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12 CITY OF SAN BUENAVENTURA

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

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

Case No. 19STCP01176

17 Petitioner,

Judge: Hon. William F. Highberger

18 v.

CITY OF SAN BUENAVENTURA'S
SUPPLEMENTAL BRIEF ON THE
ISSUES OF FACT AND LAW FOR THE
PHASE 1 TRIAL

19 STATE WATER RESOURCES CONTROL
20 BOARD, etc., et al.,

Date: December 9, 2021

21 Respondents.

Time: 2:30 p.m.

Action Filed: Sept. 19, 2014

Trial Date: Feb. 14, 2022

22
23 CITY OF SAN BUENAVENTURA, etc.,

24 Cross-Complainant,

25 v.

26 DUNCAN ABBOTT, an individual, et al.,

27 Cross-Defendants.
28

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1 Defendant and Cross-Complainant the City of San Buenaventura (Ventura) submits this
2 Supplemental Brief on the Issues of Fact and Law for the Phase 1 Trial. At the November 23,
3 2021 further status conference, Ventura asked for and received leave to file this Supplemental
4 Brief to respond to two issues raised in Cross-Defendant the City of Ojai's (Ojai) November 8,
5 2021 Legal Brief Regarding Scope of Issues for Resolution in Phase 1.

6 1. MULTI-BASIN ADJUDICATIONS

7 In its original brief filed on November 8, 2021, Ventura provided the Court with several
8 examples of multi-basin adjudications. On pages 5-6 of its brief, however, Ojai asserts that there
9 have been *no* previous multi-basin adjudications. This assertion lacks factual support.

10 For example, Ventura's brief provided the Court with the example of the multi-basin
11 Mojave Adjudication, *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224. Contrary
12 to Ojai's assertion,¹ the Mojave Adjudication involved *nine separate* basins, wholly or partially,
13 as identified by the California Department of Water Resources (DWR) in California's
14 Groundwater Bulletin 118. (See DWR's Adjudicated Basins Annual Reporting System for the
15 Mojave Basin Area, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/197>, which
16 lists the nine basins involved in the adjudication.)

17 The nine separate Bulletin 118 basins adjudicated in *Mojave* are as follows:

- 18 1. 6-37 Coyote Lake Valley;²
- 19 2. 6-38 Caves Canyon Valley;³

20
21 _____
22 ¹ Ventura assumes that Ojai made this mistaken assertion based solely on the written opinion in
23 *Mojave*, which recognizes that the adjudication involved a large river system and five hydrologic
24 subareas, and that Ojai did not review the subsequently prepared 2003 and 2020 updates to the
25 Department of Water Resources' (DWR) Bulletin 118 or DWR's Adjudicated Basins Annual
26 Reporting System, available at <https://sgma.water.ca.gov/adjudbasins/report/publicview>. Upon
27 review of all of these relevant facts and reports, it is indisputable that the Mojave Adjudication
28 involved multiple DWR-defined basins. In fact, DWR expressly recognizes this and explains
how the separate basins it defines relate to the subareas described in the adjudication.

26 ² 6-37 Coyote Lake Valley 2020 Bulletin 118 Basin Description available [here](#).
27 6-37 Coyote Lake Valley 2003 Bulletin 118 Basin Report available [here](#).

28 ³ 6-38 Caves Canyon Valley 2020 Bulletin 118 Basin Description available [here](#).
6-38 Caves Canyon Valley 2003 Bulletin 118 Basin Report available [here](#).

- 1 3. 6-40 Lower Mojave River Valley;⁴
- 2 4. 6-41 Middle Mojave River Valley;⁵
- 3 5. 6-42 Upper Mojave River Valley;⁶
- 4 6. 6-43 El Mirage Valley;⁷
- 5 7. 6-47 Harper Valley;⁸
- 6 8. 6-89 Kane Wash Area;⁹ and
- 7 9. 7-19 Lucerne Valley.¹⁰

8 Similarly and again contrary to Ojai’s assertion, there are at least two other adjudications
9 that involved separate basins as defined by DWR in Bulletin 118. First, the Santa Margarita
10 River Watershed Adjudication involved the following four separately defined DWR basins as set
11 forth below. (See DWR’s Adjudicated Basins Annual Reporting System for the Santa Margarita
12 River Watershed, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/180>, which
13 lists the four basins in the adjudication.)

- 14 1. 8-05 San Jacinto;¹¹
- 15 2. 9-04 Santa Margarita Valley;¹²

16 _____
17 ⁴ 6-40 Lower Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
18 6-40 Lower Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

19 ⁵ 6-41 Middle Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
20 6-41 Middle Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

21 ⁶ 6-42 Upper Mojave River Valley 2020 Bulletin 118 Basin Description available [here](#).
22 6-42 Upper Mojave River Valley 2003 Bulletin 118 Basin Report available [here](#).

23 ⁷ 6-43 El Mirage Valley 2020 Bulletin 118 Basin Description available [here](#).
24 6-43 El Mirage Valley 2003 Bulletin 118 Basin Report available [here](#).

25 ⁸ 6-47 Harper Valley 2020 Bulletin 118 Basin Description available [here](#).
26 6-47 Harper Valley 2003 Bulletin 118 Basin Report available [here](#).

27 ⁹ 6-89 Kane Wash Area 2020 Bulletin 118 Basin Description available [here](#).
28 6-89 Kane Wash Area 2003 Bulletin 118 Basin Report available [here](#).

¹⁰ 7-19 Lucerne Valley 2020 Bulletin 118 Basin Description available [here](#).
7-19 Lucerne Valley 2003 Bulletin 118 Basin Report available [here](#).

