

SECOND REVISED AGENDA

REGULAR MEETING
OF
CACHUMA OPERATION AND MAINTENANCE BOARD
AND
CACHUMA CONSERVATION RELEASE BOARD
at Cachuma Operation and Maintenance Board Office
3301 Laurel Canyon Road
Santa Barbara, CA 93105

CACHUMA OPERATION AND MAINTENANCE BOARD

MONDAY October 23, 2006

Approximate Start Time

2:45 P.M.

AGENDA

1. COMB CALL TO ORDER, ROLL CALL. (COMB Board of Directors.) *(1 minute)*.
2. [CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL TO DISCUSS PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (a). ONE CASE: CRAWFORD-HALL V COMB, SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA, CASE NO. 1171135. *(30 minutes)*
3. PUBLIC COMMENT. (Public may address the Board on any subject matter not on the agenda and within the Board's jurisdiction. See "Notice to the Public" below.) *(5 minutes)*
4. CONSENT AGENDA. (For Board Action by Vote on One Motion Unless Member Requests Separate Consideration.) *(2 minutes)*
 - a. Minutes
 - September 25, 2006 Regular Board Meeting,
 - b. Investment of Funds
 - Financial Reports
 - Investment Reports
 - c. Payment of Claims
5. REPORTS FROM THE MANAGER. (For information.) *(3 minutes)*
 - a. Water Storage
 - b. Water Production & Use, SWP Accounting
 - c. Operations Report
 - d. **Verbal Report** - Cachuma Reservoir Current Conditions

6. MEETING WITH KIRK RODGERS, RECLAMATION MID-PACIFIC REGIONAL DIRECTOR, OCTOBER 17, 2006 (For information) *(10 minutes)*
 - a. Cachuma Renewal Master Contract Interest Rate Adjustment
 - b. Lauro Dam SOD Repayment Agreement
7. LAURO DAM SOD REPAYMENT AGREEMENT. (For Board action.) *(5 minutes)*
8. **VERBAL REPORT** - UPDATE ON LAURO DEBRIS BASIN REHABILITATION PROJECT. (For information.) *(5 minutes)*
9. STATUS REPORT AND REQUEST FOR INCREASED BUDGET FOR REMAINING TASKS FOR FACILITATION SERVICES FOR REORGANIZATION (See CCRB item No. 10) (For Board action.) *(1 minute)*
10. DEVELOPMENT OF INTEGRATED REGIONAL WATER MANAGEMENT PLAN. (See CCRB Item No. 8) *(1 minute)*
11. RESPONSE TO THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT IMPROVEMENT DISTRICT NO. 1 LETTER TO THE CCRB AND COMB BOARD OF DIRECTORS, SEPTEMBER 22, 2006 (See CCRB Item No. 11) (For Board action.) *(5 minutes)*
12. APPROVAL OF CACHUMA PROJECT RENEWAL MASTER CONTRACT INTEREST RATE ADJUSTMENT. (For Board action.) *(5 minutes)*
13. MEETING SCHEDULE.
 - TBA Joint Special COMB/CCRB Board Meeting 2:00-5:00 P.M., at COMB Office
 - Rescheduling of the Regular Board Meeting from November 27, 2006 to November 20, 2006 following CCRB at 2:15 P.M., COMB Office
14. COMB ADJOURNMENT.

NOTICE TO PUBLIC

Public Comment: Any member of the public may address the Board on any subject within the jurisdiction of the Board that is not scheduled for a public hearing before the Board. The total time for this item will be limited by the President of the Board. If you wish to address the Board under this item, please complete and deliver to the Secretary of the Board before the meeting is convened, a "Request to Speak" forms including a description of the subject you wish to address.

Americans with Disabilities Act: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Cachuma Operation and Maintenance Board office at (805) 687-4011 at least 48 hours prior to the meeting to enable the Board to make reasonable arrangements.

[This Agenda was Posted at 3301 Laurel Canyon Road, Santa Barbara, CA
at Santa Barbara City Hall, Santa Barbara, CA and at Member District Offices and Noticed and Delivered in
Accordance with Section 54954.1 and .2 of the Government Code.]

1 GREGORY K. WILKINSON, Bar No. 54809
 MICHELLE OUELLETTE, Bar No. 145191
 2 MEGAN K. STARR, Bar No. 217675
 BEST BEST & KRIEGER LLP
 3 3750 University Avenue
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 4 Riverside, California 92502
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6 Attorneys for Respondent and Real Party in Interest
 CACHUMA OPERATION AND MAINTENANCE
 7 BOARD and CACHUMA CONSERVATION
 RELEASE BOARD
 8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SANTA BARBARA

11
 12 NANCY CRAWFORD-HALL, an
 individual, and SAN LUCAS RANCH,
 13 INC., a California Corporation,

14 Plaintiff,

15 v.

16 CACHUMA OPERATION AND
 MAINTENANCE BOARD and DOES 1-
 17 20,

18 Respondents.

Case No. 1171135
 Hon. Judge: Rodney S. Melville

**REQUEST TO EXCUSE THE BOARD
 MEMBERS OF THE CACHUMA
 OPERATION AND MAINTENANCE
 BOARD AND THE CACHUMA
 CONSERVATION RELEASE BOARD
 FROM ATTENDING CONFIDENTIAL
 MANDATORY SETTLEMENT
 CONFERENCE AND AUTHORIZATION
 TO SETTLE; (PROPOSED) ORDER**

Date: October 16, 2006
 Time: 8:30 AM
 Dept: SM2

[Filed concurrently with: Confidential Mandatory Settlement Conference Statement]

Petition Filed: December 23, 2004

23 CACHUMA CONSERVATION
 RELEASE BOARD, and DOES 21-50,

24 Real Parties in Interest.

ITEM # 2
 PAGE 1

28 RVPUBVMCUSHMAN721291.2

**REQUEST TO EXCUSE THE BOARD MEMBERS OF THE CACHUMA OPERATION AND MAINTENANCE
 BOARD AND THE CACHUMA CONSERVATION RELEASE BOARD FROM ATTENDING CONFIDENTIAL
 MANDATORY SETTLEMENT CONFERENCE AND AUTHORIZATION TO SETTLE; (PROPOSED) ORDER**

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P.O. BOX 1028
RIVERSIDE, CALIFORNIA 92502

1 Pursuant to Rule 1305 of the Local Rules of the Superior Court of Santa Barbara County,
2 the Cachuma Operation and Maintenance Board ("COMB") and the Cachuma Conservation
3 Release Board ("CCRB") hereby request that the members of their respective Boards be excused
4 from attending the settlement conference scheduled for this matter on October 16, 2006. COMB
5 is a joint powers agency formed in 1956 pursuant to an agreement with the Bureau of
6 Reclamation, and its governing body is the Board of Directors, which is made up of elected
7 representatives from the Goleta Water District, the Carpinteria Valley Water District, the
8 Montecito Water District, the City of Santa Barbara, and the Santa Ynez River Water
9 Conservation District, Improvement District No. 1. The CCRB is a joint powers agency formed
10 in 1973 between the Carpinteria Valley Water District, Goleta Water District, the City of Santa
11 Barbara, and Montecito Water District. It is also governed by a Board of Directors made up of
12 elected representatives from each of its Member Units. Both Boards are subject to the provisions
13 of the Ralph M. Brown Act (Government Code section 54950 et seq.) and it would not be
14 conducive to settlement to require the attendance of the Boards at the settlement conference.
15 Indeed, for that to occur, the Boards would have to hold public meetings during the settlement
16 conference if a quorum were present. (See Gov. Code, § 54950 et seq. [requiring public notice of
17 a meeting of a majority of Board members].)

