



Exempt From Filing Fees
to Government Code §

1 RUTAN & TUCKER, LLP
Jeremy N. Jungreis (State Bar No. 256417)
2 jjungreis@rutan.com
Douglas J. Dennington (State Bar No. 173447)
3 ddennington@rutan.com
18575 Jamboree Road, 9th Floor
4 Irvine, California 92612
Telephone: 714-641-5100
5 Facsimile: 714-546-9035

6 ARNOLD LAROCHELLE MATHEWS
VANCONAS & ZIRBEL LLP
7 Robert N. Kwong (State Bar No. 121839)
rk Wong@atozlaw.com
8 300 Esplandade Drive, Suite 2100
Oxnard, CA 93036
9 Telephone: 805-988-9886
Facsimile: 805-988-1937

10

11 Attorneys for Cross-Defendant
CASITAS MUNICIPAL WATER DISTRICT,
12 a California special district

13

SUPERIOR COURT OF THE STATE OF CALIFORNIA

14

FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

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

16

Petitioner,

17

v.

18

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

21

Respondents.

22

23 CITY OF SAN BUENA VENTURA, a
California municipal corporation,

24

Cross-Complainant,

25

v.

26

DUNCAN ABBOTT, et al.

27

Cross-Defendants.

28

Case No. 19STCP01176

Hon. William F. Highberger; Dept: 10

**STATUS CONFERENCE REPORT OF
CROSS DEFENDANT CASITAS
MUNICIPAL WATER DISTRICT**

Further Status Conference Hearing:

DATE: October 18, 2021

TIME: 1:30 p.m.

DEPT.: 10

Date Action Filed: September 19, 2014

First Amended Complaint Filed:

September 7, 2018

1 **STATUS CONFERENCE REPORT**

2 Cross-Defendant CASITAS MUNICIPAL WATER DISTRICT, a California special
3 district (“Casitas”) submits this Status Conference Report (“Report”) in advance of the Status
4 Conference scheduled for October 18, 2021 at 1:30 p.m. On October 6, 2021, the City of Ventura
5 (Ventura) emailed a draft of its report to all parties who have appeared and invited input and
6 joinder. While appreciative of Ventura’s efforts to summarize current issues pending before the
7 Court for discussion at the October 18, 2021 Case Management Conference (“CMC”), Casitas
8 hereby provides this separate Report to address unique concerns it has with regard to designation
9 and testimony of experts in Phase 1 of trial given the potential for the scope of Phase 1 to expand
10 in unexpected directions as various parties seek additional determinations from the Court.

11 **I. CONCERNS REGARDING SCOPE OF PHASE 1 OF TRIAL AND ABILITY OF**
12 **PARTIES WHO HAVE NOT DESIGNATED EXPERTS TO DO SO IF THE**
13 **SCOPE OF TRIAL EXPANDS BEYOND “WHO IS IN, AND WHO IS OUT” OF**
14 **THE ADJUDICATION**

15 As the Court is likely aware, Casitas did not designate experts and did not submit an expert
16 report for Phase 1 of trial. Casitas did not designate an expert, at least in part, because the scope
17 of Phase 1 appeared relatively narrow—a determination of basin boundaries and hydrologic
18 connection (or not) between certain groundwater and surface water resources within the Ventura
19 River watershed. However, in reviewing the expert reports submitted, and the case management
20 statements submitted by the Cities of Ventura and Ojai, it now appears that some of the experts
21 retained, and providing opinions in Phase 1 of trial, would seem to go well beyond a simple
22 determination of hydrologic interconnection between surface and groundwater in the Ventura
23 River Watershed. For example, as noted by the City of Ojai in their separate CMC statement, the
24 City of Ventura has disclosed four experts for Phase 1 of trial, only one of whom is a
25 hydrogeologist (presumably the primary experts with relevant opinions on the topic of hydrologic
26 connection between surface waters and ground waters) . Ventura’s other experts include:

- 27
 - A historian who will opine upon historical documents from 1920 to 1959 not

28 related to hydrogeology.

- 1 • A fisheries biologist who has formed opinions on “the importance of migration,
2 spawning, and juvenile rearing habitat within the San Antonio Creek and its
3 tributaries, including Lion Creek, to the overall health and condition of Southern
4 California steelhead inhabiting the Ventura River watershed.”
- 5 • A botanist who will opine on the presence of certain species of vegetation along
6 San Antonio Creek.

7 Similarly, the California Department of Fish and Wildlife (“CDFW”) has proposed to
8 introduce evidence from an environmental scientist, who, if allowed to do so by the Court, would
9 provide an expert opinion regarding “the composition and distribution of native species located in
10 the Ventura River Watershed.”

11 All of the aforementioned experts, and the opinions they would propose to render, would
12 seem to stray fairly significantly from the narrow questions of hydrologic connectivity, and
13 determining “who’s in” and “who’s out” of the adjudication, which Casitas understood to be the
14 narrow purpose(s) of Phase 1 of Trial. As such, Casitas concurs with Ojai’s request that the Court
15 clarify during the October 18, 2021 CMC the precise scope of Phase I and which issues will, and
16 which issues will not, be addressed during Phase 1.

17 Along the same lines, Casitas is not yet seeking modification of the Phase 1 trial schedule
18 to allow additional expert disclosures, since it is not yet clear that such modification is necessary
19 to protect the rights of Casitas and other parties who did not designate experts based upon their
20 understanding of the narrow issues before the Court in Phase 1. However, Casitas asks the Court
21 to consider at the October 18, 2021 CMC issuing an order to the effect that parties who have not
22 yet designated experts may petition the court on an ex parte basis to modify the trial schedule and
23 designate experts, if expert depositions demonstrate that expert evidence is likely to be used by
24 one or more Parties to establish facts that go beyond hydrologic connectivity and/or basin
25 boundaries.

1 Dated: October 12, 2021

RUTAN & TUCKER, LLP
JEREMY N. JUNGREIS
DOUGLAS J. DENNINGTON



By: _____

Jeremy N. Jungreis
Attorneys for Cross-Defendant
CASITAS MUNICIPAL
WATER DISTRICT,
a California special district

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18575 Jamboree Road, 9th Floor, Irvine, California 92612. My electronic notification address is mmartinez@rutan.com.

On October 13, 2021, I served on the interested parties in said action the within:

**STATUS CONFERENCE REPORT OF
CROSS DEFENDANT CASITAS MUNICIPAL WATER DISTRICT**

as stated below:

By transmission via E-Service to File & ServeXpress as listed on File & ServeXpress service list.

Executed on October 13, 2021, at Irvine, California.

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

Marisol Martinez

(Type or print name)

/s/ Marisol Martinez

(Signature)