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10 CITY OF SAN BUENAVENTURA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

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

Case No. 19STCP01176

14 Petitioner,

Judge: Hon. William F. Highberger

15 v.

**JOINT APPLICATION FOR AN
ORDER TO CONTINUE THE STAY
SIX MONTHS TO MARCH 30, 2024**

16 STATE WATER RESOURCES CONTROL
17 BOARD, et al,

*[Filed concurrently with Declarations of
Shawn D. Hagerty, Joe Schroeder, Ron
Bowman, Glenn Shephard, Michael Flood,
Jurgen Gramckow, Bruce Kuebler;
[Proposed] Order]*

18 Respondents.

19
20 CITY OF SAN BUENAVENTURA, et al.,

Date: September 27, 2023

21 Cross-Complainant,

Time: 3:30 p.m.

22 v.

Dept.: 10

23 DUNCAN ABBOTT, an individual, et al.,

Action Filed: Sept. 19, 2014

24 Cross-Defendants.

Trial Date: Not Set

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supporting memorandum of points and authorities, declarations in support of the application, and a proposed order.

3. This application of the Supporting Parties is based on good cause and to avoid the potential for irreparable harm or immediate danger if the stay is not extended six (6) months to March 30, 2024, because settlement negotiations will not be completed by September 30, 2023, despite diligent efforts by the Supporting Parties, and judicial resources will be unnecessarily expended if the stay is not extended.
4. Consistent with California Rules of Court, Rule 3.1202(b), no similar application to extend the stay has been denied. There have been two prior successful applications to extend the stay, one in September of 2022 and a second in March of 2023.

This application is based on this notice, the attached Memorandum of Points and Authorities, the concurrently filed Declarations of Shawn D. Hagerty, Ventura Mayor Joe Schroeder, Foundation representative Ron Bowman, Watershed Protection Director Glenn Shephard, Casitas General Manager Michael Flood, Rancho Matilija Mutual Water Company president Jurgen Gramckow, VRWD Board Member Bruce Kuebler, and all the exhibits thereto, all pleadings and papers on file in this action with the Court, and upon any argument and evidence that may be submitted at the hearing on this matter.

Dated: September 14, 2023

BEST BEST & KRIEGER LLP

By: 
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CHRISTOPHER M. PISANO
Attorneys for Defendant and Cross-Complainant
CITY OF SAN BUENAVENTURA

1 Dated: September 14, 2023

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The Supporting Parties submit this Memorandum of Points and Authorities in support of
3 their application to extend the stay in this action an additional six (6) months to March 30, 2024
4 to allow the parties to continue to negotiate terms of a potential global or partial settlement.

5 **I. INTRODUCTION**

6 Defendant and Cross-Complainant City of San Buenaventura (Ventura) and Cross-
7 Defendants Casitas Municipal Water District (Casitas), the City of Ojai (Ojai), the East Ojai
8 Group, Ventura River Water District (VRWD), Meiners Oaks Water District (MOWD), Ventura
9 County Watershed Protection District (Watershed Protection), the Wood-Claeysens Foundation
10 (Foundation), and Rancho Matilija Mutual Water Company (Rancho Matilija) (all collectively,
11 Supporting Parties) believe that good progress is being made in the structured mediation to date
12 before mediator David Ceppos (Mediator). The Supporting Parties also believe, however, that an
13 additional six (6) month extension of the stay to March 30, 2024 is necessary to complete the
14 structured mediation process. While the Supporting Parties have made good progress on key
15 issues such as the potential management structure for a physical solution, many key issues remain
16 to be resolved. This includes issues to be negotiated with parties such as Interveners the State
17 Water Resources Control Board (State Board) and the California Department of Fish & Wildlife
18 (CDFW). In addition, despite the diligent efforts of the Supporting Parties and the Mediator, the
19 Mediator and his family experienced unforeseen and uncontrollable health related issues that
20 unfortunately resulted in delays in the structured mediation process in July and August of 2023.
21 Therefore, good cause exists to extend the stay six (6) months to allow the parties the opportunity
22 to reach a global or partial settlement.

