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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, etc., et al.,

Respondents.

CITY OF SAN BUENAVENTURA, etc.,

Cross-Complainant,

v.

DUNCAN ABBOTT, an individual, et al.,

Cross-Defendants.

Case No. 19STCP01176

Judge: Hon. William F. Highberger

STATUS CONFERENCE REPORT

Date: July 6, 2021  
Time: 2:00 p.m.  
Dept: SS10

Action Filed: Sept. 19, 2014  
Trial Date: Feb. 14, 2022

STATUS CONFERENCE REPORT

Defendant and Cross-Complainant City of San Buenaventura (City) submits this Status Conference Report (Report) in advance of the Further Status Conference scheduled for July 6, 2021 at 2:00 p.m. In accordance with the Court's discussion at the June 21, 2021 Status Conference, the City hosted two meet and confer conferences in a good faith effort to obtain consensus on a proposed discovery and pretrial schedule. On June 30, 2021, the City emailed a draft of this Report to all parties who have appeared and invited input. Consistent with the Court's order, some parties may submit their own Status Conference Reports.

1. PROPOSED DISCOVERY AND PRETRIAL SCHEDULE FOR PHASE 1

At the June 21, 2021 hearing on the motion to bifurcate, the Court ordered the parties to meet and confer regarding a proposed discovery and pretrial schedule for the Phase 1 trial set for February 14, 2022. The City hosted two Zoom meet and confer conferences, on June 24, 2021 and on June 30, 2021, to discuss discovery and pretrial schedule for the Phase 1 trial. The City circulated a proposed discovery and pretrial schedule for Phase 1 trial on June 24, 2021 and a revised schedule on June 30, 2021 that incorporated comments and suggested changes from the June 24, 2021 meet and confer. A copy of the revised schedule that was discussed on June 30, 2021 is attached hereto as **Exhibit A**.

At the June 30, 2021 meet and confer, the parties who attended made progress on certain issues but identified areas of disagreement on other issues. The parties generally agreed to a three-tiered approach for expert disclosures, which includes (1) an initial expert disclosure date; (2) an expert disclosure date for parties who have not retained experts as of the initial expert disclosure date; and (3) a supplemental expert disclosure date. This tiered approach is intended to permit certain parties who have not yet retained an expert and who are unsure whether they will need to retain an expert to see the initial disclosures and then to decide whether to retain an expert. This tiered approach is designed to help protect the interests of smaller parties and parties who have only recently become involved in the litigation.

1 The parties did not reach a consensus regarding a date for initial expert disclosures (late  
2 August vs. late September) and whether expert disclosures should be mutual or whether the City  
3 should be ordered to make expert disclosures first. The City does not object to a late August  
4 initial disclosure, but other parties expressed concerns with that earlier date. The City contends  
5 that all parties who have retained experts and who have already taken a position on the Phase 1  
6 issues should mutually disclose their experts' opinions, but other parties contend that the Court  
7 should require the City to disclose unilaterally.

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9 2. INITIAL DISCLOSURES

10 The City contends that parties who have stipulated to the proposed physical solution or  
11 who have stipulated to the proposed physical solution in lieu of filing an answer should be  
12 excused from preparing and providing Initial Disclosures at this time. These parties have  
13 stipulated to the proposed physical solution in order to minimize their participation in the case  
14 and will ultimately be required to provide their pumping information, if any, to the Management  
15 Committee, an arm of the Court, appointed by the Court, to be established by the proposed  
16 physical solution. The majority of these parties do not currently pump or divert water or they are  
17 de minimis users (i.e., they divert or extract fewer than five acre feet of water from the Watershed  
18 per year). Requiring these parties to submit Initial Disclosures will not provide meaningful  
19 information relevant to any pending issue and is therefore not currently necessary. Code of Civil  
20 Procedure section 850(b) has not been invoked at this time, and Section 850(b) does not require  
21 that Initial Disclosures be used for purposes of calculating the thresholds in that section even in  
22 the event that a party seeks to proceed under Section 850(b).

