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ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 07 2019

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By: Tanya Herrera, Deputy

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

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

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

17 Petitioner,

18 v.

19 STATE WATER RESOURCES
20 CONTROL BOARD, a California State
Agency;
21 CITY OF SAN BUENAVENTURA, a
California municipal corporation,
22 incorrectly named as CITY OF
BUENAVENTURA,

23 Respondents.
24
25
26
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28

Case No. 19STCP01176

Judge: Honorable William F. Highberger

Exempt From Filing Fees Pursuant to Cal.
Gov't Code § 6103

NOTICE OF RULING ON MOTION FOR
APPROVAL OF NOTICE AND FORM
ANSWER

Date: Oct. 2, 2019

Time: 10:00 a.m.

Dept: SS10

Action Filed: Sept. 19, 2014

Trial Date: Not Set

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CITY OF SAN BUENAVENTURA, a
California municipal corporation,

Cross-Complainant

v.

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

NOTICE OF RULING

1
2
3 On October 2, 2019, the Motion for Approval of Notice and Form Answer (“Motion for
4 Approval”) of Defendant and Cross-Complainant City of San Buenaventura (“City”) came on for
5 hearing, the Honorable William F. Highberger, Judge presiding. The following parties appeared:
6 Daniel Gordan Cooper (by CourtCall) for Petitioner and Plaintiff Santa Barbara Channelkeeper
7 (“Channelkeeper”); Deputy Attorney General Mark Nathaniel Melnick (by CourtCall) for
8 Respondent State Water Resources Control Board (“State Board”); Shawn Hagerty and Gene
9 Tanaka for City; Ryan Blatz (by CourtCall) for Cross Defendants Troy Becker, Janet Boulten,
10 Michael Boulten, Michael Caldwell, Joe Clark, Michael Cromer, Linda Epstein, Etchart Ranch,
11 Lawrence Hartmann, Ole Konig, Krotona Institute of Theosophy, Stephen Mitchell, North Fork
12 Springs Mutual Water Company, Shlomo Raz, Sylvia Raz, Rudd Ranch LLC, Senior Canyon
13 Mutual Water Company, Siete Robles Mutual Water Company, Soule Park Golf Course, Ltd.,
14 Telos, LLC, Victor Timar, John Town, and Trudie Town; Robert Kwong and Douglas J.
15 Dennington (by CourtCall) for Cross-Defendant Casitas Municipal Water District; Cristian
16 Arrieta (by CourtCall) for Cross-Defendants Ernest Ford and Tico Mutual Water Company;
17 Gregory John Patterson (by CourtCall) for Cross-Defendants Robert C. Davis, Jr., James Finch,
18 Friend's Ranches, Inc., Topa Topa Ranch Company, LLC, and The Thacher School; Neal Patrick
19 Maguire (by CourtCall) for Cross-Defendant Rancho Matilija Mutual Water Company;
20 Christopher R. Guillen (by CourtCall) for Cross-Defendant Wood-Claeysens Foundation;
21 Anthony Lee Francois (by CourtCall) for Cross-Defendant Robin Bernhoft; Nathan Andrew
22 Metcalf (by CourtCall) for Cross-Defendant Ventura County Watershed Protection District; Elsa
23 Sham (by CourtCall) for Cross-Defendant St. Joseph’s Associates of Ojai, California, Inc.; and
24 Jeanne Marie Zolezzi (by CourtCall) for Meiners Oaks Water District and Ventura River Water
25 District.

26
27 The Court listened to the comments of counsel and made the following orders,
28 observations and instructions:

1 Counsel for City shall ensure a court reporter is present for all future proceedings before
2 this Court. All proceedings in this complex case are important and require a reporter's record.

3
4 The Court modified and signed the Order Authorizing File & ServeXpress. Counsel for
5 City shall serve this on the parties. Upon receipt, the parties shall immediately ensure that all of
6 the pleadings and other papers they each filed in this case are filed with File & ServeXpress. In
7 the future, all parties shall serve their papers with File & ServeXpress. The Court is investigating
8 with the court administrator's office whether the parties can use the Los Angeles County Superior
9 Court e-filing protocols available for pleadings in the Stanley Mosk Courthouse ("LASC E-
10 Filing"). Presently, cases in the Complex Division utilize hard copies which entail delay in
11 delivering them to the Court, and require the clerk to make docket entries that LASC E-Filing
12 provides automatically.

13
14 Attorney Tanaka informed the Court that City had identified about 10,000 parcels of
15 property overlying the Ventura River watershed groundwater basins and about 500 parcels
16 adjacent to the Ventura River or its tributaries. The number of new cross-defendants will likely be
17 less because some owners may own more than one parcel, and many owners do not use their
18 water rights. City intends to file a Third Amended Cross-Complaint to name each of the riparian
19 landowners individually in the caption. It plans to individually name each of the overlying
20 property owners in an exhibit to the Third Amended Cross-Complaint, but pursuant to the
21 requirements of Code of Civil Procedure section 836, does not plan to name the overlying owners
22 individually in the caption.

23
24 Attorney Patterson said the Los Posas adjudication is the only other groundwater
25 adjudication of which he is aware that is proceeding under the new Streamlined Groundwater
26 Adjudication Statutes (Code of Civil Procedure sections 830, et seq.). He estimated that plaintiff
27 in that case sent approximately 10,000 notices to property owners. That matter is set for a Phase
28 1 trial in November 2019.

