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July 22, 2016

Honorable Judge James Herman
County Courthouse
100 Anacapa Street
Santa Barbara, CA 93101

Re: Response to May 16, 2016 Santa Barbara County Grand Jury Report – *Lake Cachuma, Protecting a Valuable Resource*

Dear Judge James Herman,

During its regular meeting on July 19, 2016, the Montecito Water District Board of Directors reviewed and approved the attached response to the above referenced Grand Jury 2016 report titled, *Lake Cachuma, Protecting a Valuable Resource*. Per the Grand Jury letter to the Board, an informational copy will be provided to the Grand Jury foreperson.

The District has carefully reviewed the report and its findings and recommendations pertinent to the Montecito Water District. The Board's response considers the significance of the findings and provides specific information on those identified areas requiring clarification. The Board of Directors recognizes the importance and role of the Grand Jury and thanks them for their diligence in their ongoing investigations into all matters that are conducted for the communities we serve.

Sincerely,

Richard Shaikewitz
Board President

cc: Santa Barbara County Grand Jury
Bob Cohen, District Counsel

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GENERAL COMMENTS

In addition to responding to the findings and recommendation, the District applauds the Grand Jury in tackling the complex matter of Water in Santa Barbara County, primarily the south coast including those developed communities south of the Santa Ynez Mountains coastal range. Through countless hours of interviews with District and City water managers, elected officials, officials of the federal government and consultants, the Grand Jury has discovered the “complex web of governmental agencies, each serving their own purpose and not always in accord with each other”.

We believe the conclusion of the Grand Jury, as quoted in the statement above, does not impart the actual successes and the cooperative, and at times spirited, relationships between the Cachuma Project Member Units (MUs). Throughout the history of the Cachuma Project the MUs, the Santa Barbara County Water Agency and the Bureau of Reclamation have successfully managed the Cachuma Project water supply for the customers served by all the water agencies. This is no small feat considering the unanticipated challenges, including stringent environmental and water quality regulations that have been implemented by State and Federal regulatory agencies, adversely affecting the Cachuma Project urban water supply.

The MUs have worked together successfully and overcome challenges, only to face possibly the biggest challenge in the short 60-year history of the Cachuma Project: the first-time zero-allocation of water to all the MUs. This reality affects all water agencies and their customers who historically have relied on the Cachuma Project for the majority of their annual water supply. Even under this new paradigm, the MUs are addressing this critical drought period with unprecedented actions and a level of cooperation between all agencies to preserve the threatened water supplies.

The District wishes to point out the functionality of our water agencies in dealing with this extraordinary drought. Water supply planning is based on the information available at the time of water supply development. The critical drought period between 1947 and 1952 was the basis for the development of the Cachuma Project. Even with the import of significant State Water supplies into Lake Cachuma over the last four years, amounting to over a full year’s Cachuma Project annual allocation, Lake Cachuma is expected to soon reach its historic low point.

Each MU and the State of California have responded to the seriousness of this ongoing drought and through their mutual actions and cooperation have recognized and taken the necessary steps to preserve the value of the Cachuma Project. The Cachuma Project has become even more important as a conveyance facility for the delivery of supplemental and State Water Project water to Santa Barbara County, still firmly entrenched in a designated Stage 4 exceptional drought with no available local surface water from previously reliable water supplies.

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SPECIFIC COMMENTS

The section "Operating Mode Modifications" includes Table 4, *Water Actually Distributed, AFY, from Lake Cachuma per COMB* with reference to "in hindsight, alarm bells should have been ringing at this point" which alludes to the MUs exceeding the safe yield of Cachuma reservoir with drought conditions worsening. The quantity of water delivered to each agency includes the delivery of State Water Project supplies and the ID1 exchange. For Montecito Water District, the 2013 delivery total of 3,905 AFY (actual COMB reports show 3,913) indicates MWD exceeded its annual supply allocation of 2,651 AFY thus apparently over-drafting the supply allocated to MWD. However, the 3,913 AF includes delivery of only 1,561 AF of Cachuma water. The remaining balance includes 1,090 AF for the ID1 exchange and SWP deliveries of 1,262 AF. MWD actually reduced its Cachuma water deliveries in 2013 by over 41% to conserve the Cachuma Project water supply in anticipation of worsening drought conditions.