18 The project at issue in this matter is the preparation and certification of an Environmental
19 Impact Report for the implementation of the Lower Santa Ynez River Fish Management Plan and
20 Cachuma Project Biological Opinion. A settlement may be accomplished under authority
21 delegated by the Boards. Mr. C. Charles Evans, President of the COMB Board, and Ms. Kate
22 Rees, General Manager of both COMB and CCRB, will attend the settlement conference and will
23 have the authority to negotiate any settlement in the case on behalf of the Boards, subject to their
24 final approval. Accordingly, Respondents request that the COMB and CCRB Boards of Directors

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28 RVPUBMCMUSHMAN721291.2

1 be excused from attendance at the Mandatory Settlement Conference scheduled herein for
2 October 16, 2006.

3
4 Dated: October 5, 2006

BEST BEST & KRIEGER LLP

5
6 By:

Michelle Ouellette
GREGORY K. WILKINSON
MICHELLE OUELLETTE
MEGAN K. STARR
Attorneys for Respondent and Real
Party in Interest CACHUMA
OPERATION AND MAINTENANCE
BOARD and CACHUMA
CONSERVATION RELEASE BOARD

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REQUEST TO EXCUSE THE BOARD MEMBERS OF THE CACHUMA OPERATION AND MAINTENANCE
BOARD AND THE CACHUMA CONSERVATION RELEASE BOARD FROM ATTENDING CONFIDENTIAL
MANDATORY SETTLEMENT CONFERENCE AND AUTHORIZATION TO SETTLE; [PROPOSED] ORDER

ITEM # 2

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1 [PROPOSED] ORDER

2 Application having been made by Respondent Cachuma Operation and Maintenance
3 Board ("COMB") and Real Party in Interest Cachuma Conservation Release Board ("CCRB")
4 from attendance at the Confidential Mandatory Settlement Conference:

5
6 IT IS ORDERED that the application to excuse the Boards of COMB and CCRB from
7 attendance at the Confidential Mandatory Settlement Conference to be heard on October 16, 2006
8 at 8:30 a.m. before the Honorable Judge Rodney S. Melville is HEREBY GRANTED.

9
10 IT IS FURTHER ORDERED that both C. Charles Evans, President of the COMB Board,
11 and Kate Rees, General Manager for both COMB and CCRB, be present at the Mandatory
12 Settlement Conference.

13
14 DATED: _____, 2006

15 _____
16 Honorable Judge Rodney S. Melville

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REQUEST TO EXCUSE THE BOARD MEMBERS OF THE CACHUMA OPERATION AND MAINTENANCE BOARD AND THE CACHUMA CONSERVATION RELEASE BOARD FROM ATTENDING CONFIDENTIAL MANDATORY SETTLEMENT CONFERENCE AND AUTHORIZATION TO SETTLE; [PROPOSED] ORDER

ITEM # 2

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1 **PROOF OF SERVICE BY MAIL**

2 I am a citizen of the United States and employed in Riverside County, California. I am
3 over the age of eighteen years and not a party to the within-entitled action. My business address
4 is Best Best & Krieger LLP, 3750 University Avenue, P.O. Box 1028, Riverside, California
5 92502. I am readily familiar with this firm's practice for collection and processing of
6 correspondence for mailing with the United States Postal Service. On October 5, 2006, I placed
7 with this firm at the above address for deposit with the United States Postal Service a true and
8 correct copy of the within document(s):

9 **REQUEST TO EXCUSE THE BOARD EMBERS OF THE
10 CACHUMA OPERATION AND MAINTENANCE BOARD
11 AND THE CACHUMA CONSERVATION RELEASE
12 BOARD FROM ATTENDING CONFIDENTIAL
MANDATORY SETTLEMENT CONFERENCE AND
AUTHORIZATION TO SETTLE; [PROPOSED] ORDER**

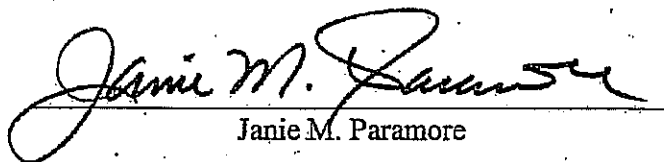
13 in a sealed envelope, postage fully paid, addressed as follows:

14 Andrew B. Sabey Richard Brenneman
15 Morrison & Foerster LLP Chern & Brenneman
16 101 Ygnacio Valley Road, Suite 450 625 E. Chapel Street
Walnut Creek, CA 94596-4095 Santa Maria, CA 93454

17 Following ordinary business practices, the envelope was sealed and placed for collection
18 and mailing on this date, and would, in the ordinary course of business, be deposited with the
19 United States Postal Service on this date.

20 I declare under penalty of perjury under the laws of the State of California that the above
21 is true and correct.

22 Executed on October 5, 2006, at Riverside, California.

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24 
25 Janie M. Paramore

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LODGED

OCT - 5 2006

GARY M. BLAIR, Executive Officer

By M K ALLEN
Deputy Clerk

Attorneys for Respondent and Real Party in Interest
CACHUMA OPERATION AND MAINTENANCE
BOARD and CACHUMA CONSERVATION
RELEASE BOARD

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

NANCY CRAWFORD-HALL, an
individual, and SAN LUCAS RANCH,
INC., a California Corporation,

Petitioners,

v.

CACHUMA OPERATION AND
MAINTENANCE BOARD and DOES 1-
20,

Respondents.

CACHUMA CONSERVATION
RELEASE BOARD, and DOES 21-50,

Real Parties in Interest.

