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City of Santa Barbara
Office of Mayor

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August 2, 2016

Helene Schneider
Mayor

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

Re: Response to Santa Barbara Civil Grand Jury report titles, "*Lake Cachuma, Protecting a Valuable Resource, You Can't Drink Paper Water*", (Published May 19, 2016, Grand Jury Website: <http://www.sbcgj.org/2016/>).

Dear Judge Herman,

Please find attached the City of Santa Barbara (City) 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,

A handwritten signature in blue ink, appearing to read "Helene Schneider".

Helene Schneider, Mayor
City of Santa Barbara

KD/mh

Cc: City of Santa Barbara Councilmembers
Maria Millsaps, Foreperson, 2015-16 Santa Barbara Civil Grand Jury



Please consider the environment before printing this letter.

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 City agrees with the finding.

Recommendation 1

That the safe yield from Lake Cachuma as defined 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*, 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 City agrees that the safe yield should be recalculated for use 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 Santa Barbara County Water Agency has initiated an updated analysis of the Cachuma safe yield. The current work effort is halted pending a potential redefinition of the critical drought period which depends on the duration of the current drought, and with the understanding that the severity and duration of the current drought is extremely important for evaluation of the Cachuma safe yield. With the current Cachuma Project contract expiring in 2020, it is expected that the safe yield analysis and report will be completed in time for a new master contract.

The City would also like to recommend that the Bureau, in conjunction with other agencies, develop a long-term strategy to minimize sedimentation (e.g. both watershed management and sediment removal strategies). The Zaca fire resulted in significant sediment loading and loss of storage capacity in Gibraltar reservoir as well as Cachuma reservoir. To protect our water resources, the City supports sediment management in the Cachuma watershed as part of its adopted 2011 Long Term Water Supply Plan policies.

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 City 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 City agrees with this recommendation.



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 City 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.

The City understands and supports the releases of water for protection of downstream fish habitats. However, the City does not agree that the new master water supply contract include language requiring water releases for fish habitat, since protection of fisheries is governed by the Federal Endangered Species Act, which is implemented by the United States Bureau of Reclamation. Language regarding required fish releases is neither warranted nor reasonable, since the Cachuma Member Units are not the responsible parties to ensure compliance with the Federal Endangered Species Act.

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 City understands and supports the releases of water for protection of downstream fish habitats. However, the City does not agree that the new master water supply contract include language requiring water releases for fish habitat, since protection of fisheries is governed by the Federal Endangered Species Act, which is implemented by the United States Bureau of Reclamation. Language regarding required fish releases is neither warranted nor reasonable, since the Cachuma Member Units are not the responsible parties to ensure compliance with the Federal Endangered Species Act.

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.

The City 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".

The City agrees with this finding. If the drought persists beyond 2016, the City recommends the new design drought be extended for a longer duration as well.

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 City partially disagrees with this finding. Water supply contracts often require extensive technical and legal resources and are costly and time consuming to renegotiate. However, the City agrees that, if a new 25-year water supply contract is executed, it should include clauses for periodic recalculation of the "safe yield".

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.

Because of the extensive resources and costs required to negotiate agreements, the City recommends a term of at least 25 years, with a clause that safe yield be revisited every 10 years, and recalculated only if new information becomes available that has the potential to significantly affect reservoir operations. The new information needed to trigger the recalculation of safe yield should be defined at the time of contract negotiation between the Santa Barbara County Water Agency and the Bureau of Reclamation, in coordination with the Cachuma Project Member Units.

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 City supports periodic review and revision clauses to recalculate the "safe yield" and make any other necessary contract changes. However, the City understands that changes will only be made if there is new information available to update the contract. The new information needed to trigger the recalculation of safe yield would be defined at the time of contract negotiation.

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 City 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.

The City supports evaluation and review of alternative reservoir management strategies and encourages the Bureau and County to work with the member units to define operational objectives and evaluate alternatives.