The section on Water Management Planning and Conservation Efforts does not accurately represent the actions taken by the District beginning in 2005 to manage available water supplies and customer water usage. In addition to preparing the 2005 Urban Water Management Plan, the District also prepared a long-range Water Supply Optimization Plan that clearly defined the available water supply and customer water use under multiple water supply/demand conditions. This planning document led to the adoption of Ordinance 89 by the District in April 2008 providing limits on available water to new residential properties. Quickly following the adoption of Ordinance 89, the District presented to the community its draft conservation plan in July 2008 which introduced redefined water use classifications and tiered water rates. In August 2008, the District formally adopted conservation Ordinance 90 and Resolution 2047 which were successful in lowering District customer water use through 2012. Not considered in the Grand Jury report is the contribution of rain and the lack thereof to the annual south coast water supply. Even with ramping up State Water and supplemental water imports to the south coast, the back-to-back years of well below average rainfall resulted in customers offsetting the lack of rain with water agency water supplies.

With customer water demand increasing to alarming levels due to lack of rain, the District declared a Stage 3 water shortage emergency condition in February 2014 by its adoption of Ordinances 92 and 93. Ordinances 92 and 93 placed a moratorium on the issuance of new water service, created water use restrictions, monthly customer water use allocations with penalties for overuse that resulted in annual residential customer water demand dropping by an average of over 45% compared to customer water use in 2013. The District is correcting Table 5, *Timeline of Conservation Efforts and Lack Thereof* of the Grand Jury report to reflect the District's Stage 3 water shortage emergency conservation action which was in accordance with the District's Urban Water Management Plan guidelines.

FINDINGS AND RECOMMENDATIONS

GJ 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*.

GJ 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.

MWD Response Finding/Recommendation 1

The District concurs with GJ Finding 1 and reminds the GJ that the District has been and remains cognizant of the effects of siltation by working with COMB, the other MUs and the Santa Barbara County Water Agency in conducting bathymetric surveys of Lake Cachuma to determine changes in lake storage volume over time. The bathymetric surveys have resulted in recalculating and reducing the Cachuma reservoir annual safe yield. Possibly dredging the lake and/or raising the dam height (surcharging) have been considered; but environmental issues and prohibitive costs make these possibilities unrealistic.

GJ 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.

GJ 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.

MWD Response Finding/Recommendation 2

The District concurs with the GJ Finding 2 and honors the protection of downstream water rights. The Settlement Agreement executed between the Cachuma Conservation Release Board (CCRB) and downstream water right holders provides a Cachuma Project downstream water release plan for conjunctive management of water rights releases and fish rearing flows. Though not in effect until such time the Water Rights Orders are issued by the State Water Resources Control Board, the District supports the inclusion of the Settlement Agreement in the new Master Contract.

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GJ 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.

GJ 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.

MWD Response Finding/Recommendation 3a

The District understands the purpose for and supports the release of water for the protection of downstream fish habitats; however does not agree with the inclusion of water releases for fish passage and habitats in the new Master Contract. The Master Contract between the Santa Barbara County Water Agency and USBR governs the urban water supply.

GJ 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.

MWD Response Finding/Recommendation 3b

The MWD response in 3a applies to GJ Recommendation 3b. The responsibility for Cachuma Project water releases for fish passage/habitat lies with USBR and is governed by the Federal Endangered Species Act. In addition, the District continues to measure and evaluate the effectiveness of water releases for the fish passage/habitat restoration in the SYR. The ongoing SYR fish habitat restoration program must also consider adverse fish habitat conditions, irrespective of flow releases caused by environmental and human influenced conditions that may preclude and limit the goals of increasing fish populations and movement in the SYR.

GJ 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 Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project, 1995* for Lake Cachuma.

GJ 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".

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MWD Response to Finding/Recommendation 4

The District also concurs with the GJ Finding/Recommendation 4 that the critical drought period needs to be reevaluated to determine the reservoir's safe yield on an annual basis. However, the District does not support using only the current ongoing exceptional drought between 2011 and 2016, which will extend past 2016 as the determinant "design drought" in establishing the Cachuma reservoir safe yield. There are many factors/variables that need to be considered in addition to drought conditions such as how deliveries of SWP and supplemental water supplies to Cachuma reservoir and the implementation of the City's Gibraltar Reservoir Pass Through Agreement will change safe yield calculations.

