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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By L. Smith, Deputy Clerk

5 Attorneys for Cross-Defendant
CASITAS MUNICIPAL WATER DISTRICT, a California
6 special district

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES, DISTRICT

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

Case No. 19STCP01176

11 Petitioner,

Judge: Hon. William F. Highberger
Dept: 10

12 vs.

13 STATE WATER RESOURCES CONTROL
14 BOARD, et. al.,

**CASITAS MUNICIPAL WATER
DISTRICTS SEPARATE MEMORANDUM
IN SUPPORT OF JOINT APPLICATION
TO SET A HEARING DATE FOR AN
INTERIM ORDER REGARDING THE
PHYSICAL SOLUTION AND REQUEST
TO CONTINUE THE STAY UNTIL THE
HEARING DATE FOR THE INTERIM
ORDER**

15 Respondents.

16 CITY OF SAN BUENA VENTURA, et. al.,

17 Cross-Complainant,

*[Filed concurrently with the Declaration of
Casitas Assistant General Manager Kelley Dyer]*

18 vs.

19 DUNCAN ABBOTT, an individual, et al.,

Date: November 13, 2024

Time: 9:00 A.M.

Dept.: 10

20 Cross-Defendants.

Date Action Filed: September 19, 2014

Trial Date: Not Set

1 **MEMORANDUM**

2 Cross-Defendant Casitas Municipal Water District (“Casitas”) respectfully submits this
3 Memorandum, and supporting Declaration (and exhibits) of Casitas’ Assistant General Manager
4 Kelley Dyer, in support of the Joint Application to Set a Hearing Date for an Interim Order
5 Regarding a Physical Solution and Request to Continue the Stay Until the Hearing Date (“Joint
6 Application”). The Joint Application was submitted by Casitas and eight other Ventura River
7 watershed parties (“Watershed Parties”) listed in the Joint Application, and by the State Water
8 Resources Control Board/California Department of Fish and Wildlife (collectively the “State”) to
9 extend the current stay in this action, the Ventura River Adjudication Litigation (“Litigation”),
10 until such time as the Court hears the Watershed Parties request for an Interim Order regarding a
11 potential permanent physical solution. Significant progress is being made (as evidenced by the
12 attached declaration), but the mediation process is difficult, technically, legally, and politically,
13 and more time will be needed to bring a promising process to a successful conclusion. Casitas
14 urges the Court to overrule any objections that may be filed in opposition to the Watershed
15 Parties’ and State’s request to continue the stay until the Watershed Parties request for entry of an
16 Interim Order can be heard by the Court, allowing the potential settlement and resolution of this
17 case without the significant expense and drain on judicial resources associated with a multi-phase
18 trial.

19 Casitas writes separately in this Memorandum—and its supporting declaration/exhibits—
20 to address issues where Casitas believes the Court may benefit from additional information while
21 reviewing the Joint Application. Specifically, Casitas wishes to address, through the attached
22 declaration/exhibits, the following topics: (1) the significant efforts Casitas is already taking, and
23 has been taking for several years, to ensure substantial flows remain in the Ventura River (Dyer
24 Decl. ¶¶ 5-6; Exs 1, 2);¹ (2) the actions Casitas is already taking to ensure its municipal (e.g.

25 _____
26 ¹ The Court may be unaware that, depending on hydrologic condition, Casitas already bypasses
27 between 20 and 170 cubic feet per second, or “CFS,” from Casitas’ Robles Diversion on the
28 Ventura River mainstem before diverting any water from the Ventura River to Lake Casitas.
Seldom mentioned in discussions of Casitas operations is the fact that Casitas goes entire years
where it is not legally able to divert any water from the Ventura River to Lake Casitas because of
existing instream flow requirements imposed by Casitas’ existing biological opinion (“BO”) for
the Robles Diversion. (Dyer Decl. ¶¶ 5-6; Exs 1-2.)

