

**Jane Farwell - Comments to 2nd RDEIR re Cachuma Project (Palmer Gavit Jackson Trust)**

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**From:** Stan Hatch <shatchofsb@gmail.com>  
**To:** <JFarwell@waterboards.ca.gov>  
**Date:** 5/2/2011 12:14 PM  
**Subject:** Comments to 2nd RDEIR re Cachuma Project (Palmer Gavit Jackson Trust)  
**CC:** Charles Jackson <jackson4cj@gmail.com>  
**Attachments:** SB-#579080-v1-Jackson\_5\_02\_2011\_Letter\_to\_SWRCB\_(Jane\_Farwell)  
\_re\_Comments\_to\_Second\_Revised\_DEIR-2.doc; SWRCB DEIR Alisal Response-  
2.doc; Pages from Attach A to SWRCB.#0.pdf; Letter to SWRCB 4-14-2011.pdf

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Ms. Farwell:

Please find attached to this E-mail:

(1) the comments of the Palmer Gavit Jackson Trust to the 2nd Revised DEIR prepared for and relating to the Modifications of the USBR's Water Rights Permits 11308 and 11310 (Applications 11331 and 11332) regarding the Cachuma Project on the Santa Ynez River,

Also attached are 3 additional attachments to the comments, consisting of :

(2) a copy of a September 25, 2007 comment to the 1st Revised DEIR from Alisal Properties,

(3) Attachment A, which is a copy of the January 17, 2008 cover letter Filing of Statements of Diversion and Use for the period 2000 - 2006 (a document which one of your predecessors apparently lost) together with the receipt certification showing that it was received by the SWRCB; and

(4) a copy of a recent cover letter (April 14, 2011) filing Statements of Diversion and Use for the period 2000 - 2010 for the Palmer Gavit Jackson Trust (Alisal Ranch) minus enclosures, for your reference.

(1)

Brownstein | Hyatt  
Farber | Schreck

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May 2, 2011

DIVISION OF WATER RIGHTS

Stanley C. Hatch  
Attorney at Law  
805.682.3426 tel  
805.832-6092 fax  
stanhatch@cox.net

Ms. Jane Farwell  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

**Re: Palmer Gavit Jackson Trust Comments to Second Revised Draft EIR Prepared for and Relating to the Modifications of the U.S. Bureau of Reclamation's Water Right Permits 11308 and 11310 (Applications 11331 and 11332) regarding the Cachuma Project on the Santa Ynez River**

Dear Ms. Farwell:

These comments to the above designated 2nd Revised DEIR are submitted on behalf of the Palmer Gavit Jackson Trust, which is a riparian landowner and diverter of water from the Santa Ynez River below Bradbury Dam in the vicinity of the Alisal Bridge crossing.

1. There is an uncorrected, major factual error in Section 3.0. There is a list of "Riparian Diverters – Above Narrows" on pp. 3.0-4 and 3.0-5. This list fails to identify the extensive riparian water use associated with the riparian lands owned by the Palmer Gavit Jackson Trust, commonly referred to as "Alisal". This error was noted in a comment by me in a letter dated September 25, 2007 to the 1st Revised DEIR, which also identified the river well production by Alisal and its use. A copy of that letter is attached.

*Note:* In researching the matter, it was found that the SWRCB did not, at that time, have any Statements of Diversion and Use on file regarding this particular water use. This was remedied by a filing on January 17, 2008, which included Statements of Diversion and Use for 5 wells for the years 2000 through 2006. I am now informed that these filings were somehow "lost" by the SWRCB staff. The 1-17-08 filings were sent by registered mail and we have the certified Return Receipt signed by a representative of the SWRCB on 1-22-08, a copy of which is also enclosed. This, presumably, explains the failure of the preparers of the 2nd Revised DEIR to make the necessary corrections.

Our office is now filing yet another set of Statements of Diversion and use for the 5 Jackson (Alisal) wells, this time for the years from 2000 through 2010. That filing is dated April 14, 2011, and is again attached, out of an abundance of caution, to this comment letter.

We have again contacted Stetson Engineers and have been assured by that firm that all of the hydrologic modeling studies, which are a part of the DEIR, include the Alisal's historic pumping in the baseline data. Consequently, the omission does not appear to impact any factual conclusions in the DEIR.