The City would also encourage the Bureau to evaluate strategies that encourage storage of water in the reservoir as long as possible, including that which results from water conservation. Currently, all of the reservoir evaporative losses are allocated to carryover (water saved in the reservoir from previous years' allocations as a result of conservation or other management strategies) and imported water storage. This creates an incentive to draw down these supplies as quickly as possible to avoid the evaporation penalty. The City would like the Bureau to consider strategies that encourage storage of carryover and imported water and that more equitably distribute losses due to evaporation.

FINDING 8

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

The City 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.

The City disagrees with this recommendation because it is neither warranted nor reasonable. Each of the member units is a separate legal entity, governed by an entity of specific members whose goals and policies may not be the same as those of the other member units. In addition, each entity has a unique customer base, service area characteristics, water supply portfolio, and water conservation program. Therefore, a one-size-fits-all approach will not be effective.

In cooperation with other agencies, the City works closely with the Santa Barbara County Water Agency on regional messaging, where there is overlap in water conservation programs and activities. The City is a sponsor of the WaterWise program (www.waterwisesb.org) which provides a consistent regional brand for water conservation.

Recommendation 8b

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

The City disagrees with this recommendation because it is neither warranted nor reasonable. Each of the member units is a separate legal entity, governed by an entity of specific members whose goals and policies may not be the same as those of the other member units. In addition, each entity has a unique customer base, service area characteristics, water supply portfolio, and water conservation program. Therefore, a one-size-fits-all approach will not be effective, since different agencies may need to take different actions.

In cooperation with other agencies, the City works closely with the Santa Barbara County Water Agency on regional messaging where there is overlap in water conservation programs and activities. The City is a sponsor of the WaterWise program (www.waterwisesb.org), which provides a consistent regional brand for water conservation.

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.

The City agrees with this finding.

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.

The City supports the optimization of its desalination facility within the permitted capacity to the extent that excess water can be made available in the form of a water sales agreement.

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 City agrees with this finding.

Recommendation 10

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

The City would welcome the Carpinteria Valley Water District’s renewed participation in the Cachuma Conservation Release Board, which was established primarily to represent its members in protecting their water supply from the Cachuma Project.

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 City disagrees with this finding. The City has a 2-year expiration on its Can and Will Serve Letters. If an applicant does not receive a building permit for their project within two years of the date of the Can and Will Serve Letter, the letter expires and the applicant must receive a new letter. During a drought emergency, the City reserves the right to terminate the commitment before the two-year period after issuing the letter, as long as the applicant has not received their building permit.

Recommendation 11

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

This recommendation is already standard practice for the City.

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 services that are approved based on water availability during a "normal" year's water supply.

The City disagrees with this finding. The City approves Can and Will Serve Letters, depending on whether the project is consistent with the City's General Plan policies. Adoption of the City's General Plan required an Environmental Impact Report that assessed water supply during droughts according with the City's Long Term Water Supply Plan.

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 City is already implementing this recommendation. The City approves Can and Will Serve Letters, depending on whether the project is consistent with the City's General Plan policies. Adoption of the City's General Plan required an Environmental Impact Report that assessed water supply during droughts, according with the City's Long Term Water Supply Plan. In the City's drought planning, the policy is for all customers to participate in planned demand reductions, given the costly expense of providing 100 percent water supply reliability during droughts.

The City's Water Shortage Contingency Plan requires the City to consider suspension of development approvals. The City considered this issue in spring 2015, at the time of the Stage Three Drought declaration, and subsequently considered the suspension of development approvals again, in spring 2016. Based on the General Plan, the average annual demand from new development projects was found to represent 0.27 percent of the City's total normal water demand, and 0.41 percent of the City's current annual drought water demand. Because the City's service area is mostly developed, many projects are redevelopment projects that are required to install drought tolerant landscaping and efficient indoor plumbing fixtures, in order to help meet long-term water conservation goals.

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Given that the community has been consistently meeting or exceeding this required demand reduction of 35 percent through other measures, suspension of development approvals is not necessary for the City of Santa Barbara at this time. The City continues to monitor water supply and demand closely and will re-consider suspension of development approvals as needed.