23 **II. FACTUAL BACKGROUND**

24 On March 29, 2022, Ventura, Casitas, Ojai, and the East Ojai Group filed a stipulation and
25 request for a six (6) month stay of the litigation for all purposes. (Declaration of Shawn D.
26 Hagerty (Hagerty Decl.), ¶ 3.) On April 12, 2022, the Court ordered the case stayed for six
27 months to September 30, 2022. (Hagerty Decl., ¶ 3.)

28 Between April and September of 2022, Ventura, Casitas, Ojai, and the East Ojai Group

1 participated in a structured mediation led by the Mediator. (Hagerty Decl., ¶¶ 4-7, Exhibits A-C.)
2 In September of 2022, most of the Supporting Parties applied for a six-month extension of the
3 stay to March 30, 2023. (Hagerty Decl., ¶ 8.) On September 28, 2022, the Court granted this
4 request and extended the stay to March 30, 2023. (Hagerty Decl., ¶ 8.)

5 Between September of 2022 and March of 2023, the Supporting Parties continued to
6 engage in the structured mediation, including all-day mediation sessions that took place in on
7 November 15 and 16, 2022, December 16, 2022 and February 10, 2023 and follow-up work
8 directed by the Mediator. (Hagerty Decl., ¶ 10, Exhibit D.). On March 17, 2023 the Supporting
9 Parties filed a Joint Application for an Order to Continue the Stay Six Months, and on March 21,
10 2023, the Court ordered the case stayed for six months to September 30, 2023. (Hagerty Decl., ¶
11 11.)

12 Since March of 2023, the Supporting Parties and the Mediator have continued to work
13 diligently on the structured mediation. The Supporting Parties have held three all-day, in-person
14 mediation sessions. (Hagerty Decl., ¶ 12, Exhibit E.) Structured mediation Session 6 occurred on
15 March 23, 2023, Session 7 occurred on April 21, 2023 and Session 8 occurred on May 23, 2023.
16 (Hagerty Decl., ¶ 12, Exhibit E.) As reflected in the Mediator’s Status Report 5 (Exhibit E to the
17 Hagerty Decl.), the Mediator has also conducted multiple individual meetings with parties,
18 including the State Board, CDFW and Channelkeeper. (Hagerty Decl., ¶ 12.) However, as also
19 reflected in the Mediator’s Status Report 5, the Mediator experienced unforeseen and
20 uncontrollable personal and family health related issues that unfortunately delayed the mediation
21 process in July and August of 2023. (Hagerty Decl., ¶ 12 and Exhibit E.)

22 While the structured mediation efforts have resulted in significant progress toward a
23 settlement, the Supporting Parties believe that additional time is necessary to complete the
24 negotiations towards a global or partial settlement. (Schroeder Declaration (Schroeder Decl.), ¶
25 8); Declaration of Ron Bowman (Bowman Decl.), ¶¶ 5-7; Declaration of Glenn Shephard
26 (Shephard Decl.), ¶¶ 5-7; Declaration of Michael Flood (Flood Decl.), ¶¶ 7-9; Declaration of
27 Jurgen Gramckow (Gramckow Decl.), ¶¶ 4-5; Declaration of Bruce Kuebler (Kuebler Decl.), ¶¶
28 6-8.) In particular, the Supporting Parties need additional time to negotiate with the State Board

1 and CDFW. (Hagerty Decl., ¶ 12 and Exhibit E; Schroeder Decl., ¶¶ 7-8; Bowman Decl. ¶¶ 5-6;
2 Flood Decl. ¶¶ 7-8; Kuebler Decl., ¶ 6.)

3 **III. LEGAL ARGUMENT**

4 **A. The Court Has Both Broad and Inherent Power to Control Matters Before It**
5 **And Specific Power to Extend the Stay in this Comprehensive Adjudication.**

6 Code of Civil Procedure section 128 sets forth the powers of the Court to include:

7 (a) Every court shall have the power to do all of the following: . . . (3) To provide
8 for the orderly conduct of proceedings before it, or its officers. . . (8) To amend
9 and control its process and orders so as to make them conform to law and justice.

