



Carpinteria Valley Water District

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July 28, 2016

Honorable James Herman
Presiding Judge
Santa Barbara Superior Court
County Courthouse
1100 Anacapa Street
Santa Barbara CA
93101

RE: Santa Barbara Civil Grand Jury report titled, "*Lake Cachuma, Protecting a Valuable Resource, You can't Drink Paper Water*".

Judge Herman:

Please find attached the Carpinteria Valley Water Districts responses to the referenced Civil Grand Jury Report. As directed by the Grand Jury, all responses are provided in accordance with Section 933.05 of the California Penal Code.

Warmest Regards,

Alonzo Orozco, President
Carpinteria Valley Water District Board of Directors

C: Maria Millsaps, Foreperson, 2015-16 Santa Barbara Civil Grand Jury
Encl: "Response to the Santa Barbara County Grand Jury 2015-2016 Report"

Response to the Santa Barbara County Grand Jury 2015-2016 Report
"Lake Cachuma, protecting a Valuable Resource, you can't Drink Paper Water"

FINDING 1

Siltation is continuing to decrease the storage capacity and the safe yield of Lake Cachuma as defined in *United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995*.

CVWD agrees with this finding

RECOMMENDATION 1

That the safe yield from Lake Cachuma as defined in *United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995*, be recalculated and used in the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency taking into account lost storage capacity due to siltation.

CVWD believes that siltation should be considered when determining the Cachuma Project yield. CVWD believes it is prudent to plan for project yields to decrease over time as siltation occurs. Contract negotiations will determine the actual terms and conditions of the Contract as it relates project yield.

FINDING 2

Downstream water rights are protected in the *United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995* and must be considered when calculating the safe yield.

CVWD agrees with this finding.

RECOMMENDATION 2

That the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency must continue to emphasize the importance of downstream water rights and be used in the calculations of the safe yield.

CVWD believes it is appropriate to consider downstream water right when determining Cachuma project yield. Contract negotiations will determine the actual terms and conditions

of the Contract as it relates the downstream Water Rights Order.

FINDING 3

The *United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995* was written prior to the 2000 National Marine Fisheries Service Biological Opinion and does not include the requirement to release water under the auspices of the Endangered Species Act.

CVWD agrees with this finding

RECOMMENDATION 3A

That the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency include the required water releases for the protection of fish habitat under the 2000 National Marine Fisheries Service Biological Opinion.

See Response under Recommendation 3b

RECOMMENDATION 3B

That the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency add language to include the amount of water that will be required to be released by the new Biological Opinion from the National Marine Fisheries Services when it is released.

CVWD believes it is appropriate to consider the estimated required releases under the Biologic Opinion (BO) when determining Cachuma project yield. However, the National Marine Fisheries Service (NMFS) issued its BO for the Cachuma Project to the United States Bureau of Reclamation (USBR) and compliance is an obligation of the USBR. It would not be appropriate to incorporate specific 2000 or any subsequent BO related measures such as specific amounts of water for fish to be released in the contract between the Santa Barbara County Water Agency and USBR. The USBR has direct control over the operation of the project and will direct the SBC Water Agency and Member Units in such a way as to comply with its obligations under the BO.

FINDING 4

The 2011-2016 drought is far worse than the "design drought" of 1947-1952 used in the *United States Department of the Interior, Bureau of Reclamation, Cachuma Project, California, and Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995* for Lake Cachuma.

CVWD agrees with this finding

RECOMMENDATION 4

That the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency calculate new water entitlements for member units using the current 2011-2016 worst case drought as its "design drought".

CVWD believes that water supply planners should consider reasonably harsh water supply conditions when evaluating available water supply and that using the drought of record as an input is an accepted method to water supply modeling. Specifically, to the Cachuma Project, CVWD believes that a thorough analysis of how the project can be operated to maximize project yield using current river models, with up to date inputs in the context of the new drought of record should be completed in order to inform all stakeholders how best to operate the project. Contract negotiations will determine the actual terms and conditions of the Contract as it relates to drought operations and project yield.

FINDING 5

The United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995 extending from 1995 to 2020 (25 years) is too long a period and includes no review and revision clauses to recalculate the "safe yield" of the Cachuma Project.