1 domestic), industrial, commercial, and agricultural customers are using water efficiently and non-
2 wastefully in the Ventura River Watershed (“VRW”) Dyer Decl. ¶ 5; Ex. 1; (3) why the path to a
3 permanent physical solution, supported by credible and relevant data, and validated by good
4 science, is a complex and time consuming one, (*see* Dyer Decl. ¶ 7; Ex. 1), but one that gives the
5 Mediating Parties the greatest chance to develop a consensus based permanent physical solution
6 that actually benefits Steelhead and other flora and fauna in the VRW while also allowing for the
7 continued provision of water in the VRW, by Casitas and other water agencies, for critical societal
8 needs, such as a potable water supply,² and water for agriculture.³

9 There is not enough water to accomplish all of the potential demands for water in the
10 VRW, so careful attention to good science, science that is relevant within the VRW, as opposed to
11 being relevant in wetter stream systems in Northern California, is paramount to developing and
12 implementing a physical solution that can actually work. The joint request by the Watershed
13 Parties and the State for an Interim Order, a request which the Court will ideally hear in January
14 2025, is a major step towards the development of the permanent physical solution. It will increase
15 the amount of water potentially available to fish in the VRW while simultaneously creating a
16 framework for gathering additional data and completing required modeling. None of this will
17 occur if the stay is prematurely ended—sending the Parties back to their respective corners to
18 litigate issues, such as surface water/groundwater connectivity, that could have been solved
19 collaboratively.

20 For the reasons provided in the Joint Application, the Mediator’s Statement to the Court,
21 the Points and Authorities submitted by the City of Ventura, and the declarations and exhibits
22 attached hereto, there is good cause to continue the stay through the hearing on the forthcoming
23 motion for an Interim Order and thereafter for a period sufficient to complete the science and
24

25 ² Domestic water use, including the provision of a public water supply, is the highest priority
26 beneficial use under California law. (Water Code § 106.). This is particularly so after the passage
27 of AB 685 in 2012 and the recognition by the California Legislature of the human right to clean,
28 accessible and affordable water. (See Water Code § 106.3 [“(E)very human being has the right to
safe, clean, affordable, and accessible water adequate for human consumption, cooking, and
sanitary purposes.”].)

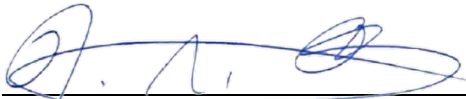
³ Agricultural use of water is the second highest beneficial use of water in California after
domestic water use. (Water Code § 106.)

1 additional negotiation required while the Interim Order requested remains in place.

2 Casitas therefore respectfully requests that the Court extend the stay for all purposes until
3 such time as the Court is able to hear the motion for an Interim Order and thereafter for sufficient
4 time for the Parties to complete required scientific tasks and negotiations over the permanent
5 physical solution. Casitas also asks that the Court overrule any objections to the contrary
6 submitted by Channelkeeper or other parties in the litigation.

7
8 Dated: October 17, 2024

RUTAN & TUCKER, LLP
JEREMY N. JUNGREIS

9
10 By: 

11 Jeremy N. Jungreis
12 Attorneys for Cross-Defendant
13 CASITAS MUNICIPAL WATER
14 DISTRICT, a California Special District

1 **PROOF OF SERVICE**

2 ***Santa Barbara Channelkeeper v. State Water Resources Control Board, et al.***
3 ***and related cross-action***
4 **Los Angeles County Superior Court**
5 **Case No. 19STCP01176**

6 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

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

11 On October 17, 2024, I served on the interested parties in said action the within:

12 **CASITAS MUNICIPAL WATER DISTRICTS SEPARATE MEMORANDUM IN**
13 **SUPPORT OF JOINT APPLICATION TO SET A HEARING DATE FOR AN**
14 **INTERIM ORDER REGARDING THE PHYSICAL SOLUTION AND REQUEST TO**
15 **CONTINUE THE STAY UNTIL THE HEARING DATE FOR THE INTERIM**
16 **ORDER**

17 as stated below:

18 (Via E-Service to **File & ServeXpress**) I affected electronic service by submitting an
19 electronic version of the document(s) to **File & ServeXpress, LLC**, through the user interface at
20 <https://secure.fileandservexpress.com>, which caused the document(s) to be sent by electronic
21 transmission to the person(s) at the electronic service address(es) listed.

22 Executed on October 17, 2024, at Irvine, California.

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

25 _____
26 Marisol Martinez

27 (Type or print name)

28 _____
/s/ Marisol Martinez

(Signature)