



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
 South Coast Region
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ARNOLD SCHWARZENEGGER, Governor
JOHN McCAMMAN, Director

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 ET AL

September 23, 2010

Mr. Charles L. Lindsay, Chief
 Hearings Unit
 State Water Resources Control Board
 Division of Water Rights
 P.O. Box 2000
 Sacramento, California 95812-2000

STATE WATER RESOURCES CONTROL BOARD
 DIV. OF WATER RIGHTS
 SACRAMENTO
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Subject: Schedule to Complete the Hearing to Review U.S. Bureau of Reclamation Water Right Permits 11308 and 11310 (Applications 11331 and 11332) for Modifications to Protect Public Trust Values and Downstream Water Rights, and to Consider Change Petitions – Santa Ynez River in Santa Barbara County

Dear Mr. Lindsay:

The Department of Fish and Game (Department) has reviewed the May 27, 2010 letter from the State Water Resources Control Board (SWRCB) entitled Schedule to Complete the Hearing to Review U.S. Bureau of Reclamation Water Right Permits 11308 and 11310 (Applications 11331 and 11332) for Modifications to Protect Public Trust Values and Downstream Water Rights, and to Consider Change Petitions – Santa Ynez River in Santa Barbara County. As trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code § 1802.) The following statement has been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project and pursuant to its authority as a Responsible Agency over those aspects of the proposed project that come under the purview of Fish and Game Code section 1600 et seq. (CEQA Guidelines §§ 15386(a), 15381.)

The Department has concerns about the SWRCB's scheduled public release of the final Environmental Impact Report (FEIR) for the Cachuma project by October 1, 2010. New circumstances and information have come to light since the release of the draft Environmental Impact Report (DEIR) three years ago. If these new circumstances and information are properly analyzed and included in the DEIR at this time (and if the document is re-circulated after the inclusion of the information as warranted pursuant to CEQA Guidelines section 15088.5), it will result in a more efficient process and will ultimately produce a more defensible document.

Mr. Charles Lindsay
September 14, 2010
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The Bureau of Reclamation (BOR) recently initiated re-consultation on the Biological Opinion (BO) issued by the National Marine Fisheries Service (NMFS) for its operation of the Cachuma Project (Project). The new BO will likely contain measures that will change the project description and, therefore, require modification of the analysis contained in the DEIR. In addition, there is a significant amount of new information that has been developed for steelhead in southern California and, specifically, for steelhead in the Santa Ynez River watershed since the DEIR was released. Further, the release of the Southern California Steelhead Recovery Plan by NMFS is expected soon. The re-consultation by the BOR, and the new information available to SWRCB, call into the question the appropriateness of releasing the FEIR and proceeding with a hearing at this time. The Department believes that SWRCB should consider delaying the release of the FEIR pending inclusion of this new information and re-circulation of the DEIR as appropriate. At a minimum, the Department recommends that the SWRCB allow the NMFS to complete its Southern California Steelhead Recovery Plan and BO for the Cachuma Project before finalizing its EIR and continuing with the hearings. The Department believes this approach is consistent with the CEQA Guidelines and will ultimately provide a more robust and defensible document for the project.

If there are questions or further clarification is needed, please contact Ms. Mary Larson, Senior Biologist Supervisor, at (562) 342-7186 or by email at mlarson@dfg.ca.gov or Ms. Chandra Ferrari, Staff Counsel, Office of the General Counsel, at (916) 654-3819 or by email at cferrari@dfg.ca.gov.

Sincerely,



Edmund Pert
Regional Manager
South Coast Region

cc: Department of Fish and Game
Mr. Kevin Hunting, Sacramento
Mr. Sonke Mastrup, Sacramento
Ms. Chandra Ferrari, Sacramento
Ms. Terri Stewart, San Diego
Ms. Mary Larson, Los Alamitos

National Marine Fisheries Service
Chris Yates, Long Beach