Case No. 1171135
Hon. Judge: Rodney S. Melville

CONFIDENTIAL MANDATORY
SETTLEMENT CONFERENCE
STATEMENT

Date: October 16, 2006
Time: 8:30 a.m.
Dept. SM2

[Filed concurrently with: Request To Excuse
The Board Members Of The Cachuma Operation
And Maintenance Board And The Cachuma
Conservation Release Board From Attending
Confidential Mandatory Settlement Conference
And Authorization To Settle; [Proposed] Order]

Petition Filed: December 23, 2004

ITEM # 2

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CONFIDENTIAL MANDATORY SETTLEMENT CONFERENCE STATEMENT

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1 This Confidential Mandatory Settlement Conference Statement is filed jointly on behalf of
2 the Respondent, Cachuma Operation and Maintenance Board, and Real Party in Interest,
3 Cachuma Conservation Release Board (collectively, "Respondents").

4 **I. STATEMENT OF FACTS PERTINENT TO RELIEF**

5 The Cachuma Project consists of the Bradbury Dam (the "Dam"), Lake Cachuma and
6 associated water transport and delivery structures. Water is provided to the Cachuma Project
7 Member Units¹ for irrigation, domestic, municipal and industrial water uses. The Member Units
8 and the United States Bureau of Reclamation ("Reclamation") share joint responsibility for
9 operation of the Cachuma Project. (Petition, ¶¶ 6, 43.) Reclamation owns all Cachuma Project
10 facilities and operates the Dam, while COMB is responsible for operating and maintaining the
11 water delivery and transport facilities associated with the Dam. (Petition, ¶ 6.) For several
12 decades, the Cachuma Project has served as the main source of water supply for much of the
13 South Coast area of Santa Barbara County and the Santa Ynez River Valley.

14 **A. Development Of The Fish Management Plan ("FMP") And The State**
15 **Board's Proceedings**

16 The origins of the Santa Ynez River Fish Management Plan predate the listing of the
17 Southern California steelhead along the Santa Ynez River as an endangered species. In 1993, a
18 cooperative program to investigate native fisheries in the lower Santa Ynez River system below
19 Bradbury Dam was initiated by numerous local public agencies and non-governmental
20 organizations in response to concerns about balancing the allocation of Santa Ynez River water
21 between public trust resources and consumptive uses. In June 1994, and as subsequently
22 amended in 1995 and 1996, a Memorandum of Understanding for Cooperation in Research and
23 Fish Maintenance ("Fish MOU") was executed which provided water for fish studies and the
24 maintenance of fish habitat.² A supplemental 2002 Fish MOU provided for the management of
25 the water releases from the Dam for the downstream fishery and implementation of several

26 ¹ The Cachuma Member Units include the City of Santa Barbara, Goleta Water District, Montecito Water District,
27 Carpinteria Water District and Santa Ynez River Water Conservation District-Improvement District #1

28 ² Signatories to the MOU include: Reclamation, the Santa Barbara County Water Agency, California Department of
Fish and Game, U.S. Fish and Wildlife Service, Santa Ynez River Water Conservation District-Improvement District
#1, CCRB, City of Lompoc and the Santa Ynez River Water Conservation District.

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1 steelhead enhancement projects on several tributaries to the Santa Ynez River through an
2 Adaptive Management Committee ("AMC") comprised of biologists from each MOU signatory.
3 The AMC has responsibility for prioritizing projects under the FMP/BO and resolving conflicts.
4 The State Water Resources Control Board ("State Board") is neither a signatory to the Fish
5 MOUs nor a member of the AMC.

6 From 1993 to 2000,³ the Fish MOU studies were directed by the Santa Ynez River
7 Technical Advisory Committee ("SYRTAC") which is composed of various biologists,
8 hydrologists, and resource agency personnel. As a part of those study efforts, COMB and
9 SYRTAC made numerous requests to Petitioner, Crawford-Hall, to conduct certain studies on her
10 property. However, these requests were routinely ignored or denied.

11 In 1994, the State Board issued Water Rights Order 94-5 ("WR 94-5"), which requires
12 Reclamation to continue public trust releases of water from the Dam made under the 1994 Fish
13 MOU or its successors until the State Board takes action on the water rights permits held by
14 Reclamation for the Cachuma project that were the subject of the WR 94-5 hearings. To date, the
15 State Board has taken no such action and the hearings are still on-going. In May 1999, the State
16 Board issued a Notice of Preparation for its EIR related to its proceedings concerning the
17 Cachuma Project water rights permits. Although a Draft EIR was originally issued in 2003, the
18 State Board subsequently made the decision to revise and recirculate its Draft EIR following
19 hearings conducted later in 2003. To date, it has not done so. Moreover, the State Board will not
20 designate its preferred alternative until the completion of all public testimony and the completion
21 and review of the revised Draft EIR. To date, the State Board has issued no notice indicating
22 when those events will occur. Because the FMP projects do not require modification of
23 Reclamation's water rights permits and because the State Board has, in any event, required
24 Reclamation to continue public trust releases, the FMP projects can be implemented prior to the
25 State Board's decision on WR 94-5.

26 Consistent with the Fish MOU, the SYRTAC, in 1999, prepared a Draft Fish Management

27 _____
28 ³ As discussed below, the SYRTAC's duties were subsequently assumed by the AMC, which was involved in the
implementation of the projects subsequently considered in the Biological Opinion.

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1 Plan for the Santa Ynez River below the Dam which became final in October 2000. It is this
2 FMP that is the subject of the EIR challenged by Petitioners in this proceeding. The FMP's goals
3 are to identify, evaluate, and recommend management actions to benefit fish and aquatic
4 resources in the lower Santa Ynez River by: (1) creating new habitat and improving existing
5 habitat in the lower River and its tributaries; (2) improving access to spawning and rearing habitat
6 in the lower River; and (3) increasing public awareness and support for beneficial actions on
7 private land. The FMP was submitted to the State Board pursuant to the terms of WR-94.

8 **B. The Biological Opinion Places A Mandatory Duty On Reclamation to**
9 **Implement The Fish Management Plan**

10 In August 1997, NOAA Fisheries designated the Southern California steelhead, including
11 the population residing in the lower Santa Ynez River, as an endangered species. In 1999,
12 pursuant to Section 7 of the federal Endangered Species Act (16 U.S.C. § 1536), Reclamation
13 requested initiation of formal endangered species consultation with NOAA Fisheries regarding
14 the effects of Cachuma Project operations on the steelhead and its critical habitat. Reclamation
15 submitted a Biological Assessment which described proposed downstream releases from the Dam
16 for steelhead as well as numerous proposed fish passage and habitat conservation measures for
17 the tributaries and the mainstem of the Santa Ynez River. On September 11, 2000 – shortly after
18 the lower Santa Ynez River was designated as critical habitat for the species – NOAA Fisheries
19 issued a final Biological Opinion (“BO”), concluding that the proposed actions described in the
20 Biological Assessment would “not jeopardize” the continued existence of the steelhead. The BO
21 incorporated the management actions and projects described in the FMP with only very slight
22 modifications. Furthermore, the BO included mandatory terms and conditions that require
23 Reclamation to implement some 15 specific “reasonable and prudent measures” to minimize
24 “take” of the steelhead. Thus, to comply with the federal Endangered Species Act, Reclamation
25 must implement the actions described in the BO, and by extension, the FMP.⁴
26
27

28 ⁴ Although Reclamation has primary responsibility over these actions, COMB, as a Project beneficiary, has assumed implementation of certain, limited steelhead enhancement projects.

