

MEMBER UNITS EXHIBIT NUMBER 11

**A SECOND MEMORANDUM OF UNDERSTANDING
PROVIDING FOR COOPERATION, DATA COLLECTION, INFORMATION
SHARING AND CONSENSUS BUILDING ON FISHERY PROTECTION
AND ENHANCEMENT MEASURES FOR THE SANTA YNEZ RIVER**

WHEREAS, the United States Bureau of Reclamation (Bureau) operates Bradbury Dam, and the reservoir commonly referred to as the Cachuma Project, on a stream located in Santa Barbara County California and known as the Santa Ynez River; and

WHEREAS, the Bureau contracts to deliver water to the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID#1) and the member units of the Cachuma Conservation Release Board (CCRB) for municipal, industrial and agricultural purposes for use in Santa Barbara County; and

WHEREAS, the Santa Ynez River Water Conservation District (SYRWCD) serves as the trustee for beneficial municipal, industrial and agricultural users downstream from the Cachuma Project and within the Santa Ynez River Watershed; and

WHEREAS, fishery surveys conducted by the California Department of Fish and Game (Department) have identified juvenile trout in streams tributary to the Santa Ynez River downstream from Bradbury Dam, and one adult and no juvenile trout within the main stem of the River below Bradbury Dam; and

WHEREAS, those surveys have identified other fish within the main stem of the Santa Ynez River below Bradbury Dam, although their type, number, location, water and habitat needs should be better determined following additional data collection and surveys; and

WHEREAS, the California Sportfishing Protection Alliance (CALSPA) is a nonprofit organization advocating California sportfishing interests which has requested the State Water Resources Control Board, and the Department to require the Bureau to release water presently stored within the Cachuma Project at a rate between 120 and 150 cfs to keep any fish below Bradbury Dam in good condition and contends that there is no need to consider its potential impact on the water supply for Santa Barbara County residents; and

WHEREAS, CCRB and ID#1 believe that such releases may jeopardize their collective ability to meet the essential water requirements of their respective customers; and

WHEREAS, the Department has primary responsibility for the administration and protection of public trust resources both within Lake Cachuma and below Bradbury Dam and it has been requested by the SWRCB to provide its recommendations for instream flow requirements to keep any fish below Bradbury Dam in a good condition; and

WHEREAS, the Bureau, CCRB, ID#1, the Conservation District, the County Water Agency, and the United States Fish and Wildlife Service reached a consensus on the Bureau guaranteeing a flow of 10 cfs or 20 acre-feet per day using uncontrolled releases, supplemented as necessary by controlled releases from Bradbury Dam for the purpose of collecting needed data and information concerning fishery habitat requirements and maintaining fish in good condition in the main stem of the Santa Ynez River below Bradbury Dam during the months of June, July and August of 1993, which consensus was memorialized in a Memorandum of Understanding (MOU) which expired by its terms on September 1, 1993; and

WHEREAS, in contemplation of the MOU the Department made a recommendation to the SWRCB on June 24, 1993 of a 10 cfs or 20 acre-feet per day release from Bradbury Dam for the purpose of keeping any fish below Bradbury Dam in good condition; and

WHEREAS, the MOU provided for the establishment of a "Spillway Water Fishery Reserve Account" to be stored within the Cachuma Project for the general purpose of keeping fish in good condition. This account consisted of that amount of water stored in the Cachuma Project above elevation 750 feet with more than 725 acre-feet of water having been utilized from this account since the execution of the prior MOU; and

WHEREAS, it is believed that the existing cooperation between the parties is the most effective process for developing and sharing information, utilizing diverse technical expertise and building consensus on fishery mitigation issues in light of the developed information, the physical constraints of the Santa Ynez River system and the balanced needs of the people and the environment; and

WHEREAS, the parties desire to continue their pursuit of short term, intermediate and long-term resolutions of their respective concerns through cooperation, if possible, rather than litigation and the parties desire to execute a second Memorandum of Understanding.

NOW, THEREFORE, IT IS AGREED THAT:

1. The parties will continue to share information and work cooperatively on seeking mutually satisfactory resolution of their respective concerns related to the protection of fish and wildlife and the protection of existing domestic and agricultural users.

2. The parties will continue the Technical Advisory Committee (TAC) recently formed under the prior MOU for the purpose of enhancing cooperation, as well as collecting, analyzing and sharing information related to fisheries within the Santa Ynez River Watershed.

a. TAC shall establish a process for the collection of relevant fishery data including, but not limited to, temperature, flows and location of fishery resources.

b. TAC shall establish a process for the sharing and review of information collected by its various members.

c. TAC shall attempt to determine the location and habitat requirements of any fish located downstream of Bradbury Dam.

d. TAC shall consider the development of contingency plans to keep fish in tributaries downstream from Bradbury Dam in good condition.

e. Within 45 days of the execution of this Memorandum of Understanding, TAC shall make a recommendation to the Consensus Committee as it is defined in paragraph 3, regarding a work plan to develop intermediate and long term fishery mitigation measures as well as the appropriate process for coordinating the use of information developed by TAC in water related projects.

f. On or about October 9, 1993, TAC shall meet to review the results of a fisheries survey to be conducted on October 6 and 7, 1993 and it shall make a written recommendation to the Consensus Committee regarding the continuation or termination of controlled releases from Bradbury Dam as provided in paragraph 4(a)(6).

