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STATE WATER RESOURCES  
CONTROL BOARD

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DIV. OF WATER RIGHTS  
SACRAMENTO



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

**October 26, 2010**

In response refer to:  
2010/04658:DB

Charles L. Lindsay  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Re: Schedule to Complete the Final Environmental Impact Report for the Cachuma Project  
Hearing – U.S. Bureau of Reclamation’s Water Rights Permits 11308 and 11310  
(Applications 11331 and 11332)

Dear Mr. Lindsay:

This letter clarifies NOAA’s National Marine Fisheries Service (NMFS) September 21, 2010, letter requesting the State Water Resources Control Board (State Water Board) withhold completion of the subject Environmental Impact Report (EIR) until certain documents with new information and analysis regarding endangered Southern California steelhead are completed. The need for this clarification was prompted by comments submitted to the State Water Board by the Cachuma Conservation Release Board and Santa Ynez River Water Conservation District, Improvement District No. 1 (Cachuma Member Units) on September 28, 2010, and Santa Ynez River Water Conservation District on October 4, 2010.

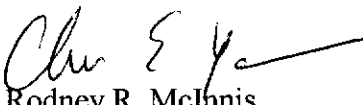
The Cachuma Member Units state that NMFS’ position is inconsistent with that previously taken regarding the State Water Board’s proceedings. It appears the Cachuma Member Units have either misinterpreted NMFS’ closing brief, as referenced, or the contents of NMFS’ September 21, 2010, letter. NMFS maintains that, as NMFS argued in its closing brief, the State Water Board’s responsibility to protect resources under the Public Trust Doctrine is not fully congruent with NMFS’ obligations under the Federal Endangered Species Act (ESA). However, as NMFS explained in its September 21, 2010, letter, NMFS believes the scientific information resulting from forthcoming ESA processes and products, the Southern California Steelhead Recovery Plan (Recovery Plan) and biological opinion for the Cachuma Project reinitiated formal consultation under Section 7 of the ESA (biological opinion), will provide meaningful scientific information that better informs the State Water Board’s Final EIR. Therefore, NMFS recommended delaying completion of the EIR to ensure proper consideration of the scientific information in these documents.



The Cachuma Member Units further raise concern regarding the undisclosed time-frame for NMFS to complete the Recovery Plan and biological opinion in reference to delaying completion of the subject EIR. While the time-frame for completion of the Recovery Plan and biological opinion has not been explicitly defined, NMFS anticipates completion by June 2011 and December 2011, respectively. Delaying the completion of the EIR is warranted to ensure proper consideration of the scientific information. To provide further clarification, the reinitiated ESA formal consultation with the Bureau of Reclamation is required as a result of new information indicating that endangered Southern California steelhead and designated critical habitat are being affected by the Cachuma Project in a manner or to an extent not previously considered in the September 8, 2000, biological opinion, and the Cachuma Project has exceeded the level of take specified in the incidental take statement accompanying that biological opinion.

The concerns expressed in these letters were subsequently discussed among NMFS, the Bureau of Reclamation and the Cachuma Member Units on October 7, 2010. Should you have a question regarding this letter, please contact Darren Brumback at (562) 980-4060.

Sincerely,

  
for Rodney R. Melnis  
Regional Administrator

cc: Michael Jackson, U.S. Bureau of Reclamation  
Kate Rees, Cachuma Operations and Maintenance Board  
Edmund Pert, CDFG  
Mary Larson, CDFG  
Roger Root, USFWS  
Cachuma Project Hearing Service List (Attached)  
Administrative file: 151422SWR2010PR00316

**Cachuma Project Hearing  
Phase-2 Hearing  
Final Service List**

<p>Cachuma Conservation Release Board Mr. Gregory K. Wilkinson Best, Best &amp; Krieger, LLP 3750 University Avenue, Suite 400 Riverside, CA 92501</p>	<p>City of Solvang Mr. Christopher L. Campbell Baker, Manock &amp; Jensen 5260 N. Palm Avenue, Suite 421 Fresno, CA 93704</p>
<p>U.S. Bureau of Reclamation Ms. Amy Aufdemberg 2800 Cottage Way, Room E-1712 Sacramento, CA 95825</p>	<p>City of Lompoc Ms. Sandra K. Dunn Somach, Simmons &amp; Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814</p>
<p>Santa Ynez River Water Conservation District, Improvement District No. 1 Mr. Gregory K. Wilkinson Best, Best &amp; Krieger, LLP 3750 University Avenue, Suite 400 Riverside, CA 92501</p>	<p>Santa Barbara County Parks Ms. Terri Maus-Nisich Director of Parks 610 Mission Canyon Road Santa Barbara, CA 93105</p>
<p>Santa Ynez River Water Conservation District Mr. Ernest A. Conant Law Offices of Young Wooldridge 1800 – 30<sup>th</sup> Street, Fourth Floor Bakersfield, CA 93301</p>	<p>California Trout, Inc. c/o Ms. Karen Kraus Environmental Defense Center 906 Garden Street Santa Barbara, CA 93101</p>
<p>Christopher Keifer NOAA Office of General Counsel Southwest Region 501 West Ocean Blvd., Suite 4470 Long Beach, CA 90802-4213</p>	<p>Department of Fish and Game Office of General Counsel Nancee Murray 1416 Ninth Street, 12<sup>th</sup> Floor Sacramento, CA 95814</p>