



1 **MUSICK, PEELER & GARRETT LLP**

2 2801 Townsgate Road, Suite 200
3 Westlake Village, California 91361
4 Telephone (805) 418-3100
5 Facsimile (805) 418-3101

6 Gregory J. Patterson (State Bar No. 136665)
7 *g.patterson@musickpeeler.com*

8 Attorneys for The Thacher School; Friend's Ranches, Inc.; Topa Topa Ranch & Nursery, LLC;
9 Finch Farms, LLC; Red Mountain Land & Farming, LLC; Thacher Creek Citrus, LLC; The Finch
10 Family Trust; James P. Finch; Sharon Hamm-Booth and David Robert Hamm, Co-Trustees of The
11 Hamm 2004 Family Trust Dated April 29, 2004; Ojai Oil Company; Ojai Valley School; Reeves
12 Orchard, LLC; and Ojai Valley Inn

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

15 **SANTA BARBARA CHANNELKEEPER, a**
16 **California non-profit organization**

17 **Petitioner,**

18 **vs.**

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

24 **Respondents.**

25 **CITY OF SAN BUENAVENTURA, a**
26 **California municipal corporation**

27 **Cross-Complainant**

28 **vs.**

DUNCAN ABBOTT, an individual, et al.

Cross-Defendants.

CASE No. 19STCP01176

[Assigned to Hon. William F Highberger]

**STATUS CONFERENCE REPORT AND
OBJECTION TO SETTING SCHEDULE
ON PROPOSED PHYSICAL SOLUTION**

Action Filed:
Trial Date:

September 19, 2014
None Set

STATUS CONFERENCE REPORT

Cross-Defendants The Thacher School, Friend's Ranches, Inc., Topa Topa Ranch & Nursery, LLC, Finch Farms, LLC, Red Mountain Land & Farming, LLC, Thacher Creek Citrus,

1 LLC, The Finch Family Trust, James P. Finch, Sharon Hamm-Booth and David Robert Hamm,
2 Co-Trustees of The Hamm 2004 Family Trust Dated April 29, 2004, Ojai Oil Company, Ojai
3 Valley School, Reeves Orchard, LLC, and Ojai Valley Inn (hereinafter collectively, the “Cross-
4 Defendants”) submit this Status Conference Report And Objection to Setting Schedule on
5 Proposed Physical Solution in advance of the February 9, 2021 Status Conference.

6 Cross-Defendants hold overlying water rights in the Ventura River Watershed, as defined
7 by the City in its Third Amended Complaint. Cross-Defendants, currently operate, or have a right
8 to operate groundwater wells on their properties from the basins within the Watershed. These
9 parties have reviewed the City’s proposed Status Conference Statement and Proposed Schedule
10 served on January 26th, 2021 and related proposed amendments and have the following
11 comments.

12 The primary issue for the Cross-Defendants is that the City’s proposed schedule and
13 submission of its physical solution appears to dispense with the City’s burden of proof required
14 under its Third Amended Complaint. It moves immediately to a proposed City remedy without
15 requiring the City to prove up its case and show that the parties it has sued are liable for the
16 damages alleged by the City and, therefore, should participate in the propose physical solution
17 remedy. If followed, it places the Court in a situation of imposing a remedy on all named parties
18 without a full understanding of water rights, water use, the impact those water rights and use have
19 on the fishery, and which parties should be involved in what is essentially an effort to restore
20 surface water and habitat within the Watershed to achieve a fishery in good condition.

21 Any future schedule imposed by this Court should first explicitly require the City to prove
22 liability for each party it has sued and whether their specific water use impacts the surface water
23 flow and fishery. The parties can discuss what that burden of proof would require. The Court can
24 then move to a remedy phase knowing water rights, water use and the exercise of those rights that
25 may or may not impact surface flow and the fishery and, importantly, which parties should or
26 should not be involved in any final physical solution intended to develop a fishery in good
27 condition.

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1 In light of the above, these Cross-Defendants propose that the Court continue this status
2 conference to a later date to allow the parties to further negotiate a process by which the Court can
3 identify which parties sued by the City that should be involved in any physical solution and what
4 the physical solution should be. These responding Cross-Defendants propose that a further status
5 conference be held in two months to review progress and allow the parties to engage in
6 negotiations to resolve these outstanding issues. In the interim, the Cross-Defendants request that
7 the Court order that the stay of discovery remain in place and that the Court continue the time in
8 which parties may respond to the Third Amended Complaint until the next status conference. This
9 will allow the parties, including recently added parties, to focus on and discuss potential
10 resolutions of the myriad of issues presented in this case.

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13 DATED: February 2, 2021

MUSICK, PEELER & GARRETT LLP

14
15 By: /s/ Gregory J. Patterson
16 Gregory J. Patterson
17 Attorneys for The Thacher School; Friend's
18 Ranches, Inc.; Topa Topa Ranch & Nursery, LLC;
19 Finch Farms, LLC; Red Mountain Land &
20 Farming, LLC; Thacher Creek Citrus, LLC; The
21 Finch Family Trust; James P. Finch; Sharon
22 Hamm-Booth and David Robert Hamm, Co-
23 Trustees of The Hamm 2004 Family Trust Dated
24 April 29, 2004; Ojai Oil Company; Ojai Valley
25 School; and Reeves Orchard, LLC
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