Consequently, following the format of the DEIR at page 3.0-5, the following should be added to the paragraph to read as indicated:

*"The following statement[s] (sic) have been received by the SWRCB but not yet entered into the electronic Water Rights Information Management System (e-WRIMS):*

*"• Jackson Trust. Claims a right to divert 1,020 acre-ft/yr for irrigation use on riparian land. The water is diverted from 5 wells located in the Solvang and/or Santa Ynez Subareas of the Santa Ynez River Alluvial Basin."*

2. There is a statement repeated several times in Section 6.0 that is, on its face, over-inclusive:

*"In addition, Alternative 4B would have beneficial impacts related to surface water quality (TDS) in the Santa Ynez River" (last sentence, Section 6.1, page 6.0-2).*

Alternative 4B includes the introduction of State Project Water into the Lompoc Forebay, which WOULD have a beneficial impact on the area BELOW the Lompoc Forebay. However, the provision of State Project Water at that point would have NO positive impact on surface water quality (TDS) in the Santa Ynez River ABOVE the Lompoc Forebay. The two areas need to be isolated and the appropriate impacts assigned to each of the two areas separately. They cannot be included in the same sentence.

3. A similar over-inclusive statement is made in Table 6.2 on page 6.0-6 under "Surface Water Quality" it is stated:

*"TDS levels in the Santa Ynez River below Bradbury Dam would be elevated substantially as compared to the baseline condition."*

If this statement were true, there would no basis for the designation of Class IV impacts under Alt 4B. TDS levels would have to be LOWERED, if a beneficial impact could be expected. To the extent that there is a Class IV impact under Alt 4B BELOW the Lompoc Forebay, it would require a different statement isolating the lower area and the lesser impact from the area above the Lompoc Forebay, where the impact would remain unchanged.

4. In Table 6.2 page 6.0-6 under "Lompoc Groundwater Basin Conditions" it is stated:

*"TDS level would be significantly increased above the baseline condition (TDS levels from 1952 through 1982)."*

On this basis, all Alternatives are listed as having Class IV Beneficial Impacts. The correct conclusion, if the statement is accurate, would be that all the Alternatives would have at least a Class III impact (because conditions would be worse). To the extent that Alt 4B includes better quality State Project water being introduced into the Lompoc Forebay, that lower area would have to be isolated along with its impact in the Table. As stated, however, it appears to be patently wrong.

5. It is noted that there is NO discussion in the DEIR of the impact under Alt 4B of not releasing Below Narrows Account (BNA) water, stored in Cachuma, down the Santa Ynez River, when such water is exchanged for State Project Water delivered directly to the Lompoc Forebay. Presumably, in that situation, there would be less surface flow from Bradbury Dam to the Lompoc Narrows during the period that the BNA flow would

Ms. Jane Farwell  
May 2, 2011  
Page 3

otherwise have been released. This could possibly have some effect on riparian vegetation and habitat as well as on fish migration, in that the surface flow would be reduced during that limited period of time.

Thank you for the opportunity to comment.

Very truly yours,

Stanley C. Hatch, Counsel  
Palmer Gavit Jackson Trust (Alisal)

SCH/gml

Enclosures:

Ltr from Stanley C. Hatch to SWRCB dated September 25, 2007

Ltr from Stephanie Osler Hastings to SWRCB with attachments (Statements of Diversion and Use for 5 wells from 2000 to 2006) dated January 17, 2008

Ltr from Amy Steinfeld to SWRCB with attachments (Refiling Statements of Diversion and Use for 5 wells from 2000 to 2006 and filing Statements of Diversion and Use for 5 wells from 2007 to 2010) dated April 14, 2011

cc: C. J. Jackson (with enclosures)

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Farber | Schreck

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DIVISION OF WATER RIGHTS

Stanley C. Hatch  
Attorney at Law  
805.682.3426 tel  
805.832.6092 fax  
stanhatch@cox.net

September 25, 2007

State Water Resources Control Board  
Division of Water Rights  
1001 "I" Street  
Sacramento, CA 95814

Attn: Diane Riddle

Re: Revised DEIR Consideration of Modifications to the USBR's Water Right Permits 11308 and 11310 (applications 11331 and 11332) to Protect Public Trust Values and Downstream Water Rights on the Santa Ynez River below Bradbury Dam (Cachuma Reservoir). State Clearinghouse #1999051051

Dear Ms. Riddle:

I represent Alisal Properties, a California Corporation, (hereafter "Alisal") which owns in excess of 10,000 acres of real property located in and contiguous to the Santa Ynez River in Santa Barbara County, East and South of the City of Solvang.