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1 C. Crawford-Hall's First Lawsuit Against The Project And COMB's
2 Subsequent Environmental Review Of The FMP

3 In 2001, the Petitioner, Nancy Crawford-Hall ("Crawford-Hall") challenged a mitigated
4 negative declaration prepared by COMB to supports its effort to improve steelhead habitat by
5 undertaking work in Hilton Creek – a tributary of the mainstem River – for the purpose of
6 removing certain barriers to steelhead spawning and migration. These barriers were described in
7 the fish passage impediment removal project of the FMP and BO. In the Petition for Writ of
8 Mandate she filed at that time, Crawford-Hall *admitted* that COMB was the proper lead agency
9 for the Project and requested a writ of mandate commanding COMB to prepare an EIR. Based on
10 Crawford-Hall's arguments, the Court granted the writ petition and entered judgment against
11 COMB.

12 COMB and Reclamation then issued a Notice of Preparation ("NOP") of an
13 Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") on October 8, 2001.
14 Acting as the lead agency under the California Environmental Quality Act ("CEQA") only,
15 COMB, along with Reclamation, prepared a draft joint EIS/EIR. As part of the report's
16 preparation, COMB and SYRTAC made numerous requests to Crawford-Hall to conduct studies
17 on her property. Again, however, these requests were routinely ignored or denied by Crawford-
18 Hall. Despite Crawford-Hall's unwillingness to cooperate, the Draft EIS/EIR included an
19 extensive discussion of the potential steelhead habitat in upper Hilton Creek.

20 The Draft EIR/EIS was circulated for public review on July 22, 2003. COMB and
21 Reclamation carefully reviewed all of the comment letters received on the Draft EIR/EIS –
22 including a letter from Crawford-Hall's biological expert, Dr. Alice Rich – and provided written
23 responses in the final EIR/EIS which was publicly circulated in March 2004. COMB's responses
24 included an additional study to address some of the concerns raised by Dr. Rich. On November
25 22, 2004, COMB certified the EIR/EIS and approved the Project. As approved, the Project does
26 not include a fish passage impediment removal project on lower Hilton Creek or a fish passage
27 barrier modification on Hilton Creek where the Creek passes under Highway 154. Those actions,
28 instead, were approved by Reclamation when it approved the EIS pursuant to the federal National

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1 Environmental Policy Act (42 U.S.C., § 4321 et seq.). When it certified its EIR, COMB also
2 approved a Mitigation Monitoring and Reporting Plan recognizing that Reclamation and COMB
3 are jointly responsible for implementing the Project's mitigation measures. The next day, COMB
4 filed a Notice of Determination which was posted in Santa Barbara County.

5 **D. Petitioner's Current State Lawsuit**

6 On December 23, 2004, Petitioner filed this lawsuit seeking to set aside the entire Project,
7 including all approvals related to the FMP and implementation of the BO. (Petition, ¶ 1; Prayer, ¶
8 1.) The lawsuit recognizes that COMB is responsible for operating and maintaining Cachuma
9 Project-related facilities (Petition, ¶ 6) and requests that COMB and its agents be enjoined from
10 implementing any part of the Project. (Petition, ¶ 1.)

11 The lawsuit does not name Reclamation, yet Crawford-Hall's allegations challenge
12 Reclamation's role in Project approval and Reclamation's reliance on the EIS/EIR. Specifically,
13 Crawford-Hall is concerned about the fish passage impediment removal project on lower Hilton
14 Creek and the fish passage barrier modification on Hilton Creek where the Creek passes under
15 Highway 154, which were not approved by COMB. Accordingly, COMB filed a Demurrer on
16 May 5, 2005 arguing that Reclamation was a necessary and indispensable party to this action
17 because they were the only party with approval authority over the fish passage impediment
18 removal project and the Highway 154 project. Crawford-Hall opposed the motion, arguing that
19 Reclamation was not a necessary or indispensable party to this action and that Reclamation was
20 not necessary to provide complete relief. This Court denied the Demurrer agreeing with
21 Crawford-Hall that Reclamation is not a necessary party.

22 **E. Petitioner Files a Federal Lawsuit Against Reclamation**

23 On December 14, 2005, less than four months after successfully defending against
24 Respondent's Demurrer by arguing that she challenged only COMB's actions, Crawford-Hall
25 filed a Complaint for Declaratory Relief and Injunctive Relief ("Federal Complaint") against the
26 United States Department of the Interior and the Bureau of Reclamation. (*Crawford-Hall v.*
27 *Norton*, United States District Court, Central District of California Case No. CV 05-08708 GHK
28 [U.S.D.C., Central Dist. Cal.]) The same day her Federal Complaint was filed, Crawford-Hall

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1 filed an Application for a Temporary Restraining Order that would have prevented Reclamation
2 from implementing the fish passage impediment removal project not approved by COMB. The
3 request for a TRO was denied by the Federal court.

4 The Federal Complaint and the Petition in this case are virtually identical, arise from the
5 same facts, and challenge the very same Project. In addition, and despite the fact that Crawford-
6 Hall previously informed this Court that Reclamation's presence was not necessary to obtain
7 relief, her Prayer for Relief in her Federal Complaint specifically asked for Reclamation's Project
8 approvals to be set aside. The Federal court denied Crawford-Hall's Application for a restraining
9 order, and on March 28, 2006 Crawford-Hall dismissed her federal case against the EIS.

10 **II. SUMMARY OF PROCEEDINGS AND STATEMENT OF LAWS**
11 **PERTINENT TO RELIEF**

12 As described above, Petitioners brought this action on December 23, 2004 challenging
13 Respondents' certification of the FMP EIR and approval of the Project. Reclamation was not
14 named as a party to the suit.

15 Following the Respondents' filing of the Notice of Settlement meeting as required by
16 CEQA, the Court held the initial Case Management Conference on April 25, 2005.

17 On May 5, 2005, Respondents Demurred to the Petition on grounds that Reclamation was
18 required to be named as a party to the suit because it had approved the Project and had a
19 substantial role in implementing portions of the Project and was, therefore, the recipient of an
20 approval pursuant to Public Resources Code section 21167.6.5 and thus a necessary and
21 indispensable party pursuant to Code of Civil Procedure section 389. Following briefing, the
22 Court denied Respondents' Demurrer on August 15, 2005.

23 On April 10, 2006, Respondents certified the Administrative Record and provided notice
24 to the parties of same. The Administrative Record consists of Volumes 1 through 64 and includes
25 Tabs 1 through 461.