23 The Court tabled this issue at the June 21, 2021 Further Status Conference and asked  
24 counsel for the State to explain to the Court why stipulating parties should be required to provide  
25 Initial Disclosures at this time. The Court continued this issue to the July 6, 2021 Further Status  
26 Conference.

1           3.     LODGMET OF PROPOSED PHYSICAL SOLUTION

2           The City, together with Cross-Defendants the Ventura River Water District, Meiners Oaks  
3     Water District, the Wood-Claeyssens Foundation, and the Rancho Matilija Mutual Water  
4     Company (collectively the Proposing Parties) are prepared to lodge the public review draft of the  
5     proposed physical solution dated May 17, 2021. The Proposing Parties believe that the Court's  
6     review and consideration of the draft proposed physical solution would help educate the Court  
7     and assist with framing certain issues to be decided in the Phase 1 trial. The Proposing Parties  
8     disagree with the State's contention that the proposed physical solution is a settlement offer. It is  
9     a publically available draft document, and the Proposing Parties will be prepared to seek the  
10    Court's approval of it after Phase 1 trial.

11          To date, no party has submitted written objections to the lodgment of the proposed  
12    physical solution. Some parties have submitted written objections to the substance of the  
13    proposed physical solution, and the State has encouraged the Court to decline to accept the  
14    document. The City contends that parties who object to lodgment of proposed physical solution  
15    should file written objections explaining the basis for their objections so that the Court may make  
16    a final decision on this long-standing issue.

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18          4.     CONCLUSION AND SUMMARY OF REQUESTS

19          In compliance with the Court's order, the City has proposed a discovery and pretrial  
20    schedule based on meet and confer with the parties and will be prepared to discuss these issues  
21    with the Court and the parties and the Court at the July 6, 2021 Further Status Conference. The  
22    City respectfully requests that the Court consider taking the following actions at the July 6, 2021  
23    Status Conference:

- 24           • Issue an order setting a discovery plan and pretrial schedule for Phase 1 trial.
- 25           • If necessary, order that stipulating parties be excused from providing Initial
- 26           Disclosures at this time.
- 27           • Allow the Proposing Parties to lodge the public review draft of the proposed
- 28           physical solution dated May 17, 2021.

1 Dated: July 2, 2021

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4 By: 

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12 Dated: July 2, 2021

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22 VALLEY SCHOOL; SHARON HAMM-  
23 BOOTH AND DAVID ROBERT HAMM,  
24 CO-TRUSTEES OF THE HAMM 2004  
25 FAMILY TRUST DATED APRIL 29,  
26 2004; REEVES ORCHARD, LLC; and  
27 OJAI VALLEY INN  
28

## EXHIBIT A

**PROPOSED DISCOVERY AND PRE-TRIAL SCHEDULE FOR PHASE 1**

<b>DATE</b>	
June 21, 2021	Discovery Stay is lifted for the issues to be tried in Phase 1 of Trial. (As Ordered by the Court.)
September 24, 2021	First date for Initial Expert Witness Disclosures, including Expert Witness Reports, pursuant to Code of Civil Procedure Section 843. (This date applies to Parties who have retained/employed expert(s) for the purpose of analyzing those issues to be tried in Phase 1 and who intend to put on direct expert testimony regarding these issues, as opposed to rebuttal expert testimony only.)
October 15, 2021	Percipient Discovery Cut-Off Date. (All percipient discovery must be completed by this date.)
November 3, 2021	Deadline for any party to file a Motion for Summary Judgment or Summary Adjudication.
November 12, 2021	Second date for Initial Expert Witness Disclosures, including Expert Witness Reports, pursuant to Code of Civil Procedure Section 843. (This date applies to Parties who, at the time of the first date for Initial Expert Witness Disclosures, had not yet retained/employed expert(s) for the purpose of analyzing those issues to be tried in Phase 1 and providing direct expert testimony. At the time of submitting any such Disclosure, the Submitting Party must also submit a Declaration attesting to the fact that he/she/it had not retained or hired an expert for the purpose of analyzing those issues to be tried in Phase 1 at the time of the September 24, 2021 Initial Expert Witness Disclosure.)
December 10, 2021	Date for exchange of Supplemental Expert Disclosures, including Expert Witness Reports, pursuant to Code of Civil Procedure Section 843.
January 14, 2021	Expert Deposition Cut-Off. (All expert discovery must be completed by this date.)
January 21, 2022	Pre-Trial Statements, Exhibit Lists, Witness Lists, Motions in Limine, and Trial Briefs are Due.
January 21, 2022	Law and Motion Cut-Off Date. (All motions other than Motions in Limine, including any Motions for Summary Judgment and/or Adjudication must be heard on or before this date.)

