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 Gov. Code, § 6103

SUPERIOR COURT FOR 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 BUENA VENTURA, a
 California municipal corporation, incorrectly
 named as CITY OF BUENA VENTURA,

Respondents.

Case No. 19STCP01176

Judge: Honorable William F. Highberger

STATUS CONFERENCE STATEMENT

Date: November 23, 2021

Time: 9:00 am

Dept: 10

**310 North Spring Street
 Los Angeles, CA 90012**

Action Filed: September 19, 2014

First Amended Complaint Filed:
 September 7, 2018

CITY OF SAN BUENA VENTURA, a
 California municipal corporation,

Cross-Complainant,

v.

DUNCAN ABBOTT;
 AGR BREEDING, INC; et al.

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STATUS CONFERENCE STATEMENT

Cross-Defendant City of Ojai (Ojai) submits this status conference statement in advance of the status conference scheduled for November 23, 2021 at 9:00 a.m.

Expert Disclosures

As to the issue of experts, Ojai does not object to the requests made and believes they are reasonable given the circumstances and the Court’s inherent authority under Code Civil Procedure section 128(a)(3), but reserves the right to object at a later date if a conflict is discovered.

On a somewhat related issue, Ojai would like to have the Court address how it intends to handle supplemental and rebuttal expert testimony in this case as it appears that the two terms may be used interchangeably by certain parties. Given the upcoming deadline of supplemental expert disclosures and reports, clarity ahead of that deadline is likely prudent to avoid further confusion.

Legal Briefs

A. Ventura’s Request for Judicial Notice

On November 8, 2021, the Parties submitted legal briefs as part of their status conference statements pursuant to the Court’s request. Specifically, the Court requested that the parties identify the issues of fact and law that they believed should be part of the Phase I trial and the order in which the trial should occur. These briefs were not noticed motions and not subject to oppositions or further filings. Strangely, the City of Ventura filed a Request for Judicial Notice in support of its brief. Ojai is unclear as to how it should address this issue and its objections to the RJN with the Court given that it wasn’t properly submitted. Based upon Ventura’s Progress Report and request to address matters related to these briefs on December 9, 2021, Ojai proposes that any written objections to the RJN be filed by parties no later than December 8, 2021. This will allow parties that may have assumed no formal objection was necessary given the circumstances will have sufficient time to file written objections.

1 **B. Questions of Law that May Be Determined before February 14, 2021.**

2 On November 15, 2021 counsel for the State Water Resources Control Board identified
3 novel legal issues that Ojai raised in its brief that may be decided before trial in an effort to
4 advance judicial economy in this case. In response, the Court asked whether it should hold an
5 Order to Show Cause (OSC) to determine the legal issues put forth by Ojai. Ojai declined that
6 invitation as it was unclear whether an OSC was the appropriate vehicle to determine some or all
7 of the issues in Ojai’s brief. However, Ojai indicated that it may ask the Court at a later date to
8 examine pure issues of law versus issues of law and fact prior to the commencement of trial.

9 Having considered this matter more fully and the best procedural methods to address
10 them, Ojai believes that the best procedural vehicle to decide the questions of law raised in its
11 brief is by way of a noticed motion. This is especially true given that the statute is relatively new,
12 appears to be a matter of first impression, and where it appears that the case isn’t fully at issue if
13 there are still Cross-Defendants that have not been served. Given the complexity of all of the
14 procedural issues with the Third Amended Cross Complaint, Ojai suggests that the question of
15 whether, as a matter of law, the court may comprehensively determine rights to extract
16 groundwater among all rights holders across four separate basins in one legal proceeding
17 pursuant to Code of Civil Procedure section 830, et seq. be determined as soon as reasonably
18 practical by way of noticed motion and order on the same.

19 While the determination above may result in an efficient way to dispose of parties that
20 were served under the groundwater adjudication statute, it will not in and of itself, result in a
21 dismissal of parties, such as the City of Ojai, because there will remain questions of fact and law
22 under the remaining causes of action. Thus, even if there is a determination that the sixth cause
23 of action fails as a matter of law, there would still need to be a trial on the question of connectivity
24 as it relates to the remaining claims in the Cross-Complaint.

25 Ojai anticipates that the evidence will show that there is no connectivity between the
26 groundwater and surface water relevant to the four corners of the pleadings in this case. Once
27 that showing is made, further dispositive motions may be filed and result in the potential
28 dismissal of thousands of cross-defendants and returning this litigation to what it should

1 ultimately be—a surface water adjudication action.

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Dated: November 22, 2021

Respectfully submitted,

Bartkiewicz, Kronick & Shanahan, PC

By: 

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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 BARTKIEWICZ, KRONICK & SHANAHAN, 1011 22nd Street, Sacramento, California 95816-4907. On November 22, 2021, following ordinary business practices, I electronically served the document described below via File & Serve Xpress, on the recipients designated on the Transaction Receipt located on the File & Serve Xpress website.

CITY OF OJAI'S STATUS CONFERENCE REPORT

I declare under penalty of perjury under the law of the State of California, that the above is true and correct.

Executed on November 22, 2021, at Sacramento, California.

Holly Jacobson