It is noted that, in the section of the DEIR relating to Downstream Water Rights (Sec. 3.1.2), you have listed "Riparian Diverters – Above the Narrows. The list, however, is incomplete in that it fails to include Alisal, which is a diverter in the Above Narrows reach of the River and in the Santa Ynez subarea.

We have contacted Stetson Engineers and have been assured by that firm that all of the hydrologic modeling studies, which are a part of the DEIR, include the Alisal's historic pumping in the baseline data. Consequently, the omission does not appear to impact any factual conclusions in the DEIR.

Alisal claims a continuing riparian right, paramount to all appropriators on the Santa Ynez River, including Permits 11308 and 11310 (Cachuma Project) for beneficial use on its riparian lands.

For your information in correcting this error:

Alisal owns significant riparian lands and owns riparian rights to divert Santa Ynez River flow, both surface and subsurface for use on their riparian lands in and adjacent to the Santa Ynez River. Their points of diversion are in the Above Narrows reach of the river in the Santa Ynez subarea. Much of the land owned by Alisal is part of a Mexican land grant called Rancho Nojoqui. Use of water dates back to a time that would justify a claim of pre-1914 appropriative rights appurtenant to the ranch. However, the ranch has for most of the last century relied on its riparian rights in the river and other perennial streams which are all tributaries of the Santa Ynez River, including Alisal Creek and its tributaries, Nojoqui Creek and its tributaries and Quiota Creek. However, the subsurface flow of the Santa Ynez River has been the largest and most reliable year-round flow and has, consequently, been used in varying amounts over the years.

Alisal provides river well production information on a semi-annual basis to the Santa Ynez River Water Conservation District, which has in recent years been imposing a "groundwater charge." Those semi-annual statements, over the past eight years indicate that Alisal's Santa Ynez River water production from sub-surface flow has amounted to a low in Fiscal 2005-06 of 538.57 acre feet to a high in Fiscal 2002-03 of 829.88 acre feet. An excel spreadsheet summarizing that pumping history is attached for your information.

If any other information is required, please let us know.

Stanley C. Hatch  
For Hatch and Parent, PC

Cc: Palmer Jackson, Alisal Ranch

Stanley C. Hatch  
4352 Via Esperanza  
Santa Barbara, CA 93110  
805/682-3426  
[stanhatch@cox.net](mailto:stanhatch@cox.net)

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U.S. DEPARTMENT OF JUSTICE

# Attachment A

2011 APR 32 PM 1:11

January 17, 2008

WATER RIGHTS

Stephanie Osler Hastings  
805.882.1415 tel  
805.965.4333 fax  
SHastings@bhfs.com

Ms. Victoria Whitney, Deputy Director  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000

**RE: Filing of Statements of Diversion and Use (Palmer Gavitt Jackson Trust)**

Dear Ms. Whitney:

On behalf of the Palmer Gavitt Jackson Trust, I am filing the enclosed Statements of Water Diversion and Use describing the diversion and beneficial use of water pursuant to riparian rights from five riparian wells along the Santa Ynez River, County of Santa Barbara, for irrigation of riparian lands, specifically the River Golf Course and the Ranch Golf Course at the Alisal Guest Ranch & Resort, for each of the years 2000-2006. Water has been diverted from the Santa Ynez River pursuant to riparian rights for beneficial use on these lands since 1958.

If you have any questions regarding these Statements, please contact me directly.

Sincerely,

  
Stephanie Osler Hastings

SCO:gml  
Enclosures

SB 456342 v1:008332.0002



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<p>1. Article Addressed to: Victoria Whitney State Water Resources Control Board P.O. Box 2000 Sacramento, CA 95812-2000</p>	<p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>2. Article Number (Transfer from service label)</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No</p> <p>SACRAMENTO METRO STA JAN 22 2008</p>
<p>PS Form 3811, August 2001</p>	<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7002 0860 0004 8988 3010</p>	
<p>Domestic Return Receipt 102595-02-M-1540</p>	

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**Victoria Whitney**  
**State Water Resources Control**  
**Board**  
**P.O. Box 2000**  
**Sacramento, CA 95812-2000**