CVWD disagrees with this finding. CVWD believes 25 years is not too long a period for the Cachuma Contract term. Changes to Water Supply conditions happen relatively slowly and do not necessitate a renegotiation of the Contract more often. Contract negotiations can take 3 to 4 years and if done often can be prohibitively expensive and disruptive to water agencies. It is reasonable for the USBR to periodically review the project allocation and make temporary or permanent adjustments to project allocation during the Contract period. As indicated in the Grand Jury report this was done starting WY2014 when allocation was reduced by 20% and then in 2015 by 55% and in 2016 by 100%.

RECOMMENDATION 5A

That the term of the new contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency be less than 25 years in length.

CVWD Disagrees with this recommendation believes that 25 years is an appropriate period for the Cachuma Contract term.

RECOMMENDATION 5B

That the new contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency include periodic mandatory review and revision clauses on the order of every five or six years to recalculate the "safe yield" of Lake Cachuma and to

make any other necessary contract changes.

CVWD believes that a periodic mandatory review is appropriate and that the annual project yield should be updated as necessary between Contract periods. Contract negotiations will determine the actual terms and conditions of the Contract as it relates to project yield review.

FINDING 6

Safe yield from Lake Cachuma in the current *United States Department of the Interior; Bureau of Reclamation, Cachuma Project, California, Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995*, is based on a static volume per year.

CVWD agrees with this finding

RECOMMENDATION 6

That the new master contract between the United States Bureau of Reclamation and the Santa Barbara County Water Agency include a new safe yield in Year One after Lake Cachuma spills, and, in subsequent years, use either a sliding scale or specify mandatory reductions.

CVWD believes that a thorough analysis of how the project can be operated to maximize project yield using current river models, with up to date inputs in the context of the new drought of record should be completed in order to inform all stakeholders how best to operate the project. Contract negotiations will determine the actual terms and conditions of the Contract as it relates to drought operations and project yield.

FINDING 8

Conservation policies and drought declarations differ from one-member unit to another, possibly confusing water users.

CVWD agrees with this finding

RECOMMENDATION 8A

That the member units, in conjunction with the Santa Barbara County Water Agency, create consistent policies and procedures that govern conservation efforts especially during times of a severe drought and that these are documented in the subcontracts between the Santa Barbara County Water Agency and the member units.

See Response under 8B

RECOMMENDATION 8B

That the policies and procedures in Recommendation 8a be announced to the community by all member units at the same time.

CVWD disagrees with this recommendation. Each water agency has a different portfolio of water supplies, a different customer base and different water management issues. To group all the water agencies into one for the purpose of consistent messaging and timing would be ineffective and impractical. There are common messages with respect to Lake Cachuma and the need to conserve water that are being coordinated through the County Water Agency Regional Water Efficiency Program. However, the timing and implementation of drought emergency water reductions should be left to each agency as it determines its water supply needs.

FINDING 10

The Carpinteria Valley Water District no longer participates in the Cachuma Conservation Release Board yet continues to reap the benefits of negotiations paid for by the remaining agencies.

CVWD disagrees with this finding. It has not been clear since 2011 what benefits if any have come from CCRB's work. CVWD does not believe it is reaping benefits paid for by others. Much of the Fisheries work that was done through CCRB has now been transferred to COMB which CVWD is a part of.

RECOMMENDATION 10

That the Carpinteria Valley Water District, as a benefitting party, rejoin and participate in the Cachuma Conservation Release Board.

There is nothing unethical or unfair about Carpinteria Valley Water District taking cost cutting measures, i.e. leaving the Cachuma Conservation Release Board (CCRB) in 2011, that resulted in significant cost savings which do not significantly hurt the mission of the Carpinteria Valley Water District. Leaving CCRB was an option available to Carpinteria Valley Water District (CVWD) in 2011 as it is now to the other members due to CCRB's voluntary membership structure. It would now, however, be irresponsible of CVWD and unfair to District customers for the Board to take an action to re-join CCRB that would significantly increase the District's costs and water rates without first carefully analyzing the costs and benefits of doing so. The impact of a \$100,000 increase in annual expenditures in the CVWD budget would represent a greater impact to its water rates and overall customer affordability than would be the case in Montecito, Goleta and Santa Barbara. The threshold for what might appear to be a "light burden" is not the same for CVWD as it might be for the City of Santa Barbara or the Goleta and Montecito Water Districts.

