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August 10, 2016

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

Reference: Response to Santa Barbara Civil Grand Jury report titled, *Lake Cachuma, Protecting a Valuable Resource, You Can't Drink Paper Water*, (Published May 19, 2016, Grand Jury Website).

Dear Judge Herman:

Please find attached the Goleta Water District response to the above-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.

Sincerely,

Lauren Hanson, President
Board of Directors

cc: Hon. Peter Adam, Chair of Santa Barbara County Board of Supervisors, and Members of Santa Barbara County Board of Supervisors
Maria Millsaps, Foreperson, 2015-16 Santa Barbara Civil Grand Jury ✓

Goleta Water District
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*.

The Goleta Water District (District) agrees with the 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.

The recommendation has not yet been implemented, but will be implemented in the future. As stated in the Santa Barbara County Water Agency's (Water Agency) July 12, 2016 Response to the Grand Jury, the Water Agency initiated a Safe Yield analysis and a draft report is partially completed. The District has been working with the Water Agency on this matter and agrees with the decision to stop work in the short term in order to determine if a redefinition of the critical drought period is needed. With the current contract expiring in 2020, it is expected that the Safe Yield analysis and report will be completed in time to appropriately inform the new master contract.

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.

The District agrees with the 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.

The recommendation has not yet been implemented but will be implemented in the future, when the Contract is negotiated. The District recognizes the importance of ensuring all water rights granted to the contract parties are appropriately addressed in the new master contract.

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.

The District agrees with the 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.

This recommendation will not be implemented because it is not warranted or is not reasonable. It is unnecessary to include this in a new Contract as protection of fisheries is governed by the Federal Endangered Species Act which is implemented by the National Marine Fisheries Service and the United States Bureau of Reclamation.

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.

The recommendation requires further analysis. It will be considered in the future, when the Contract is negotiated.

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.

The District agrees with the 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".

The recommendation has not yet been implemented but will be implemented in the future, in order to incorporate the current 2011-2016 drought conditions when the Contract is negotiated.

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.

The District partially disagrees with this finding. Water Supply contracts are often costly and time

consuming to renegotiate. Shorter-duration water supply contracts would prove unnecessarily inefficient. Longer water supply contracts provide for more stability in long-range water planning so as to minimize impacts to the community and to ratepayers. However, the District agrees that if a new 25-year water supply contract is executed it should include a provision for the recalculation of the safe yield when demonstrated to be necessary. Further, the District would be open to considering that the new contract provides an opportunity to discuss a temporary modification should unforeseen environmental or operational circumstances arise that would make adherence impractical or infeasible.

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.

The recommendation will not be implemented because it is not warranted or is not reasonable. The contract should remain a 25-year term. There is no reason that the future contract cannot include provisions that allow for temporary supply modifications to accommodate periodically appropriate evaluations of the safe yield.

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.

The recommendation has not yet been implemented but will be implemented in the future, when the Contract is negotiated subject to USBR and Water Agency concurrence. The Goleta Water District remains open to discussing appropriate provisions in the contract to address unforeseen environmental or operational circumstances that may arise.

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.

The District agrees with the 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.

The recommendation requires further analysis. Further study is necessary to determine the yield of Lake Cachuma in light of observed conditions. This analysis may include whether the supply from Lake Cachuma could last a full seven years and be able to accommodate either a safe yield approach (flat deliveries throughout the drought period), or alternative allocations the year after a spill followed by a schedule of shortages that subsequently spans the 7-year period. The Goleta Water District is open to discussing appropriate approaches during the Contract negotiations.

Finding 8

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

The District agrees with the 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.

The recommendation will not be implemented because it is not warranted or is not reasonable. Each of the member units is a separate legal entity governed by its own elected board. Each member unit develops goals and policies that may not be the same as those of other member units. Accordingly, each water purveyor has its own unique water supply portfolio, demand demographics, water system assets, budgetary considerations, rate structure, planning approach, and policy framework. These differences are what leads to differing conservation policies and drought plans. It is essential that each water purveyor ensure that it can meet its obligation to meet the public health and safety needs of its service area.

Recommendation 8b

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

The recommendation will not be implemented because it is not warranted or is not reasonable. Each of the member units is a separate legal entity governed by its own elected board. Each member unit develops goals and policies that may not be the same as those of other member units. Accordingly, each water purveyor has its own unique water supply portfolio, demand demographics, water system assets, budgetary considerations, rate structure, planning approach, and policy framework. These differences are what leads to differing conservation policies and drought plans. It is essential that each water purveyor ensure that it can meet its obligation to meet the public health and safety needs of its service area.

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.

The District agrees with the finding.

Recommendation 10

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

This recommendation will not be implemented because it is not warranted or is not reasonable. The Carpinteria Valley Water District, as an independent legal entity, is free to participate or not participate in the Cachuma Conservation Release Board (CCRB) within its discretion. The District believes that

Carpinteria Valley Water District should retain its discretion to participate or not, but would welcome participation assuming that Carpinteria Valley Water District is willing to reimburse the current members of CCRB for the ongoing investments that have been made to defend the region's water rights since Carpinteria Valley Water District withdrew from CCRB.

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.

The District partially disagrees with the finding.

Recommendation 11

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

This recommendation will not be implemented because it is not warranted or is not reasonable. By California law, a can and will serve letter secures an entitlement of water to a property owner after the owner has satisfied the necessary conditions to receive a can and will serve letter, including payment of all necessary fees and charges. A property owner does not receive a can and will serve letter from the District until after the owner has applied for water service, has received a determination of water availability, has satisfied preliminary conditions for issuance of a conditional can and will serve letter, and has satisfied the conditions specified in the conditional can and will serve letter, including proof of land use approval. Once a can and will serve letter is issued for a project, the District cannot include an expiration date since it means the can and will serve letter could be rescinded, and thus deprive property owners of appropriately obtained and vested water service entitlements.

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.

The District disagrees with this finding because the District issues Preliminary Water Service Determinations and Preliminary Conditions letters based upon the water service availability at the time of issuance. Once can and will serve letters are issued, however, the District cannot include an expiration date since it means the can and will serve letter could be rescinded, and thus deprive property owners of appropriately obtained and vested water service entitlements.

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 recommendation requires further analysis. The District will conduct further analysis to determine whether approving all new water service on water available during a "worst case" drought year is consistent with local voter-approved ordinances and state law.