2. Article Number  
 (Transfer from service label)

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
**X**  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from Item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
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 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

PS Form 3811, August 2001

Domestic Return Receipt

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 Street, Apt. No.,  
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 City, State, ZIP+4

April 14, 2011

Amy M. Steinfeld  
Attorney at Law  
805.882.1409 tel  
805.965.4333 fax  
ASteinfeld@bhfs.com

**ELECTRONIC MAIL AND FEDERAL EXPRESS**

Eloise Berryman  
State Water Resources Control Board  
Division of Water Rights  
1001 I Street, 14th Floor, Sacramento, CA 95814  
P.O. Box 2000  
Sacramento, CA 95812-2000

**RE: Palmer Gavit Jackson Trust, Re-Filing of Initial Statements of Water Diversion and Use for 2000–2006 and 2007–2010 Statements of Diversion and Use**

Dear Ms. Berryman:

It has come to our attention that the State Water Resources Control Board ("State Board") has misplaced 35 Statements of Diversion and Use ("SDU") filed by my office on behalf of the Palmer Gavit Jackson Trust ("Mr. Jackson") for reporting years 2000 through 2006. As such, this correspondence re-files the previously filed SDUs for 2000–2006, and files new SDUs for 2007, 2008, 2009 and 2010.

By way of background, on January 17, 2008, my law firm filed 35 SDUs with the State Board describing the diversion and beneficial use of water pursuant to riparian rights from five riparian wells along the Santa Ynez River, County of Santa Barbara, for irrigation of riparian lands, specifically the River Golf Course, the Ranch Golf Course at the Alisal Guest Ranch & Resort, for each of the years 2000–2006. On January 22, 2008, the State Board confirmed its receipt of these documents by returning a Certified Return Receipt. True and correct copies of the January 17, 2008 filing and Certified Return Receipt are attached for your reference as Attachment A.

The State Board issues Supplemental SDUs to those parties having filed initial SDUs. However, Mr. Jackson never received the Supplemental SDU forms from the State Board. Additionally, the Supplemental SDU forms are not otherwise made available to water right users, such as by way of the State Board's website. For these reasons, Mr. Jackson did not file Supplemental SDUs in 2009 – three years following his initial 2008 filing of SDUs for years 2000–2006.

In late March of this year, it came to my attention that the State Board did not have record of our January, 2008 filing of Mr. Jackson's initial SDUs. Accordingly, my office immediately contacted the State Board's record department to inquire about the missing SDUs. On March 29, 2011, Pamela Perry confirmed by telephone that the State Board does not have any SDUs on file for Mr. Jackson. On March 30, you instructed us to re-file the SDUs, along with initial SDUs for 2010 as well. True and correct copy of our correspondence with you is attached as Attachment B.

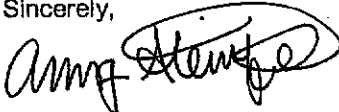
As a result of the fact that Mr. Jackson filed, and the State Board received, initial SDUs for 2000–2006, Mr. Jackson is in full compliance with Water Code Section 5100, *et seq.* and initial SDUs for 2007–2010 should not be required. However, given the fact that the State Board has, subsequent to 2008,

modified its SDU forms, as a courtesy to you, and in an abundance of caution, Mr. Jackson has prepared initial SDUs for 2010, as well as for 2007, 2008 and 2009 as well. However, Mr. Jackson's filing of initial SDUs for 2007-2010 at this time shall not constitute, and shall not be deemed to constitute, an admission that Mr. Jackson's SDUs are late or that Mr. Jackson is not otherwise in compliance with Water Code section 5100-5107.

As noted above, this correspondence re-files the previously filed SDUs for 2000-2006 and files new SDUs for 2007, 2008, 2009 and 2010. True and correct copies of initial SDUs for 2007-2010 are attached as Attachment C. We respectfully request that you accept the enclosed filings, enter the 2000-2010 SDUs into the State Board's system and assign Mr. Jackson a State Board SDU identification number to ensure that Mr. Jackson will properly receive notification to file future Supplemental SDUs. Upon receipt of the State Board's Supplemental SDU forms, Mr. Jackson will file them with the State Board.

Thank you for your assistance in this matter. Please feel free to contact me with any questions.

Sincerely,



Amy M. Steinfeld

Enclosures

cc: Charles Jackson