3. A Consensus Committee consisting of representatives of the parties to this Memorandum of Understanding, shall hereafter have the following responsibilities:

a. It shall review the work and recommendations of the TAC and where agreed by the parties, attempt to implement constructive suggestions and solutions.

b. In the event controlled releases are recommended by TAC for the period after October 31, 1993, the Consensus Committee shall meet at least once prior to October 31, 1993 to consider TAC's recommendations.

c. It shall review the recommendations from TAC concerning the coordination and potential use of information in pending water-related projects as provided in paragraph 2(e) and it shall exercise good faith in attempting to facilitate an agreement between the parties by November 30, 1993 on the appropriate process and work plan for developing interim and long-term fishery mitigation measures which may include a watershed management plan. It shall meet at least once prior to November 30, 1993.

4. As a measure to facilitate cooperative study to ensure that fish are maintained in good condition, the Bureau will:

a. Adhere to the following schedule of controlled and uncontrolled releases:

(1) For the period beginning September 1, 1993 and extending until September 13, 1993 (800 hours) the Bureau will guarantee approximately 10 cfs or 20 acre-feet per day using uncontrolled releases, supplemented as necessary by controlled releases from Bradbury Dam.

(2) For the period beginning September 13, 1993 (800 hours) and extending until September 14, 1993 (800 hours) the Bureau will reduce the amount of flows from 10 cfs or 20 acre-feet to 9 cfs or 18 acre-feet per day.

(3) For the period beginning September 14, 1993 (800 hours) and extending until September 15, 1993 (800 hours) the Bureau will reduce the amount of flows from 9 cfs or 18 acre-feet per day to 8 cfs or 16 acre-feet per day.

(4) For the period beginning September 15, 1993 (800 hours) and extending until September 24, 1993 (800 hours) the Bureau will guarantee approximately 7 cfs or 14 acre-feet per day using uncontrolled releases, supplemented as necessary by controlled releases from Bradbury Dam.

(5) For the period beginning September 24, 1993 (800 hours) and extending until September 25, 1993 (800 hours) the Bureau will reduce flows from 7 cfs or 14 acre-feet to 6 cfs or 12 acre-feet per day.

(6) For the period beginning September 25, 1993 (800 hours) and extending until October 9, 1993 (800 hours) the Bureau will guarantee a flow of 5 cfs or 10 acre-feet per day below Bradbury Dam using uncontrolled releases, supplemented as necessary by controlled releases from Bradbury Dam.

(7) For the period beginning October 9, 1993 and extending until October 31, 1993, the Bureau shall consider the recommendation from TAC concerning the need to continue controlled releases beyond October 9, 1993 as provided in paragraph 2(f). The Bureau will continue to guarantee a flow of 5 cfs or 10 acre-feet per day until October 31, 1993 or, in the alternative, in light of the recommendation from TAC, it may elect to reduce or eliminate all controlled releases from Bradbury Dam.

(8) In the event TAC makes a recommendation to continue controlled releases from Bradbury Dam after October 31, 1993, the Bureau shall not guarantee such releases pursuant to this MOU after October 31, 1993 until the Consensus Committee has an opportunity to meet and review TAC's recommendation as provided in paragraph 3b.

b. Expedite its review and consideration of long term modifications to the existing flashboards for Bradbury Dam as a method to increase the amount of water held within the "Spillway Water Fishery Reserve Account" in future years.

5. CCRB and ID#1 have made a request to the Fish and Game Commission for a closure of the Santa Ynez Fishery below Bradbury Dam and will further seek the issuance of all required permits for conducting a fish rescue program at their own costs should fish become threatened by stranding or increases in water temperatures.

6. The Department will review the request of CCRB and ID#1 to close the Santa Ynez Fishery below Bradbury Dam and it shall provide its technical expertise and assistance in developing information and implementing alternatives which will keep fish in a good condition.

7. This memorandum shall remain in full force and effect until any of the parties wishes to terminate their participation by providing written notice to all of the undersigned parties or their attorneys. However, the termination by any one party shall not invalidate this memorandum as to any party not tendering its own independent notice of termination.

(Signatures on Next Page)

DATED: 9-8-, 1993.

SANTA YNEZ RIVER WATER
CONSERVATION DISTRICT,
IMPROVEMENT DISTRICT
NUMBER ONE

By *Halcyon Burkhardt*

UNITED STATES BUREAU
OF RECLAMATION

By *Franklin E. Dimick*
Acting Regional Director

CALIFORNIA
DEPARTMENT OF FISH
AND GAME

By *John P. ...*

SANTA YNEZ RIVER WATER
CONSERVATION DISTRICT

By *Scott A. ...*

CACHUMA CONSERVATION RELEASE
BOARD, a Joint Powers Agency,
consisting of the City of Santa
Barbara, and the Carpinteria,
Goleta, Montecito and Summerland
Water Districts

By *C. Charles Evans*

U.S. FISH AND WILDLIFE SERVICE

By *Richard L. Jachowski*

SANTA BARBARA COUNTY
WATER AGENCY

By *Robert ...*

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