26 On June 2, 2006, Petitioners filed their Opening Brief alleging that the FMP EIR and
27 Respondents' attendant Project approvals did not comply with CEQA. Among other arguments,
28 Petitioners argued that Respondents were not the proper CEQA lead agency to prepare and certify

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1 the EIR.

2 On August 1, 2006, Respondents filed their Opposition Brief and a supporting Request for
3 Judicial Notice. Among other arguments, Respondents demonstrated that Crawford-Hall had
4 previously brought suit to force Respondents to prepare the very Project EIR which she now
5 claims should have been prepared by someone else.

6 On August 30, 2006, Petitioners filed their Reply Brief. In addition, Respondents lodged
7 the Administrative Record with the Court per its prior direction.

8 The Case is now fully briefed. A hearing on the merits before this Court is scheduled for
9 October 25, 2006 at 9:30 a.m. in Department SM4 before the Honorable Judge Diana R. Hall.

10 **III. SUMMARY OF SETTLEMENT NEGOTIATIONS TO DATE**

11 The Parties engaged in several settlement discussions between the filing of the lawsuit and
12 early 2006. Settlement discussions largely concerned the fish passage impediment removal
13 project on lower Hilton Creek and the fish passage barrier modification on Hilton Creek where
14 the Creek passes under Highway 154. Neither of those projects was approved by COMB.
15 Instead, they were approved by Reclamation, and its approval was unsuccessfully challenged by
16 Crawford-Hall in Federal court.

17 During the February 1, 2005 settlement conference, Petitioners' counsel indicated that
18 they would arrange a meeting with NOAA Fisheries and the Federal Bureau of Reclamation to
19 discuss possible settlement options. COMB offered to participate in this meeting, however, in a
20 letter dated March 10, 2005, COMB contacted Petitioners to inquire about the status of the
21 meeting. (See Exhibit A.) Petitioners did not respond.

22 The Parties again discussed settlement options during a series of telephone conferences in
23 December 2005. In a January 4, 2006 e-mail, counsel for Crawford-Hall suggested that the
24 parties might settle if a way could be found to "preserve Nancy Crawford-Hall's claims against
25 the existing EIR without the need to pursue the case against COMB." (See Exhibit B.) In a
26 response dated January 6, 2006, COMB suggested a near-term meeting to discuss the issues
27 related to the settlement concepts raised by Petitioners. For that purpose, COMB offered to assist
28 the Petitioner in arranging a meeting with the federal parties, including Reclamation. (See

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P.O. BOX 1028
RIVERSIDE, CALIFORNIA 92502

1 Exhibit C.) Petitioners' counsel responded that the suggested dates did not "work for a face-to-
2 face meeting." (See Exhibit D.)

3 The Parties did not meet with Reclamation and the federal lawsuit was eventually
4 dismissed as discussed above. The Parties have not engaged in any further settlement
5 discussions.

6 **IV. RELIEF SOUGHT**

7 As of the date of filing this Confidential Mandatory Settlement Conference Statement,
8 Petitioners have not submitted an itemized statement of costs or attorneys' fees claimed. Other
9 forms of relief sought by Petitioners include the issuance of a peremptory writ of mandate
10 requiring Respondents to set aside the certification of the EIR, vacate Project approvals, and
11 undertake additional environmental analysis under CEQA, and an injunction enjoining
12 Respondents from proceeding with implementing the Project until after the completion of
13 additional CEQA environmental review.

14 Respondents deny that their certification of the EIR or any other Project-related approvals
15 violate CEQA, and pray that Petitioners take nothing by their Petition. Respondents also seek
16 repayment of attorneys fees and costs to date for preparation of the administrative record.

17 **V. GOOD FAITH OFFER OF SETTLEMENT**

18 Pursuant to Santa Barbara County Superior Court Rule 1305, Respondents are required to
19 provide a good faith settlement offer. Because both COMB and CCRB are public agencies, any
20 settlement agreement must ultimately be considered and approved by their respective Boards at a
21 duly noticed public meeting. (See Gov. Code, § 11125 [requiring public notice of a meeting of a
22 majority of Board members]; Gov. Code, § 54950 et seq.; *Trancas Property Owners Assn. v. City*
23 *of Malibu* (2006) 138 Cal.App.4th 172, 187 [settlement agreement reached in closed session
24 violated Brown Act]; see also Request to Excuse the Board Members of the Cachuma Operation
25 and Maintenance Board and the Cachuma Conservation Release Board from Attending the
26 Settlement Conference, filed concurrently herewith.) Therefore, the following proposal is offered
27 subject to Board approval.

28 Crawford-Hall seeks to prevent the implementation of Project activities on Hilton Creek

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1 which will be constructed and/or implemented by the United States Bureau of Reclamation.
2 Crawford-Hall has successfully argued to exclude Reclamation from this litigation, has already
3 challenged Reclamation's certification approval of the EIS and has already dismissed the Federal
4 Complaint that raised that challenge. Respondents have no control or authority over the United
5 States Federal Government or its agencies, including Reclamation. Moreover, the fish passage
6 impediment removal project on lower Hilton Creek and the fish passage barrier modification on
7 Hilton Creek at Highway 154, to which the Petitioner objects, *were not approved by COMB*.
8 Respondents have no control or authority over either of these projects, have not financed them
9 and do not intend to construct them. Instead, they are part of the Federal EIS approval that
10 Petitioner has already challenged, unsuccessfully, in Federal court.

11 However, to the extent Crawford-Hall is concerned that one or both of these projects may
12 be approved by Respondents at some future date, Respondents are willing to agree, in exchange
13 for Petitioners' dismissal of the pending case, that they will not construct or approve the fish
14 passage impediment removal project on lower Hilton Creek or the fish passage barrier
15 modification on Hilton Creek at Highway 154 without additional environmental review. Further,
16 Respondents would agree to consult with Crawford-Hall regarding the appropriate level of
17 environmental documentation, prior to any other fish management project they intend to approve
18 or construct on Hilton Creek.

19 Further, Respondents would agree to participate in any meeting organized by Petitioners
20 with NOAA Fisheries, the United States Bureau of Reclamation, or other appropriate state and
21 federal agencies in a good faith attempt address Petitioners' outstanding issues.