10 (*Id.*)

11 In addition, Code of Civil Procedure section 187 provides that the Court may, in the
12 exercise of its jurisdiction, adopt, “any suitable process or mode of proceeding” which “may
13 appear most conformable to the spirit of this Code.” Similarly, Government Code section 68070
14 provides that: “Every court may make rules for its own government . . . not inconsistent with law
15 or with the rules adopted and prescribed by the Judicial Council.”

16 “[A] court ordinarily has inherent power, in its discretion, to stay proceedings when such a
17 stay will accommodate the ends of justice.” (*People v. Bell* (1984) 159 Cal.App.3d 323, 329;
18 accord *Freiberg v. City of Mission Viejo* (1995) 33 Cal.App.4th 1484, 1489.) Trial judges have
19 inherent powers to manage and fashion procedures to control litigation to insure the orderly
20 administration of justice. (*Cottle v. Superior Ct.* (1992) 3 Cal.App.4th 1367, 1376-79.) As the
21 Supreme Court explained in *Landis v. North American Co.* (1936) 299 U.S. 248, 254, “the power
22 to stay proceedings is incidental to the power inherent in every court to control the disposition of
23 the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”
24 The inherent powers of the courts are derived from the Constitution and are not confined by or
25 dependent on statute. (*Walker v. Superior Ct.* (1991) 53 Cal.3d 257, 267.)

26 This Court also has specific authority under Code of Civil Procedure section 848(a)(3) to
27 grant and extend stays in a comprehensive adjudication. Under this statute, “a court may stay a
28 comprehensive adjudication for a period of up to one year, *subject to renewal in the court’s*

1 *discretion upon a showing of good cause*, in order to facilitate . . . [v]oluntary mediation or
2 participation in a settlement conference on all, or a portion of, the subject matters or legal
3 questions identified in the comprehensive adjudication.” (Emphasis added.) In accordance with
4 Code of Civil Procedure section 848(b), parties requesting a renewal of the stay must report on
5 the progress being made on the issues that were identified as the reasons for the stay. The papers
6 submitted by the Supporting Parties provide that report.

7 Therefore, this Court has both broad and specific powers to extend the stay based on the
8 showing of good cause submitted by the Supporting Parties.

9 **B. Good Cause Exists to Extend the Stay Six Months to Allow the Parties to**
10 **Continue Settlement Discussions with the Mediator**

11 Good cause exists to continue the stay six (6) months to finalize and further the progress
12 that has already been made towards settlement. The Supporting Parties are working diligently
13 with the Mediator to negotiate a potential global or partial settlement. While progress has been
14 made, an additional six (6) month continuance of the stay is necessary to allow the parties to
15 work, in conjunction with the Mediator, to further refine the details and terms of a potential
16 global or partial settlement. (Schroeder Decl., ¶¶ 7-9; Bowman Decl., ¶ 5-7; Shephard Decl., ¶¶
17 5-7; Flood Decl., ¶¶ 7-9; Gramckow Decl., ¶ 4-5; Kuebler Decl., ¶¶ 6-8 .) Additional required
18 work includes, but is not limited to, future meetings with the State Board and CDFW, and a
19 structured process for input from all parties who wish to participate in the mediation. (Schroeder
20 Decl., ¶¶ 7-8; Bowman Decl. ¶¶ 5-6; Flood Decl. ¶¶ 7-8.)

21 In addition, the structured mediation was delayed in July and August of 2023 for reasons
22 beyond the control of the Supporting Parties. (Hagerty Decl., ¶ 12 and Exhibit E; Schroeder
23 Decl., ¶ 8; Bowman Decl. ¶ 6; Shephard Decl. ¶ 6; Flood Decl. ¶ 8.)


24 **IV. CONCLUSION**

25 For the reasons stated herein, the Supporting Parties respectfully request that the Court
26 issued an order to continue the stay an additional six (6) months to March 30, 2024.

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