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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11

12 **SANTA BARBARA CHANNELKEEPER,**
13
14 Petitioner,
15
16 **v.**
17 **STATE WATER RESOURCES CONTROL**
BOARD, a California State Agency; CITY
OF BUENAVENTURA, a California
municipal corporation,
18 Respondents.
19

Case No. 19STCP01176

**SWRCB'S RESPONSE TO CITY OF SAN
BUENAVENTURA'S MOTION FOR
APPROVAL**

Date: October 2, 2019
Time: 10 a.m.
Dept.: 10
Judge: Honorable W. Highberger
Trial Date: None Set
Action Filed: September 19, 2014

20 **CITY OF SAN BUENAVENTURA, a**
California municipal corporation,
21
22 Cross-Complainant,
23
24 **v.**
25 **DUNCAN ABBOTT, an individual; et al.,**
Cross-Defendants.
26
27
28

1 Although respondent State Water Resources Control Board (the “SWRCB”) has no
2 objection to the Court approving a notice and form answer pursuant to Code of Civil Procedure
3 section 836 for this action, those documents must have the appropriate content. The SWRCB
4 believes that the notice proposed by cross-complainant City of San Buenaventura (the “City”) is
5 misleading.

6 The SWRCB is the agency established “to provide for the orderly and efficient
7 administration of the water resources of the state.” (Wat. Code, § 174; see generally 62 Cal.Jur
8 3d (2018) Water, § 45.) The SWRCB has regulated all appropriative water rights acquired since
9 1914 through a permit system. (*Calif. Farm Bureau Fed. v. State Water Resources Control*
10 *Board* (2011) 51 Cal.4th 421, 429; see also Wat. Code, §§ 1200-851.) In doing so, the SWRCB
11 considers the public interest. (*United States v. State Water Resources Control Board* (1986) 182
12 Cal.App.3d 82, 103-04.) The SWRCB has the power to prevent waste or unreasonable use.
13 (Wat. Code, § 275.) And it has the authority to determine water rights. (*Id.*, § 2501; see also *id.*,
14 §§ 2500-868 [provisions related to such a statutory adjudication].) In fact, the Legislature has
15 provided that courts adjudicating water rights may make a reference to the SWRCB to determine
16 legal and factual issues. (*Id.*, §§ 2000-48.) As to the City’s cross-complaint, the SWRCB’s
17 interest is in ensuring a fair, equitable, and legally correct determination of the water rights at
18 issue, and working to ensure an outcome consistent with the public interest.

19 ARGUMENT

20 I. THE NOTICE SHOULD BE LIMITED TO GROUNDWATER

21 The City’s motion seeks approval for a notice under Code of Civil Procedure section 836, a
22 provision in the Streamlined Comprehensive Groundwater Adjudication Statute. That statute
23 applies just to “actions that would comprehensively determine rights to extract groundwater in a
24 basin.” (Code Civ. Proc., § 833, subd. (a).) The Court can include those who divert surface water
25 *only* “[i]f the Court finds that including an interconnected surface water body or subterranean
26 stream flowing through known and definite channels is necessary for the fair and effective
27 determination of the groundwater rights in a basin.” (*Id.*, § 833, subd. (c).) The City has not
28

1 sought such a finding in its motion. And it has not explicitly stated it is not seeking such a
2 finding with this motion.

3 Yet the City includes surface water diverters in its notice. These references include: (1) the
4 words "AND WATERSHED" in the caption and the title; (2) the words "and/or any rights you
5 claim to divert or store surface water from the Ventura River Watershed" in the first, second, and
6 third paragraphs (in all capitals in the first paragraph); and (3) the words "and/or surface water
7 use" in the fourth paragraph. This language is misleading and inappropriate, and should be
8 deleted.

9 The language for the notice under Code of Civil Procedure section 836 is provided for in
10 the statute. (Code Civ. Proc., § 836, subd. (a).) That language is limited to groundwater. (*Ibid.*)
11 The City's notice should be limited to the groundwater adjudication piece of this case.

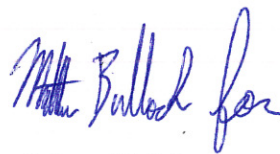
12 CONCLUSION

13 For all these reasons, the SWRCB respectfully requests that the Court order that the City's
14 proposed notice be changed to limit itself to the groundwater adjudication part of this case.

15 Dated: September 17, 2019

Respectfully Submitted,

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20

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Santa Barbara Channelkeeper v. State Water Board**
No.: **CPF-14-513875**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On September 17, 2019, I served the attached **SWRCB's RESPONSE TO CITY OF SAN BUENAVENTURA'S MOTION FOR APPROVAL** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1515 Clay Street, 20th Floor, Oakland, CA 94612-0550, addressed as follows:

Please see attached lists

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 17, 2019, at Oakland, California.

Ida Martinac
Declarant



Signature

Santa Barbara Channelkeeper v. State Water Resources Control Board
Los Angeles Superior Court No. 19STCP01176
As of August 14, 2019

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**Santa Barbara Channelkeeper v. State Water Resources Control Board
San Francisco Superior Court No. CPF -14-513875
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Santa Barbara Channelkeeper v. State Water Resources Control Board
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Service List for Non-appearing Cross-Defendants
As of March 8, 2019

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Santa Barbara Channelkeeper v. State Water Resources Control Board
San Francisco Superior Court No. CPF -14-513875
Service List for Non-appearing Cross-Defendants
As of March 8, 2019

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