January 28, 2022	Responses to Motions in Limine are Due. Parties must exchange all exhibits.
February 2, 2022	Final Status Conference, at 10:00 a.m. in Dept. SS10. (Motions in Limine will be heard at the Final Status Conference.)
February 14, 2022	Phase 1 Trial (First Day), at 10:00 a.m. in Dept. SS10.

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PROOF OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to the action herein; my business address is Best Best & Krieger LLP, 2001 N. Main Street, Suite 390, Walnut Creek, CA 94596. On July 2, 2021, I served the following document(s):

**STATUS CONFERENCE REPORT**

- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.
- ☐ I caused such envelope to be delivered via overnight delivery. Such envelope was deposited for delivery by United Parcel Service following the firm's ordinary business practices.
- ☒ by transmission via **E-Service to File & ServeXpress** to the person(s) set forth below. Local Rules of Court 2.10 (P).
- ☒ **By e-mail or electronic transmission.** I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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Etchart, Trustee of the Mark W. Etchart  
Sepertate Property Trust; Lawrence  
Hartmann; Ole Konig; Krotana Institute of  
Theosophy; Stephen Michtell and Kathleen  
Reid Mitchell, Trustees of the Stephen  
Mitchell and Byron Katie Trust; North Fork  
Springs Mutual Water Company; Stephen  
Robert Smith, Trustee of the Charles R. Rudd  
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Shlomo Raz; Sylvia Raz; Senior Canyon  
Mutual Water Company; Siete Robles Mutual  
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Sean A. Bennett and Leslie Bennett, Trustees  
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Bonnie Burreson Cline, Trustees of the Mark Terry Cline and Connie Burreson Cline Revocable Trust; Robert R. Daddi and Darlene J. Daddi; Lucille A. Elrod, Trustee of the John and Lucille Elrod Family Trust; Friend's Stable & Orchard Inc. Daniel Hultgen, Trustee of the Hultgen Living Trust; Ojai Golf, LLC; Three Oaks, LLC, Erica J. Abrams, Trustee of the Erica J. Abrams Trust; Raul E. Alvarado and Hildegard M. Alvarado, Trustees of the Alvarado Family Trust; William Armstrong and April Nardini; Joseph Lynn Barthelemy and Elvira Lilly Barthelemy, Trustees of the Joseph Lynn Barthelemy and Elvira Lilly Barthelemy 2002 Family Trust; James S. Bennett and Carolyn D. Bennett, Trustees of the Bennett Family Trust; Sumeet Bhatia and Michael McDonald; John Joseph Broesamle and Katharine Sue Broesamle, Trustees of the Broesamle Family Trust; Richard Aaron Carlson, Trustee of the Richard Aaron Carlson Trust and Michelle Larson, Trustee of the Michelle Larson Family Trust; Thomas D. Carver and Cynthia L. Carver; Dana Cenicerros, Trustee of the Dana and Dawn Cenicerros Revocable Living Trust; Deborah Lys Martin Crawford; Frank Clay Creasey Jr.; Debra Joy Reed, Trustee of The Debra Joy Reed Revocable Trust Dated November 3, 1994; Frederic Devault; Diana Syvertson, Trustee of the Diana Syvertson Living Trust; Dive Deep L.L.C.; Douglas Roy Parent and Ann Marie Parent; William Erickson; Gelb Enterprises, L.P.; Jan Stephen Granade and Priscilla K. Granade, Trustees of the Granade Family Revocable Living Trust; Margot J. Griswold; Brian C. Haase and Marie Haase, Trustees of the B&M Haase Trust Dated October 8, 2019; Thomas Lann Harper and Jadona Collier-Harper; Ojai-Jackman L.L.C.; Kevin Rainwater and Marianne Ratcliff; Keith M. Nightingale and Victoria V. Nightingale, Trustees of The Nightingale Family Trust; Heide C. Kurtz, Trustee of The Kurtz Family Trust Dated January 19, 2019; Randall Leavitt, Trustee of The Randall B. Leavitt 2010 Trust; Edward C. Leicht and Jacqueline M. Leicht, Trustees of The Leicht Family 2013 Revocable Trust Dated March 1, 2013; Paul Lepiane and Bengtson Bo; Robert Levin and Lisa Solinas, Trustees of The Levin Family Living Trust; Francis Longstaff and Shauna Longstaff, Trustees of The Longstaff Trust Dated October 11, 2018; Mandy Macaluso, Trustee