1 City will file and continuously update an Excel spreadsheet that lists the additional
2 property owners by name, address, parcel number, and the status of their involvement, e.g.,
3 service, appearance, request for default. Attorney Tanaka informed the Court that City intends to
4 default the parties who do not appear in this case. If LASC E-Filing is available, the Court may
5 modify this requirement.

6
7 After service of the Third Amended Cross-Complaint, Attorney Tanaka suggested that
8 City will hold two public meetings, one probably in the City of Ojai and one probably in the City
9 of Ventura, to provide information to the new cross-defendants to help reduce confusion and help
10 manage the case. Cross-Defendants who have appeared and their attorneys would be invited to
11 attend and participate in the discussion.

12
13 City would like to put notice of the date, time and place of these meeting in the Notice of
14 Commencement of Groundwater Basin and Watershed Adjudication (“Notice”) served on the
15 Cross-Defendants. The Court said that the revised Notice should also: (1) discuss the filing
16 protocols, LASC E-Service and/or File & ServeXpress, depending upon what the court
17 administration decides; (2) refer to Judge Highberger’s Order providing 60 days to file a
18 response; and (3) refer to the Third Amended Cross-Complaint, not the Second Amended Cross-
19 Complaint.

20
21 The Court indicated that it will revise its tentative ruling on the Motion for Approval as it
22 relates to a delay or suspension of fees for newly appearing cross-defendants. The Court stated
23 that no additional complex fees were required in accordance with Government Code section
24 70616. The Court also stated that the first appearance fee of \$435 could be waived through the
25 existing indigent fee waiver process. However, the Court stated that without specific authority to
26 do so, the first appearance fee could not otherwise be waived or payment delayed.

27
28 The Court instructed City to submit a revised Order for the Motion for Approval that

1 references: (1) the filing protocols; (2) 60 days to respond to the Third Amended Cross-
2 Complaint; (3) refer to the Third Amended Cross-Complaint; and (4) delete reference to waiver
3 of the appearance fee. The Court asked the parties if anyone objected to the Notice and Order as
4 revised, and there were no objections.

5
6 The Court believes a neutral website containing pleadings, reports, and other information
7 about the litigation should be established and managed by City. It would be available to the other
8 parties for reference and filing. It would not be sponsored by the Court.

9
10 The Court is still agreeable to a "Science Day" for experts to discuss technical issues with
11 the Court. Attorney Cooper suggested it take place early next year when the California
12 Department of Fish and Wildlife finishes its flow study.

13
14 The Court ordered City to file a Joint Status Report with at least Channelkeeper and
15 Casitas on October 25, 2019. City will address the issues presented by the Court's File &
16 ServeXpress message board posting, on October 2, 2019, in the Joint Status Report. The Motion
17 for Approval shall trail until the next Status Conference on November 1, 2019, at 1:30 p.m.

18
19 The Court issued the Minute Order attached as Exhibit A.

20 Dated: October 7, 2019

BEST BEST & KRIEGER LLP

21
22 By: 

23 GENE TANAKA
24 SHAWN HAGERTY
25 SARAH CHRISTOPHER FOLEY
26 DAKOTAH BENJAMIN
27 Attorneys for Respondent and
28 Cross-Complainant
CITY OF SAN BUENAVENTURA

Exhibit A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
Civil Division

Central District, Spring Street Courthouse, Department 10

19STCP01176

**SANTA BARBARA CHANNELKEEPER vs STATE WATER
RESOURCES CONTROL BOARD, et al.**

October 2, 2019

10:00 AM

Judge: Honorable William F. Highberger

CSR: None

Judicial Assistant: M. Mata

ERM: None

Courtroom Assistant: D. McKinney

Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Daniel Gordon Cooper (Telephonic)

For Defendant(s): Cristian R. Arrieta (Telephonic); Ryan W Blatz (Telephonic); Douglas J.

Dennington (Telephonic) -- See additional appearances below.

NATURE OF PROCEEDINGS: Hearing on Motion - Other for approval of notice and form answer;

Matter is called for hearing.

For all future hearings, counsel are ordered to have a court reporter until further notice.

The Court states that no complex fees are owed.

Hearing on Motion - Other for approval of notice and form answer; is continued to 11/01/2019 at 01:30 PM in Department 10 at Spring Street Courthouse.

Counsel are to file a joint report by 10/25/2019.

Counsel Gene Tanaka is to give notice.

Additional appearances for Defendant(s):

Anthony Lee Francois (Telephonic)

Christopher R. Guillen (Telephonic)

Shawn D. Hagerty

Robert N. Kwong (Telephonic)

Neal Patrick Maguire (Telephonic)

Marc Nathaniel Melnick (Telephonic)

Nathan Andrew Metcalf (Telephonic)

Gregory John Patterson (Telephonic)

Elsa Sham (Telephonic)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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RESOURCES CONTROL BOARD, et al.**

October 2, 2019

10:00 AM

Judge: Honorable William F. Highberger

Judicial Assistant: M. Mata

Courtroom Assistant: D. McKinney

CSR: None

ERM: None

Deputy Sheriff: None

Gene Tanaka

Jeanne Marie Zolezzi (Telephonic)