

1 STEPHEN SHANE STARK, COUNTY COUNSEL  
2 ALAN L. SELTZER, CHIEF ASSISTANT (SBN: 092428)  
3 COUNTY OF SANTA BARBARA  
4 105 E. Anapamu St., Suite 201  
5 Santa Barbara, CA 93101  
6 (805) 568-2950 / FAX: (805) 568-2982

7 Attorneys for  
8 County of Santa Barbara

9 **BEFORE THE**  
10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

11  
12 In The Matter Of Phase 2 Public  
13 Hearing To Consider Modifications To  
14 The U.S. Bureau Of Reclamation's  
15 Water Right Permits 11308 And 11310  
16 (Applications 1131 And 11332) To  
17 Protect Public Trust Values and  
18 Downstream Water Rights On The  
19 Santa Ynez River Below Bradbury Dam  
20 (Cachuma Reservoir)

Application Nos. 11331 and 11332

**COUNTY OF SANTA BARBARA'S  
FINAL BRIEF**

COPY

1 The County of Santa Barbara is the manager of public trust recreational activities  
2 occurring on and around Lake Cachuma under a lease management agreement with the Bureau  
3 of Reclamation. The County appeared in these Phase II proceedings to specifically address  
4 hearing issues 3 and 7 and, more particularly:

- 5 1. The adverse effects on public trust recreational resources from the proposed  
6 surcharge of the Lake for revised fish release requirements; and
- 7 2. The measures necessary to protect those recreational resources.

8 County's testimony demonstrated that a 3 foot surcharge of the Lake to elevation 753  
9 feet will damage existing critical water treatment and accessory facilities essential for public  
10 health and safety, and that an interim surcharge to 751.8 feet would prevent use of the boat  
11 launch ramp, a facility essential for persons to have the opportunity to recreate on the Lake, the  
12 main purpose why persons visit the Lake Cachuma County Park and Recreation Area.

13 Protecting public trust recreational resources at the lake and river is one of three public  
14 policy objectives at issue in this proceeding supported by the County. The other two policy goals  
15 are ensuring a reliable water supply and protecting endangered species. In balancing these  
16 sometimes competing goals, the County initially recommended to the SWRCB a phased  
17 surcharge of Lake Cachuma from the existing 750.75 feet to 751.8 feet after 2 years and then  
18 subsequently to the full 753 foot surcharge elevation after 5 years. It was thought that such a  
19 phased surcharge would allow for the development, funding and implementation of a facility  
20 relocation plan that could have provided an initial 2 year period to modify the boat launch  
21 facilities and a subsequent 3 year period in which to modify essential water treatment facilities.

22 As County's opening statement and the testimony of Supervisor Marshall made clear,  
23 however, the County also believes that local solutions, that bring together concerned  
24 governmental agencies, are most effective in achieving resolution and serving the public interest.  
25 For this reason, the County, the Cachuma Conservation Release Board ("CCRB"), and  
26 Improvement District No.1 (ID#1) submitted the Statement of Agreement to the State Board as  
27 Santa Barbara County Exhibit 11.

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1 In that Statement of Agreement, the County, CCRB and ID#1 identified a local solution  
2 to allow for essential park facility modifications before a 3 foot surcharge to elevation 753 feet,  
3 i.e., modification of the Cachuma Project Guidelines for Operation to provide that no surcharge  
4 above 751.8 feet elevation, except for winter storm operations, shall occur for 5 years after the  
5 execution of a contemplated MOU, or upon completion of the relocation of the Lake Cachuma  
6 County Park Water Treatment Plant and accessory facilities. Please note that the Statement of  
7 Agreement does not propose or require change in fish or downstream water rights protection.

8 On February 10, 2004, the Santa Barbara County Board of Supervisors approved the  
9 attached MOU to implement the Statement of Agreement. In addition to providing for the  
10 request to the Bureau to modify the Cachuma Project Guidelines for Operation (MOU ¶1), the  
11 MOU also provides funding for interim modifications to raise the boat launch to elevation 751.8  
12 feet to allow for phased surcharge to that level. These boat launch modifications have already  
13 been completed.

14 The MOU also establishes a collaboration between the parties to provide assistance to  
15 the County to obtain a long term management agreement and lease renewal with the Bureau of  
16 Reclamation for the Lake Cachuma Recreation Area; to secure assistance for construction of the  
17 water treatment plant; and to promote compatibility of future operations of the Lake Cachuma  
18 Recreation area.

19 County submits that the MOU identifies the measures necessary to protect public trust  
20 recreational resources at the Lake Cachuma County Park, while still achieving the same  
21 protection of fish and downstream water rights.