¹¹ 8-05 San Jacinto 2020 Bulletin 118 Basin Description available [here](#).
8-05 San Jacinto 2003 Bulletin 118 Basin Report available [here](#).

¹² 9-04 Santa Margarita Valley 2020 Bulletin 118 Basin Description available [here](#).

1 3. 9-05 Temecula Valley;¹³

2 4. 9-06 Cahuilla Valley.¹⁴

3 Second, the Tehachapi Basin Adjudication involved the following two separately defined
4 DWR basins as set forth below. (See DWR’s Adjudicated Basins Annual Reporting System for
5 the Tehachapi Basin, available at <https://sgma.water.ca.gov/adjudbasins/report/preview/146>,
6 which lists the two basins in the adjudication.)

7 1. 5-28 Tehachapi Valley West;¹⁵ and

8 2. 6-45 Tehachapi Valley East.¹⁶

9 Finally, Ojai’s attempt to distinguish between “basins” and “subbasins” is not consistent
10 with the relevant statutes. Code of Civil Procedure section 832, subdivision (a) defines “basin”
11 by reference to Water Code section 10721, which in turn defines “basin” to mean “a basin or
12 *subbasin* identified and defined in Bulletin 118” (Water Code § 10721 subd. (b), emphasis
13 added.) Thus, basin and subbasin have the same meaning under the statutes. As Ventura and
14 others have demonstrated, there have been several common law cases that have adjudicated
15 separate basins or subbasins in one single action, and any assertion to the contrary lacks factual
16 support.

17 2. OJAI BASIN GROUNDWATER MANAGEMENT AGENCY AND THIS
18 COURT’S JURISDICTION

19 Ojai implies on page 12 of its brief that this Court lacks jurisdiction over the Ojai Basin
20 because the Ojai Basin Groundwater Management Agency Act invests the Ojai Basin

21
22 9-04 Santa Margarita Valley 2003 Bulletin 118 Basin Report available [here](#).

23 ¹³ 9-05 Temecula Valley 2020 Bulletin 118 Basin Description available [here](#).
24 9-05 Temecula Valley 2003 Bulletin 118 Basin Report available [here](#).

25 ¹⁴ 9-06 Cahuilla Valley 2020 Bulletin 118 Basin Description available [here](#).
26 9-06 Cahuilla Valley 2003 Bulletin 118 Basin Report available [here](#).

27 ¹⁵ 5-28 Tehachapi Valley West 2020 Bulletin 118 Basin Description available [here](#).
28 5-28 Tehachapi Valley West 2003 Bulletin 118 Basin Report available [here](#).

¹⁶ 6-45 Tehachapi Valley East 2020 Bulletin 118 Basin Description available [here](#).
6-45 Tehachapi Valley East 2003 Bulletin 118 Basin Report available [here](#).

1 Groundwater Management Agency (OBGMA) with jurisdiction over groundwater rights in the
2 basin. This contention is contrary to existing statutes and case law.

3 Ojai’s argument has been rejected already in *California American Water v. City of Seaside*
4 (2010) 183 Cal.App.4th 471 (*Seaside*). In *Seaside*, the Monterey Peninsula Water Management
5 District contended that a trial court exceeded its jurisdiction and violated the separation of powers
6 doctrine by adopting and ultimately enforcing a physical solution in an adjudication. (*Seaside*,
7 *supra*, 183 Cal.App.4th at 473.) The District contended that the trial court’s approval and
8 enforcement of a physical solution interfered with the District’s statutory authority to adopt a
9 groundwater management plan for the Seaside Basin. (*Id.* at 475.) The Court of Appeal held that
10 the trial court “acted within its jurisdiction and properly exercised its discretion in adhering to its
11 prior rulings to minimize conflict with and frustration of the physical solution.” (*Id.* at 481.) The
12 Court of Appeal quoted with approval the following statement from the trial court: “Clearly, the
13 [L]egislature contemplated that courts had the power to develop management plans for aquifer
14 management even if a water management district already existed in a geographical area.” (*Id.* at
15 476.) Of course, this makes sense because courts have a constitutional duty to impose a physical
16 solution. (*Seaside* at 480.)

17 The Comprehensive Adjudication Statute recognizes the Court’s jurisdiction even when a
18 groundwater sustainability agency already exists in the geographical area. For example, Code of
19 Civil Procedure section 849 subdivision (a) expressly provides that the Court “shall have the
20 authority and the duty to impose a physical solution on the parties in a comprehensive
21 adjudication” The only requirement in Section 849 is that “[b]efore adopting a physical
22 solution, the court shall consider any existing groundwater sustainability plan or program.”
23 Similarly, Code of Civil Procedure section 838 subdivision (d) provides that “an action against a
24 groundwater sustainability agency that is located in a basin that is being adjudicated pursuant to
25 this chapter *shall be subject to transfer, coordination, and consolidation with the comprehensive*
26 *adjudication*, as appropriate, if the action concerns the adoption, substance, or implementation of
27 a groundwater sustainability plan, or the groundwater sustainability agency’s compliance with the
28 timelines in the Sustainable Groundwater Management Act.” (Emphasis added.) Therefore, the

1 Comprehensive Adjudication Statute not only recognizes the Court’s independent authority to
2 impose a physical solution as long as it “considers” any existing groundwater sustainability plan
3 or program, but also gives the Court specific jurisdiction over the actions or inactions of
4 groundwater sustainability agencies.

5
6 Dated: November 30, 2021

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