22 Dated: October 5, 2006

BEST BEST & KRIEGER LLP

23 BY: Michelle Ouellette

24 GREGORY K. WILKINSON
25 MICHELLE OUELLETTE
26 MEGAN K. STARR

27 Attorneys for Respondent and Real Party in
28 Interest CACHUMA OPERATION AND
MAINTENANCE BOARD and CACHUMA
CONSERVATION RELEASE BOARD

RV PUB\MSTARR\721222.3

- 9 -

CONFIDENTIAL MANDATORY SETTLEMENT CONFERENCE STATEMENT

ITEM # 2
PAGE 15

BEST BEST & KRIEGER LLP

A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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(949) 263-2600

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MICHELLE.OUELLETTE@BBKLAW.COM

March 10, 2005

VIA FACSIMILE AND U.S. MAIL

Andrew B. Sabey, Esq.
MORRISON & FOERSTER LLP
101 Ygnacio Valley Road, Suite 450
P.O. Box 8130
Walnut Creek, CA 94596-8130

Re: Cachuma Operation and Maintenance Board, Santa Barbara Superior Court
Case No. SCVSS 118307

Dear Mr. Sabey:

We wanted to follow up with you regarding a couple of issues related to the above-referenced matter. During the February 1, 2005 settlement conference for the above-mentioned case, you indicated that you would be arranging a meeting with NOAA Fisheries and the Federal Bureau of Reclamation. We had offered to participate in this meeting, however, we have not heard anything from you regarding a date for the meeting and we assume that it has not been scheduled. Please let us know as soon as the meeting is scheduled or whether your client remains interested in discussion a potential settlement.

Additionally, we have compiled approximately 14 bankers boxes of documents responsive to both your Public Records Act request dated January 4, 2005 and your request for documents necessary for inclusion in the administrative record for the above-referenced case. As I indicated in our previous discussions, the documents were available on February 25, 2004. You can either view the documents at our offices in Riverside or we can, at your cost, send you copies of the documents. If you decide to view the documents at our offices and make copies yourself, please give us at least 48 hours notice. If you would like us to make copies and send them to you, we will make every effort to comply with that request as soon as possible, however, due to the number of documents involved, please be advised that copying will take approximately 4-5 business days. Pursuant to Government Code section 6253, subdivision (b), we will make the requested copies available to you upon payment of the Board's standard copy charge of \$ 0.25 per page for 8 1/2 x 11 documents, \$ 0.50 per page for 8 1/2 x 14 documents, and \$ 0.75 per for 11x17 documents. Additionally, the Board charges \$ 2.50 per page for certification. As I indicated in my voicemail, the documents consist of approximately 38,000 pages.

EXHIBIT A

ITEM # 2
PAGE 16

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BEST BEST & KRIEGER LLP

Andrew B. Sabey, Esq.
March 10, 2005
Page 2

We look forward to discussing these matters with you.

Sincerely,



Michelle Ouellette
of BEST BEST & KRIEGER LLP

cc: Robert Wignot, General Manager, Cachuma Operation and Maintenance Board
Kate Rees, Manager, Cachuma Conservation Release Board
Greg Wilkinson, esq.

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EXHIBIT A

ITEM # 2
PAGE 17

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1316
CONNECTION TEL 2#752#19259469912
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LAWYERS

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SAN DIEGO
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ORANGE COUNTY
(949) 263-2600

SACRAMENTO
(916) 325-4000

TELECOPIER TRANSMISSION

DATE: March 10, 2005

To:

NAME	FAX NO.	PHONE NO.
Andrew B. Sabey, Esq. Morrison & Foerster, LLP	(925) 946-9912	(925) 295-3300

FROM: Megan K. Starr

RE: Cachuma Operation and Maintenance Board

FILE NO.:	USER No.: 1186	NO. OF PAGES, INCLUDING COVER: 3
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MESSAGE:

[Empty message box]

EXHIBIT A

ITEM # 2
PAGE 18

-----Original Message-----

From: Sabey, Andrew B. [mailto:ASabey@mofo.com]
Sent: Wednesday, January 04, 2006 5:27 PM
To: Michelle Ouellette
Cc: Gregory K. Wilkinson; Megan K. Starr; Hales, R. Chad
Subject: RE: Crawford-Hall COMB case

Michelle

Thanks for the message. We are discussing various issues with our client. Do you have any ideas for a way in which we could settle our dispute with COMB that would obviate the need for further state court litigation on the EIR. As I understand it, COMB has no present intention of proceeding with Hilton Creek impediment removal processes. The problem remains, however, that it certified the EIR and if the EIR stands, other state or local agencies may rely on it (including for example, CalTrans). If there is a way to preserve Nancy Crawford-Hall's claims against the existing EIR without the need to pursue the case against COMB, I would be interested in evaluating the proposal.

I would also be interested to hear if you or Greg have any ideas for a global settlement that would include the federal claims as well. Given that the Bureau has stated that a new passage impediment now exists at or near the confluence of Hilton Creek and the Santa Ynez, and there are no present plans and no authorization to attack that barrier, there would seem to be some opportunity to resolve the pending disputes.

-----Original Message-----

From: Michelle Ouellette [mailto:Michelle.Ouellette@bbklaw.com]
Sent: January 04, 2006 4:11 PM
To: Sabey, Andrew B.
Cc: Gregory K. Wilkinson; Megan K. Starr
Subject: Crawford-Hall COMB case

Hi Andrew. I wanted to follow up with an email to the message that Greg and I left you yesterday. As you know, we have a CMC coming up February 1 and we wanted to talk to you about your client's intentions for that litigation given the recent activity in federal court. Are you planning on pursuing the CEQA case against CCRB/COMB and if so, we need to discuss what you expect to accomplish at the CMC. Can you give us a call or email? Thanks

Michelle Ouellette
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Riverside, CA 92502-1028
(951) 686-1450 Office
(951) 686-3083 Fax

1/9/2006

EXHIBIT B

ITEM # 2
PAGE 19

 IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the we inform you that any U.S. tax advice contained in this communication (or in a attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

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Michelle Ouellette

From: Michelle Ouellette
Sent: Friday, January 06, 2006 4:33 PM
To: 'asabey@mofo.com'
Cc: Gregory K. Wilkinson; 'Kate Rees'; Robert Wignot
Subject: Crawford-Hall/COMB litigation

Andrew

This is our client's response to your e-mail of January 4, 2006. In your e-mail you raise the issue of possible settlement and dismissal of your client's case against COMB. You also raise the idea of a possible global settlement of all litigation that would include not only the case against COMB, but also the case filed by your client against the United States in December, 2005. COMB is certainly willing to entertain a discussion of either possibility. However, we are not willing to further extend the Case Management Conference now set before Judge Hall in Santa Maria on February 1, 2006. The case against COMB has been pending for more than a year and has already cost our client a substantial amount of money in terms of fees and costs. Consequently, we will seek the establishment of a briefing schedule and a hearing on the merits at the CMC, regardless.