22  
23 Date: February 11, 2004

STEPHEN SHANE STARK  
COUNTY COUNSEL

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25  
26 By   
27 ALAN SELTZER  
Chief Assistant County Counsel

**MEMORANDUM OF UNDERSTANDING REGARDING  
THE SURCHARGE OF LAKE CACHUMA AND THE  
PROTECTION OF RECREATIONAL RESOURCES AT THE LAKE**

This Memorandum of Understanding is effective and is entered by and between the County of Santa Barbara ("County"), the Santa Barbara County Water Agency ("Agency"), the Cachuma Conservation Release Board ("CCRB") and the Santa Ynez River Water Conservation District, Improvement District No. 1 ("I.D. No. 1").

**RECITALS**

WHEREAS, Lake Cachuma is part of the Cachuma Project that is owned and operated by the United States of America, acting through the Bureau of Reclamation of the Department of Interior ("Reclamation");

WHEREAS, Reclamation operates the Cachuma Project in accordance with the provisions of the Cachuma Project Guidelines for Operations; and

WHEREAS, the water stored in Lake Cachuma is vital to the purpose of ensuring an adequate and reliable source of water for municipal, industrial, commercial and agricultural purposes in Santa Barbara County; and

WHEREAS, the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District and I.D. No.1 (who are referred to herein, collectively, as the "Cachuma Member Units"), each hold an entitlement to water from Lake Cachuma through a Cachuma Member Unit contract with the Santa Barbara County Water Agency and provide that water to approximately 280,000 persons residing within Santa Barbara County; and

WHEREAS, the Cachuma Member Units' contracts with the Santa Barbara County Water Agency provide that the County Water Agency will provide \$100,000 per year to a fund known as the "Cachuma Betterment Fund"; and

WHEREAS, Lake Cachuma is normally operated to a maximum elevation of 750.75 feet which operation enables the Cachuma Project to provide an operational yield of 25,714 acre feet of water per year for delivery by the Cachuma Member Units; and

WHEREAS, for more than 50 years, the County has operated a recreational area and park (the "Park") at Lake Cachuma pursuant to the terms of a lease agreement entered into with Reclamation, which lease expired January 12, 2003 and has been extended by Reclamation to January 12, 2005; and

WHEREAS, the Park serves numerous recreational interests of the residents of Santa Barbara and other counties, including the fishing, boating, camping, picnicking and other interests of nearly 900,000 Park visitors per year; and

WHEREAS, the facilities of the Park include a water treatment plant and a boat launch ramp at elevations 753 feet and 750 feet, respectively; and

WHEREAS, other key facilities and programs offered at Lake Cachuma including, fishing, camping, picnicking, hiking, boating and wildlife cruises, create a unique regional and community based recreation asset and provide an open space experience to nearly 900,000 visitors annually; and

WHEREAS the \$2.2 million cost of operation of the Lake Cachuma County Park is offset by fees to users; and

WHEREAS, on September 11, 2000, the National Marine Fisheries Service, an agency of the United States Department of Commerce now known as "NOAA Fisheries", issued a Biological Opinion to the Bureau of Reclamation for its operations of the Cachuma Project (the "Biological Opinion") which Biological Opinion concluded that Reclamation's proposed operation of the Cachuma Project would not jeopardize the continued existence of the Southern California steelhead, so long as certain conditions were observed; and

WHEREAS, the conditions made a part of the Biological Opinion include the release of water previously stored in Lake Cachuma for steelhead passage, steelhead rearing, habitat improvement and other purposes downstream of Bradbury Dam intended to ensure the continued existence of the species; and

WHEREAS, to mitigate the impact upon Cachuma Project water supplies, the Biological Opinion expected that flash boards would be installed at Bradbury Dam by 2002 and that Lake Cachuma would be operated at elevation 751.8 feet (i.e., a 1.8 foot surcharge or storage for an additional 5,500 acre feet of water) for fishery enhancement purposes and that certain other release requirements from Lake Cachuma would not commence unless and until the level of Lake Cachuma was surcharged to elevation 753.0 feet (thus creating sufficient space for an additional 9,200 acre feet of stored water above elevation 750.0 feet); and

WHEREAS, the surcharge of Lake Cachuma to elevation 753.0 feet will make available approximately 9,200 acre feet of water for implementation of the steelhead-related provisions of the Biological Opinion without impairing the operational yield of the Project for consumptive beneficial purposes; and

WHEREAS, raising the surface of Lake Cachuma to elevation 753.0 feet will inundate certain Park facilities, including the water treatment plant and boat launch ramp, unless those facilities are moved or modified to withstand higher operating Lake levels; and

WHEREAS, the Park is within the service area boundaries of I.D. No. 1, and receives water from and is a customer of I.D. No. 1; and

WHEREAS, the County, CCRB and I.D. No.1 submitted to the State Water Resources Control Board In the Matter of Hearing to Review United States Bureau of Reclamation Water Right Permits 11308, 11310 (Applications 11331 and 11332) the Statement of Agreement attached hereto; and

WHEREAS, this Memorandum of Understanding is intended to serve as a document that describes, in more detail, the process for implementing the Statement of Agreement

previously submitted to the State Water Resources Control Board, and to establish a protocol for cooperation in implementing future projects; and

WHEREAS, the County, CCRB and I.D. No.1 desire to work together to ensure that implementation of the Biological Opinion will occur in a timely and efficient manner and in a way that will not unreasonably affect either the provision of an adequate, reliable water supply to the residents of Santa Barbara County who depend upon water from Lake Cachuma or the continued availability of recreational resources at the Park.