When a member of CCRB, CVWD shared a sense of accomplishment with the Hilton Creek Project (1999) and the negotiated Settlement Agreement (2003) and participated in the preparations for the State Water Resources Control Board's Cachuma Project Hearing in 2003. Thereafter the District, continuing as a member of CCRB, spent considerable amounts

of money on attorneys and specialized experts to support CCRB activities, however conceived, defined or performed, up until 2011. CCRB in large measure now seems to function in the absence of a sound business model and appears to proceed from year to year without annual performance evaluations. For CVWD to consider becoming a member of CCRB in some capacity again a number of questions would have to be addressed and presented to the Board for consideration. They include the following:

1. What is the mission of CCRB?
2. What is the basis for CCRBs existence? Is it necessary to have a special organization to carry out this mission? Could the County Water Agency hire staff to carry out the same functions on behalf of the Cachuma member units?
3. Can CCRB demonstrate that its existence and mission is more cost effective than other alternatives?
4. What strategies for action have been considered in any depth relative to CCRB's mission, and why?
5. Who are all the stakeholders within the scope of CCRB's mission? Has there been an effort to bring the major stakeholders together to consider a collaborative approach to the issues identified in CCRB's mission statement? If not, why not? Might there not be a more productive, i.e. cost-beneficial approach involving all stakeholders? What sort of business model might it have that would differ from the current approach without a business model?
6. What is CCRB's relationship to Santa Ynez ID#1? How and why is it structured in this way? Should it change and if so, why and how for the better?
7. What has CCRB accomplished in the past 20 years, and at what total cost to date? Is this a realistic way to generally project its future? Why or why not?
8. What is the cost sharing basis for CCRB funding? Why is it appropriate? Have alternatives been considered to apportion greater costs to the City of Santa Barbara and Montecito Water District, actual Santa Ynez River water rights holders?
9. How is decision-making structured among CCRB's current three member agencies? By majority, equal or weighted votes? Some other structure? Why?
10. How and why does CCRB disseminate information about its work and progress relative to its mission statement to the communities and/or member agencies it serves? Has this ever been carefully analyzed?
11. What are projected ranges of annual costs of CCRB for each of the next 5-10 years? Why?

Depending on answers to the above questions and what CCRB becomes going forward this year, perhaps with a new State Water Resources Control Board Cachuma water rights permit decision and a new NMFS Biological Opinion to consider, the CVWD Board may wish to re-consider its CCRB membership. It would not be an easy decision at this time as the District is already raising rates related to the drought. The Board would have to know what the goals and objectives of CCRB are today and determine whether they are significantly related to the mission and needs of the District, now and looking forward, to justify the amount of current and projected costs the District would incur by re-joining.

FINDING 11

Member units approve new water service by issuing, Can and will serve letters, intent to serve letters, water service availability documents, or other documents, without expiration dates to citizens and developers.

CVWD disagrees with this finding. CVWD issues intent to serve letters only after applicants have demonstrated that projects will be started within a year. If for some reason the project is delayed for more than a year, the land use agency (either the City of Carpinteria or SB County) will request a renewed Intent to Serve Letter prior to issuing building permit.

RECOMMENDATION 11

That all member units include expiration dates for their water service approval documents.

While CVWD believes that its system of intent to serve letters works, CVWD believes it could improve the process by including more explicit language regarding the length in which the letter applies. CVWD will begin adding an expiration date on intent to serve letters.

FINDING 12

Member units utilize can and will serve letters, intent to serve letters, water service availability documents, or other documents to grant new water service that are approved based on water availability during a “normal” year’s water supply.

CVWD disagrees with this finding. CVWD Water supply availability is based on water supply analysis that includes drought analysis.

RECOMMENDATION 12

That member units change their policies to begin approving new water service on the water available during a “worst case” drought year.

The District plans on incorporating the new drought of record, once it is defined, into its water supply planning. The District will continue to update its water supply analysis as information becomes available. Water availability will continue to be based on water supply analysis that include projected drought impacts.