Because the CMC is eminent, we would suggest a near-term meeting to discuss the issues related to the settlement concepts raised in your e-mail. For that purpose, we would be willing to make our client available and would work to arrange the participation of the federal parties as well. We expect that you, in turn, would provide your client, in person, for such a meeting. As I see it, there are two possibilities for such a meeting. First, the Bureau is sponsoring the Mid-Pacific Water Users' Conference in Reno from January 18-20, 2006. Kate Rees and Greg Wilkinson will be there representing COMB. We also believe Michael Jackson, Bill Luce and Kirk Rodgers of Reclamation will attend the Conference and we anticipate (but cannot assure you at this time) that they would make themselves available for a settlement meeting that includes your client. We do not know the availability of their counsel for such a meeting. Similarly, we don't know the availability of Craig Wingert or Rod McGinnis of NMFS, but would be willing to enquire about that if your client will attend. Alternatively, we could make our client available for a meeting in Santa Barbara prior to the end of the month. We do not know the availability of Bureau or NMFS personnel for such a meeting but, again, would be willing to enquire if your client agrees to attend.

Let Greg or me know if your client is willing to meet as suggested above. Please understand, however, that our client is not interested in a further extension of the CMC. If your client is interested in the meeting I've suggested, we will work to help make it happen. Regardless, we will ask the Court to set a briefing schedule and set a date for hearing at the CMC. Thank you.

Michelle Ouellette
Best Best & Krieger LLP
3750 University Avenue
Riverside, CA 92501
(951) 686-1450 Office
(951) 686-3083 Fax

-----Original Message-----

From: Sabey, Andrew B. [mailto:ASabey@mof.com]
Sent: Tuesday, January 10, 2006 6:12 PM
To: Michelle Ouellette
Cc: Hales, R. Chad
Subject: RE: Crawford Hall litigation

Thanks Michelle.

My clients are interested in discussing settlement and interested in exploring both global options and COMB specific options to the extent feasible. Unfortunately, the timing does not work for a face-to-face meeting. They are out of state during the times you offered. A conference by phone could be possible either end of the month or into February. We can deal with the record and establish a briefing schedule as necessary and continue to discuss settlement.

-----Original Message-----

From: Michelle Ouellette [mailto:Michelle.Ouellette@bbklaw.com]
Sent: January 10, 2006 11:23 AM
To: Sabey, Andrew B.
Cc: Robert Wignot; Kate Rees; Gregory K. Wilkinson; Megan K. Starr
Subject: Crawford Hall litigation

Hi Andrew. Sorry to push you but if you would like us to facilitate the settlement meeting we suggested in our email from Friday, we need to start lining folks up today. If you are not interested that's fine just please let me know ASAP. Thanks.

Michelle Ouellette
Best Best & Krieger
3750 University Avenue
Riverside, CA 92502-1028
(951) 686-1450 Office
(951) 686-3083 Fax

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Riverside County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Best Best & Krieger LLP, 3750 University Avenue, P.O. Box 1028, Riverside, California 92502. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On October 5, 2006, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**CONFIDENTIAL MANDATORY SETTLEMENT
CONFERENCE STATEMENT**

in a sealed envelope, postage fully paid, addressed as follows:

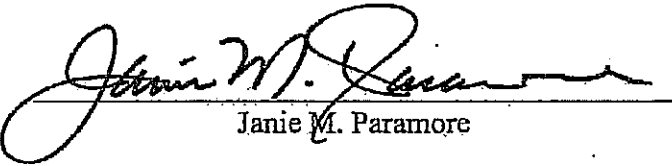
Andrew B. Sabey
Morrison & Foerster LLP
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596-4095

Richard Brenneman
Chern & Brenneman
625 E. Chapel Street
Santa Maria, CA 93454

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 5, 2006, at Riverside, California.


Janie M. Paramore

1 GREGORY K. WILKINSON, Bar No. 54809
MICHELLE OUELLETTE, Bar No. 145191
2 MEGAN K. STARR, Bar No. 217675
BEST BEST & KRIEGER LLP
3 3750 University Avenue
P.O. Box 1028
4 Riverside, California 92502
Telephone: (951) 686-1450
5 Telecopier: (951) 686-3083

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6 Attorneys for Respondent and Real Party in Interest
CACHUMA OPERATION AND MAINTENANCE
7 BOARD and CACHUMA CONSERVATION
RELEASE BOARD
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SANTA BARBARA

LAW OFFICES OF
BEST BEST & KRIEGER LLP
3750 UNIVERSITY AVENUE
P.O. BOX 1028
RIVERSIDE, CALIFORNIA 92502

11
12 NANCY CRAWFORD-HALL, an
individual, and SAN LUCAS RANCH,
13 INC., a California Corporation,

14 Plaintiff,

15 v.

16 CACHUMA OPERATION AND
MAINTENANCE BOARD and DOES 1-
17 20,

18 Respondents.

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25 CACHUMA CONSERVATION
RELEASE BOARD, and DOES 21-50,

26 Real Parties in Interest.
27
28

Case No. 1171135
Hon. Judge: Rodney S. Melville

**SUPPLEMENTAL PROOF OF SERVICE
TO:**

- (1) CONFIDENTIAL SETTLEMENT
CONFERENCE STATEMENT; AND
- (2) REQUEST TO EXCUSE THE BOARD
MEMBERS OF THE CACHUMA
OPERATION AND MAINTENANCE
BOARD AND THE CACHUMA
CONSERVATION RELEASE BOARD
FROM ATTENDING CONFIDENTIAL
MANDATORY SETTLEMENT
CONFERENCE AND AUTHORIZATION
TO SETTLE; [PROPOSED] ORDER

Date: October 16, 2006
Time: 8:30 AM
Dept: SM2

Petition Filed: December 23, 2004

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Riverside County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Best Best & Krieger LLP, 3750 University Avenue, P.O. Box 1028, Riverside, California 92502. On October 5, 2006, I deposited with United Parcel Service, a true and correct copy of the within documents:

- 1) **CONFIDENTIAL MANDATORY SETTLEMENT CONFERENCE STATEMENT; and**
- 2) **REQUEST TO EXCUSE THE BOARD MEMBERS OF THE CACHUMA OPERATION AND MAINTENANCE BOARD AND THE CACHUMA CONSERVATION RELEASE BOARD FROM ATTENDING CONFIDENTIAL MANDATORY SETTLEMENT CONFERENCE AND AUTHORIZATION TO SETTLE; [PROPOSED] ORDER**

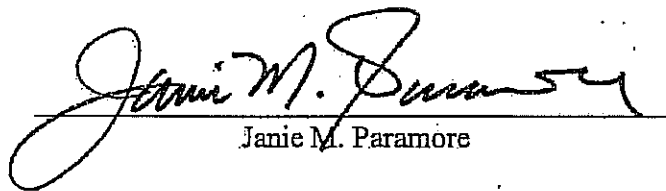
in a sealed envelope, postage fully paid, addressed as follows:

Andrew B. Sabey	Richard Brenneman
Morrison & Foerster LLP	Chern & Brenneman
101 Ygnacio Valley Road, Suite 450	625 E. Chapel Street
Walnut Creek, CA 94596-4095	Santa Maria, CA 93454

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 5, 2006, at Riverside, California.