NOW THEREFORE, the County, CCRB and I.D. No. 1 do hereby jointly agree to the following as the means of achieving their jointly held aim of reasonably ensuring adequate, reliable Cachuma Project water supplies and reasonably protecting the recreational resources that exist at the Park:

1. The County, CCRB and I.D. No. 1 will immediately request that Reclamation modify its Cachuma Project Guidelines for Operations to provide that no surcharge of Lake Cachuma above 751.8 feet elevation, except for gate holding activities undertaken during the winter months for downstream flood control purposes ("Winter Storm Operations"), shall occur for five (5) years after the execution of this MOU or upon completion of relocation of the Park's water treatment plant and accessory facilities such as pipelines, pumps and the intake motor control system, but not including the water intake structure, whichever occurs first.

2. The County, CCRB and ID. No.1 will immediately request that Reclamation modify its Cachuma Project Guidelines for Operations to provide that following five (5) years after the execution of this MOU or completion of the relocation of the Park's water treatment plant and all accessory facilities such as pipelines, pumps and the intake motor control system, but not including the water intake structure, whichever occurs first, Lake Cachuma may be surcharged to 753.0 feet elevation.

3. The County, CCRB and I.D. No.1 will work with Reclamation to take all actions necessary to modify the Cachuma Project Guidelines for Operations in the manner described above and will immediately seek the Reclamation's agreement, in principle, that the

above-described modifications of the Cachuma Project Guidelines for Operations are the appropriate measures to address the adequacy and reliability of Cachuma Project water supplies as well as potential impacts to the water treatment plant and boat launch ramp at Lake Cachuma from the proposed surcharge of the Lake.

4. The County agrees that it shall expeditiously and in good faith complete engineering design for the construction of a new water treatment plant and accessory facilities at the Park. The County further agrees that it shall expeditiously and in good faith pursue and obtain all necessary permits and approvals and funding for the construction of a new water treatment plant and accessory facilities at the Park. CCRB, I.D. No.1 and the County agree that, in the event the County fails to complete engineering design of the new water treatment plant and accessory facilities at the Park or fails to obtain necessary permits and approvals and funding within twenty-four (24) months of the date of execution of this MOU, the County will expeditiously and in good faith negotiate with I.D. No.1 a proposal for I.D. No.1 to design, obtain necessary permits and approvals and/or funding, in full or in part, for a water treatment plant and accessory facilities acceptable to both the County and I.D. No.1, with repayment in full or in part by the County, as agreed to by I.D. No.1 and the County. The County may continue to pursue its own water treatment plant relocation project during negotiation of a proposal with I.D. No. 1; provided that, not later than thirty (30) months following the date of execution of this MOU, if the County has failed to obtain necessary permits and approvals and funding, then County shall exclusively negotiate with I.D. No.1 for the design, construction and funding of a new water treatment plant and accessory facilities. Under no circumstances will the parties take any action, directly or indirectly, to impede, preclude or delay the surcharge of Lake Cachuma as provided by paragraph 2 above. If, for any reason, Reclamation determines that Bradbury Dam will be operated in such a way that as a matter of ordinary water supply operations the level of Lake Cachuma will not exceed elevation 751.8 feet, then the provisions of this paragraph shall have no force and effect.

5. The County, CCRB and I.D. No.1 agree that the County shall complete modification of the existing boat launch ramp at the Park to raise it to 751.8 feet elevation by April 1, 2004 and, therefore, that surcharge of Lake Cachuma to 751.8 feet elevation may occur



following April 1, 2004 without affecting public boat launching opportunities on the Lake.

6. The County, CCRB and I.D. No.1 agree that the cost of modifying the existing boat launch ramp at the Park to accommodate a Lake elevation of 751.8 feet is approximately \$75,000 and that the County Water Agency will advance the necessary funds for the modification project from its reserve. The County, CCRB and I.D. No.1 further agree that CCRB and I.D. No.1 shall pay \$50,000 to the County Water Agency Reserve Fund at \$10,000 per year over a five-year period following completion of the boat launch modification project. The Cachuma Betterment Fund may be a source of repayment to the County Water Agency in this instance because the boat ramp modifications are necessitated by the surcharge of Lake Cachuma to 751.8 feet elevation to provide reasonable protection to the adequacy and reliability of Cachuma Project water supplies for the interim period until the Lake is surcharged to 753.0 feet elevation. The County, CCRB and I.D. No.1 further agree that \$25,000 of the total project cost of \$75,000 will be furnished by the County.