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of The Living Trust of Mandy Macaluso; Marilyn Wallace, Trustee of The Marilyn Wallace Separate Property Trust; Daniel J. McSweeney and Yoko McSweeney; Wendell M. Mortensen and Laura L. Mortensen, Trustees of The Mortensen Family Revocable Trust; Timothy Jerome Murch and Jody Caren Murch, Trustees of The Jodim Family 2007 Trust Dated July 31, 2007; Chris E. Platt and Hanh H. Platt; Robert Erickson, Trustee and Ronald Wilson; Michael D. Robertson and Kimberly A. Robertson, Trustees of The Robertson Family Trust; James P. Robie, Trustee of the Robie Family Trust; Petter Romming and Kimi Romming, Trustees; Marc Saleh, Trustee of The Saleh Family Trust; Konrad Stefan Sonnenfeld, Trustee of The Konrad Stefan Sonnenfeld Living Trust; Mark Sutherland, Trustee of The Sutherland Marital Trust; John H. Thacher and Caroline H. Thacher, Trustees of The Thacher Family Trust Dated January 2004; Gilbert G. Vondriska and Carolyn J. Vondriska, Trustees of The Vondriska Living Trust; William D. Rusin, Sr., Trustee of the William D. Rusin Sr. Revocable Trust; Oscar D. Acosta, Trustee of the Acosta Trust; Chris E. Platt and Hanh H. Plat; Deborah Lys Martin Crawford; Diane Syvertson, Trustee of the Diana Syvertson Living Trust; Erica J. Abrams, Trustee of the Erica J. Abrams Trust; Frank Clay Creasey Jr.; Frederic DeVault; Gilbert G. Vondriska and Carolyn J. Vondriska, Trustees of the Vondriska Living Trust; James P. Robie, Trustee of the Robie Family Trust; John H. Thacher and Caroline H. Thacher, Trustees of the Thacher Family Trust dated January 2004; Mandy Macaluso, Trustee of the Living Trust of Mandy Macaluso; Margot J. Griswold; Mark Sutherland, Trustee of the Sutherland Marital Trust; Randall Leavitt, Trustee of the Randall B. Leavitt 2010 Trust; Raul E. Alvarado and Hildegard M. Alvarado, trustees of the Alvarado Family Trust; Sumeet Bhatia and Michael McDonald; Timothy Jerome Murch and Jody Caren Murch, Trustees of the Jodim Family 2007 Trust dated July 31, 2007; Wendell M. Mortensen and Laura L. Mortensen, Trustees of the Mortensen Family Revocable Trust; Petter Romming and Kimi Romming, Trustees; William Armstrong and April Nardini; William Erickson; Rancho Sueño, LLC

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I declare under penalty of perjury under the laws of the State of California that the  
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Executed on July 2, 2021 at Walnut Creek, California

  
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