GJ 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.

GJ 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.

MWD Response to Finding/Recommendation 5a

The District does not concur with GJ Recommendation 5a. For contractual purposes, a contract period of 20 years or more is necessary to define the general terms and conditions for a water purveyor's water supply planning and management. The general terms, with one being the "right to use water" establishes the obligations of the Federal government to deliver water from the Cachuma Project for a period of time. A minimum 20 year contract period assures the MUs of reliable water deliveries for the contract term. The contract provides language that reflects and considers the operational yield of the federal facility on an annual basis with adjustments made depending on hydrological conditions.

GJ 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.

MWD Response to Finding/Recommendation 5b

The District concurs with the GJ Recommendation 5b that the Cachuma reservoir safe yield determinations are fluid and should be reevaluated on a more frequent basis

GJ 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*

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Barbara County Water Agency Providing for Water Service from the Project, 1995 is based on a static volume per year.

GJ 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 specific mandatory reductions.

MWD Response to Finding/Recommendation 6

MWD supports GJ Findings/Recommendation 6 with the caveat that determining a fixed sliding scale does not take into consideration varying (not fixed) SYR hydrological conditions nor the delivery of SWP and supplemental water supplies to Cachuma reservoir. Establishing a fixed sliding scale of mandatory delivery reductions following a year one spill condition must also consider operational deliveries to all Cachuma water accounts (not just the MU urban water supply). This is complex and will be determined by consensus of all Cachuma reservoir stakeholders.

GJ Finding 7

The Montecito Water District does not have an updated Urban Water Management Plan.

GJ Recommendation 7:

That the Montecito Water District update its Urban Water Management Plan.

MWD Response to Finding/Recommendation 7

MWD (along with other state water agencies) is currently in the process of updating its Urban Water Management Plan.

GJ Finding 8

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

GJ 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.

GJ Recommendation 8b:

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

MWD Response to Finding/Recommendation 8

MWD does not concur with the GJ Finding/Recommendation 8. Each water agency has unique water use characteristics determined by its customer base, service area and water supply

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portfolio. Each agency must consider these unique characteristics and develop a conservation program that best fits its customer class, i.e. one size does not fit all.

GJ Finding 9

The City of Santa Barbara has started to rebuild its desalination facility and has been in intermittent discussions with the Montecito Water District on sharing use of the facility.

GJ Recommendation 9:

That the City of Santa Barbara and the Montecito Water District continue discussions on options that could optimize the desalination facility as a regional one.

MWD Response to Finding/Recommendation 9

MWD and the City of Santa Barbara have been in discussions on regional use of the City's soon to be re-activated desalination facility since 2014.

GJ 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.

GJ Recommendation 10

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

MWD Response to Finding/Recommendation 10

MWD concurs with GJ Finding/Recommendation 10.

GJ 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.

GJ Recommendation 11:

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

MWD Response to Finding/Recommendation 11

The District process for the issuance of water service availability takes into consideration existing properties with and without District water service. Existing properties with District water service are issued Certificates of Water Service availability (CWSA) for a County/City approved project (and permits) subject to specific water use restrictions conditioned by the District. If the County/City permit is amended or expires, the previously approved CWSA is subject to review and a re-approval process by the District.

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If a property without water service applies for a CWSA including new water service, a CWSA is issued subject to District ordinances in effect and possession of a County/City permit by the proposed property development. If the County/City permit is amended or expires, the previously approved CWSA is subject to review and a re-approval process by the District.

GJ 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.

GJ Recommendation 12:

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

MWD Response to Finding/Recommendation 12

MWD does not concur with GJ Finding/Recommendation 12. Using "worst case" drought year for approving new water service would essentially stop all future new property development in perpetuity within the service area. This is inconsistent with District policies since a water purveyor has been established for all water supply planning activities within its service area. Water supply planning provides for the allocation of water supplies subject to availability and long term reliability, not the "worst case" scenario.