7. CCRB and I.D. No.1 agree to provide good faith assistance to the County in obtaining a long-term management agreement/lease renewal with Reclamation for the Lake Cachuma recreation area and funding from the state and federal governments for construction of a new water treatment plant.

8. To enhance and utilize to maximum advantage the spirit of cooperation that has emerged among the County, CCRB and I.D. No.1, the parties to this MOU further agree that they will pursue the development of a Lake Cachuma Recreation Area Oversight Committee that includes representatives of the County, CCRB, I.D. No.1 and Reclamation to promote the compatibility of future operations of the Lake Cachuma Recreation Area and the Cachuma Project.

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MEMORANDUM OF UNDERSTANDING REGARDING THE SURCHARGE OF LAKE CACHUMA AND  
THE PROTECTION OF RECREATIONAL RESOURCES AT THE LAKE

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ACCEPTED AND AGREED:

Dated: \_\_\_\_\_

CACHUMA CONSERVATION RELEASE  
BOARD

By: \_\_\_\_\_  
Jan Abel, President

Dated: \_\_\_\_\_

SANTA YNEZ RIVER WATER  
CONSERVATION DISTRICT,  
IMPROVEMENT DISTRICT NO. 1

By: \_\_\_\_\_  
Harlan Burchardi, President

Dated: \_\_\_\_\_

SANTA BARBARA COUNTY BOARD  
OF SUPERVISORS

By: \_\_\_\_\_  
Chair

Dated: \_\_\_\_\_

SANTA BARBARA COUNTY WATER  
AGENCY

By: \_\_\_\_\_  
Chair

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**PROOF OF SERVICE**  
(C.C.P. §§ 1013(a), 2015.5)  
**STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA**

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street, Santa Barbara, California.

On February 12, 2004, I served a true copy of **COUNTY OF SANTA BARBARA'S CLOSING BRIEF** the Interested Parties in said action by:

personally delivering it to the person(s) indicated below:

E-Mail : **See Attached Electronic Service List A**

depositing it in a United States Mailbox or U.S. Postal Office in a sealed envelope with postage thereon fully prepaid to the following:

by Federal Express to the person(s) indicated below. I am readily familiar with the County's practice of collection and processing correspondence on the same day with this courier service, for overnight delivery. The delivery fees are provided for in accordance with this County's ordinary business practices.

by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above mentioned documents would have been deposited with the United States Postal Service on after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

**See Attached Service List B**

(State) I declare, under penalty of perjury, that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on February 12, 2004, at Santa Barbara, California.

\_\_\_\_\_  
Barbara Weston

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Electronic Service List A

The parties whose E-mail addresses are listed below agreed to accept electronic service, pursuant to the rules specified in the hearing notice:

City of Solvang  
Mr. Christopher Campbell  
Baker, Manock & Jensen  
5260 N. Palm Avenue, Suite 421  
Fresno, CA 93704  
[clc@bmj-law.com](mailto:clc@bmj-law.com)

City of Lompoc  
Ms. Sandra K. Dunn  
Somach, Simmons & Dunn  
813 Sixth Street, Third Floor  
Sacramento, CA 95814-2403  
[sdunn@lawssd.com](mailto:sdunn@lawssd.com)

California Trout, Inc.  
c/o Ms. Karen Kraus  
Environmental Defense Center  
906 Garden Street  
Santa Barbara, CA 93101  
[kkraus@edcnet.org](mailto:kkraus@edcnet.org)

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  
[econant@youngwooldridge.com](mailto:econant@youngwooldridge.com)

Service List B

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Cachuma Conservation Release Board  
Mr. Gregory K. Wilkinson  
Best, Best & Krieger, LLP  
3750 University Avenue, Suite 400  
Riverside, CA 92501

U.S. Bureau of Reclamation  
Mr. Stephen R. Palmer  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825  
Fax: (916) 978-5694

Santa Ynez River Water Conservation  
District, Improvement District No. 1  
Mr. Gregory K. Wilkinson  
Best, Best & Krieger, LLP  
3750 University Avenue, Suite 400  
Riverside, CA 92501

Santa Barbara County Parks  
Ms. Terri Maus-Nisich  
Director of Parks  
610 Mission Canyon Road  
Santa Barbara, CA 93105

Department of Fish and Game  
Office of General Counsel  
Mr. Harlee Branch  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

Christopher Keifer  
NOAA Office of General Counsel  
Southwest Region  
501 West Ocean Blvd., Ste 4470  
Long Beach, CA 90802-4213