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9 Declaration of Trust of Richard G. Booth and Sharon H. Booth Dated July 10, 1980; David Robert
10 Hamm; Ojai Oil Company; Ojai Valley School; Reeves Orchard, LLC and Ojai Valley Inn

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11
12 **SANTA BARBARA CHANNELKEEPER, a**
13 **California non-profit organization**

14 **Petitioner,**

15 **vs.**

16 **STATE WATER RESOURCES CONTROL**
17 **BOARD, a California State Agency; CITY OF**
18 **SAN BUENAVENTURA, a California**
19 **municipal corporation, incorrectly named as**
20 **CITY OF BUENAVENTURA**

21 **Respondents.**

22
23 **CITY OF SAN BUENAVENTURA, a**
24 **California municipal corporation**

25 **Cross-Complainant**

26 **vs.**

27 **DUNCAN ABBOTT, an individual, et al.**

28 **Cross-Defendants.**

CASE No. 19STCP01176

[Assigned to Hon. William F Highberger
Complex Civil Division
Dept. S10.]

**EAST OJAI GROUP'S RESPONSE TO
CITY OF SAN BUENAVENTURA'S
MOTION TO BIFURCATE AND
PARTIAL LIFTING OF THE
DISCOVERY STAY**

Date: June 21, 2021
Time: 1:30 p.m.
Dept.: 10

Action Filed: September 19, 2014
Trial Date: None Set

1
2 Defendants and Cross-Defendants THE THACHER SCHOOL; FRIEND'S RANCHES,
3 INC.; TOPA RANCH & NURSERY, LLC; FINCH FARMS, LLC; RED MOUNTAIN LAND &
4 FARMING, LLC; THACHER CREEK CITRUS, LLC; THE FINCH FAMILY TRUST; JAMES
5 P. FINCH; SHARON H. BOOTH, TRUSTEE OF THE SURVIVOR'S TRUST CREATED
6 UNDER DECLARATION OF TRUST OF RICHARD G. BOOTH AND SHARON H. BOOTH
7 DATED JULY 10, 1980; DAVID ROBERT HAMM; OJAI OIL COMPANY; OJAI VALLEY
8 SCHOOL; REEVES ORCHARD, LLC; and OJAI VALLEY INN (Collectively, the "East Ojai
9 Group")

10 **Introduction**

11 The East Ojai Group consists of some of the largest and oldest overlying and riparian water
12 rights holders in the Ojai basins. The East Ojai Group is not opposed to the City's Motion to
13 bifurcate because the issues presented are key to resolving this case. The East Ojai Group does,
14 however, oppose the unreasonable discovery and trial schedule proposed by the City which only
15 benefits the City and, as explained below, is entirely unfair to the Cross-Defendants who have
16 appeared and equally unfair to the parties the City has named, but who have not yet appeared.
17 Recognizing the scope and complexity of this issue and the City's efforts to serve all parties, the
18 case is not even at issue yet and it is important to any resolution that all affected parties be
19 involved and any schedule must recognize the need to bring the case fully at issue.

20 **The Proposed Motion to Bifurcate**

21 The motion to bifurcate is a necessary step because of the unusual nature of the City's
22 action to adjudicate multiple groundwater basins and, indeed, an entire surface watershed. The
23 City's cross-action against all users within four groundwater basins and the entire Ventura River
24 surface watershed arises from the complaint filed by Santa Barbara Channelkeeper, asserting the
25 City's extraction of surface and groundwater was harming the population of steelhead trout within
26 the watershed. The City's proposed "physical solution" will not, by its express terms, adjudicate
27 water rights; it will instead require all named parties to participate in and pay for an environmental
28 restoration of the Ventura River watershed, the sole purpose of which is to restore and protect fish

1 habitat and avoid additional litigation with Santa Barbara Channelkeeper. This effort comes at an
2 unknown cost for an unknown duration and will be require the creation of yet another public
3 agency involved in the management of the four basins and the Ventura River Watershed to try and
4 protect the fishery.

5 The purpose of the bifurcation will be to determine who should be and who should not be
6 involved in this effort. The East Ojai Group does not think that the groundwater basins from
7 which they extract water are connected to surface water flow and their respective pumping does
8 not affect the fishery habitat within the watershed. They do not think they should be parties in the
9 City's action. In order to resolve this dispute, but, at the same time, allow the Cross-Defendants to
10 properly prepare a defense, the East Ojai Group proposes the following schedule.

11 **Proposed Schedule for Discovery and Trial**

12 As currently stated, the City's proposed schedule presents to the following challenges and
13 issues:

14 Obviously, the City has had many years to prepare this case and has multiple experts who
15 have been working on this for years. The Cross-Defendants have not had the same time to
16 similarly prepare.

17 The Court has not yet seen the City's proposed "physical solution" and the Court is now
18 being asked to accept a City schedule without any current knowledge of the ultimate proposed
19 physical solution and what effort will be necessary by the parties to develop the best evidence for
20 the Court to reasonably decide the bifurcation issues.

21 The City's proposed schedule allows for only five months to engage experts, prepare expert
22 witness reports and prepare supplemental expert witness reports, without any idea on how many
23 experts may be involved. The proposed schedule would allow only about five weeks between
24 exchange of expert witness reports and conclusion of expert depositions and would require trial
25 only two weeks after expert depositions are concluded. This schedule is much more restrictive
26 than the statutory timelines, and would likely result in an incomplete and messy record before the
27 Court.

28 As the Court is aware, the State of California is preparing its own long-awaited study

1 regarding the interconnection between the Ojai basins and surface water flows. The City's
2 proposed schedule ignores this study and the effect it may have on the case.

3 Importantly, the proposed schedule does not allow at all for the submission of summary
4 judgment/summary adjudication motions that may be filed by certain Cross-Defendants.

5 As noted above, the case is not at issue and needs to be at issue before deadlines are set.

6 Based on the above ,the East Ojai Group proposes the following schedule assuming the
7 case is at issue:

8 Percipient discovery deadline: December 31, 2021;

9 Expert exchanges to follow 90 days after percipient discovery deadline (End of March
10 2022);

11 Supplemental expert exchanges 60 days after expert exchanges; (End of May 2022)

12 Expert depositions to be completed 90 days after supplemental exchange (End of August
13 2022);

14 Trial to be scheduled end of 2022 subject to Court's schedule.

15 This schedule will allow the Cross-Defendants to properly prepare for a complicated and
16 unusual case involving multiple basins and an entire watershed in one of the first cases involving
17 the Sustainable Groundwater Management Act. It also will allow certain defendants the
18 opportunity to file dispositive motions and have them heard, potentially narrowing the scope of the
19 trial.

20 As an alternative, the Court may wish to review the proposed "Physical Solution" that the
21 City intends to lodge with the Court on June 21, 2021, subject to any objections, so the Court has
22 an understanding of the City's overall objectives and set a further statue conference to discuss the
23 trial schedule on bifurcation.

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DATED: June 1, 2021

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Ventura, State of California. My business address is 2801 Townsgate Road, Suite 200, Westlake Village, California 91361.

On June 3, 2021 I served true copies of the following document(s) described as **EAST OJAI GROUP'S COMMENTS ON CITY OF SAN BUENAVENTURA'S MOTION TO BIFURCATE AND PARTIAL LIFTING OF THE DISCOVERY STAY** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

By transmission via E-Service to File & ServExpress: to the person(s) set forth below. Local Rules of Court 2.10(P)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 3, 2021, at Westlake Village, California.



Heather Silverman

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