq.*, with all expert
13 witness depositions concluding no later than October 15, 2021.

14
15 **3. PROPOSED EVIDENTIARY HEARING:**

16 The Court shall conduct a Final Status Conference on October 29, 2021 at _____ m., or at
17 such other date and time as is convenient for the Court. The Court will hear all motions *in limine*
18 at the Final Status Conference, which shall be filed and served in accordance with Code of Civil
19 Procedure Section 1005, and L.A.S.C. Local Rule 3.25(f).

20 On October 20, 2021, the City shall lodge with the Court the then-existing proposed
21 Physical Solution, and the City shall file a list of all parties who are in support of the proposed
22 Physical Solution. For each party in support of the Physical Solution, the list should identify
23 whether the party extracts water from a groundwater basin or the Ventura River, and it shall
24 identify the amount of water that each such party has extracted during the five calendar years
25 before the City filed its Amended Cross-Complaint. Any party may voluntarily provide
26 additional years of extractions.

1 On October 20, 2021, any party that does not support the proposed Physical Solution shall
2 file an objection, which shall state all bases for the party's objection to the proposed Physical
3 Solution.

4 On October 20, 2021, the parties shall also file and serve trial briefs, trial witness lists, and
5 trial exhibit lists. The parties shall meet and confer regarding the exchange of trial exhibits, and
6 shall work to submit a joint list of exhibits that omits duplicate copies of the same exhibit. Trial
7 briefs shall be a maximum of 25 pages in length.

8 The Court shall conduct an evidentiary hearing regarding the Physical Solution
9 commencing on November 8, 2021 at _____ .m., or at such other date and time as may be
10 convenient for the Court. The total number of court days assigned for the hearing will depend
11 upon the number of parties who do not agree with the Physical Solution, and the issues that
12 remain to be resolved. The total number of court days will be determined at the Final Status
13 Conference.

14
15
16 Dated: February 2, 2021

BEST BEST & KRIEGER LLP

17
18 By: _____
19 SHAWN HAGERTY
20 CHRISTOPHER M. PISANO
21 SARAH CHRISTOPHER FOLEY
22 Attorneys for Respondent and
23 Cross-Complainant
24 CITY OF SAN BUENAVENTURA

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