Janie M. Paramore

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MORRISON | FOERSTER

BEST BEST & KRIEGER
OCT 11 2006
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PLEASE RESPOND TO:
P.O. BOX 8130
WALNUT CREEK
CALIFORNIA 94596-8130

101 YGNACIO VALLEY ROAD
SUITE 450
WALNUT CREEK
CALIFORNIA 94596-4094

TELEPHONE: 925.295.3300
FACSIMILE: 925.946.9912

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WALNUT CREEK, CENTURY CITY
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SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

October 5, 2006

Writer's Direct Contact
925.295.3437
CHales@mofocom

**PRIVILEGED AND CONFIDENTIAL
SETTLEMENT DISCUSSION — EVIDENCE CODE § 1152**

Via Overnight Delivery

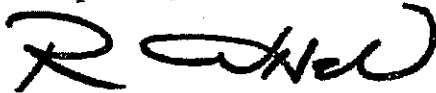
The Honorable Rodney S. Melville
Santa Barbara County Superior Court
Santa Maria Civil Division
Department SM2
312-C East Cook Street
Santa Maria, CA 93454

Re: *Nancy Crawford-Hall, et al. v. Cachuma Operation Maintenance Board*
Santa Barbara County Superior Court Case No. 1171135

Dear Judge Melville:

Pursuant to California Rule of Court 222 and Santa Barbara County Superior Court Local Rule 1305, Petitioners Nancy Crawford-Hall and San Lucas Ranch, Inc. (collectively "Petitioners") hereby submit their settlement statement in advance of the mandatory settlement conference on October 16, 2006.

Respectfully submitted,



R. Chad Hales

Enclosure

cc: Michelle Ouellette, Esq. (via mail)

wc-124469

ITEM # 2
PAGE 27

**PRIVILEGED AND CONFIDENTIAL
SETTLEMENT DISCUSSION
EVIDENCE CODE § 1152**

1 ANDREW B. SABEY (BAR NO. 160416)
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2 SARAH E. OWSOWITZ (BAR NO. 202783)
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3 R. CHAD HALES (BAR NO. 217488)
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5 P.O. Box 8130
Walnut Creek, California 94596-8130
6 Telephone: (925) 295-3300
Facsimile: (925) 946-9912

7 RICHARD BRENNEMAN (BAR NO. 59172)
Email: richard@brennemanlaw.com
8 CHERN & BRENNEMAN
625 East Chapel Street
9 Santa Maria, California 93454
10 Telephone: (805) 922-4553
Facsimile: (805) 928-7262

11 Attorneys for Petitioners
12 NANCY CRAWFORD-HALL and
SAN LUCAS RANCH, INC.
13

14
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SANTA BARBARA

17 NANCY CRAWFORD-HALL, an individual, and
18 SAN LUCAS RANCH, INC., a California
corporation,

19 Petitioners,

20 v.

21 CACHUMA OPERATION AND
22 MAINTENANCE BOARD, and DOES 1-20,

23 Respondents.

24 CACHUMA CONSERVATION RELEASE
25 BOARD, and DOES 21-50,

26 Real Parties in Interest.
27
28

Case No. 1171135

**SETTLEMENT STATEMENT OF
PETITIONERS NANCY
CRAWFORD-HALL AND
SAN LUCAS RANCH, INC.**

(CRC 222; Local Rule 1305)

Date: October 16, 2006
Time: 8:30 a.m.
Dept: SM2

Honorable Rodney S. Melville

1 Pursuant to California Rule of Court 222 and Santa Barbara County Superior Court Local
2 Rule 1305, Petitioners Nancy Crawford-Hall and San Lucas Ranch, Inc. (collectively "Petitioners")
3 hereby submit their settlement statement in advance of the mandatory settlement conference on
4 October 16, 2006.

5 **I. OVERVIEW OF ACTION**

6 Petitioners' action is brought pursuant to the California Environmental Quality Act ("CEQA")
7 and challenges Respondent Cachuma Operation and Maintenance Board's ("COMB") preparation
8 and certification of the Environmental Impact Report for the Fish Management Plan for the Lower
9 Santa Ynez River ("FMP EIR"). The record demonstrates that COMB violated CEQA in its
10 preparation and certification of the FMP EIR and that a writ of mandate must issue setting aside its
11 certification.

12 **A. The State Water Board Is Currently Considering Alternatives to Remedy the**
13 **Decimation of Steelhead Population Caused by Construction of Bradbury Dam**
14 **over Fifty Years Ago**

15 Southern California steelhead trout used to thrive in the Santa Ynez River. Construction of
16 the Bradbury Dam cut off the steelhead's access to the upper reaches of the Santa Ynez River, which
17 they had historically used as spawning and rearing habitat. Without the upper Santa Ynez River as
18 habitat, steelhead populations spiraled into rapid decline.

19 In 1987, the California Sportfishing Protection Alliance filed a complaint with the State Water
20 Board alleging that the Bradbury Dam and associated facilities had illegally impacted steelhead. In
21 1990, the State Water Board, which has permitting authority over water releases from Bradbury Dam
22 and the related facilities, initiated hearings to consider what permit changes should occur in order to
23 protect steelhead and other public trust resources. These hearings are ongoing.

24 In 1997, the National Marine Fisheries Service (now referred to as "NOAA Fisheries") listed
25 the Southern California steelhead as endangered under the federal Endangered Species Act.
26 Thereafter, in August 2003, and in connection with its ongoing hearings, the State Water Board
27 issued for public comment a Draft Environmental Impact Report that analyzes various alternatives for
28 operating Bradbury Dam, each alternative designed to protect water rights and public trust resources,
such as steelhead.

1 **B. COMB Created the Fish Management Plan, Which Proposes Several Low Cost**
2 **Projects Ostensibly Designed to Improve Steelhead Habitat**

3 Respondent Cachuma Operation and Maintenance Board's ("COMB") was formed by several
4 public entities and water districts to operate facilities connected with the Bradbury Dam in order to
5 deliver water for their customers. In 1993, after the State Water Board's 1990 hearing suggested that
6 changes may be imposed on COMB, COMB and others became concerned about the potential impact
7 steelhead would have on their water deliveries. COMB began a "voluntary" effort to investigate
8 fishery resources along the lower (i.e., downstream of Bradbury Dam) Santa Ynez River. The
9 Bureau of Reclamation ("Reclamation"), which operates the Bradbury Dam, joined in this effort,
10 which ultimately led to the creation of the Fish Management Plan for the Lower Santa Ynez River
11 ("FMP"). COMB and Reclamation submitted a Biological Assessment to NOAA Fisheries pursuant
12 to the federal ESA, which was designed to minimize costs associated with implementing measures
13 for mitigating adverse affects on steelhead while preserving options for the maximum amount of
14 water deliveries to consumers. Based on the Biological Assessment, NOAA Fisheries issued a
15 Biological Opinion. The FMP and the Biological Opinion propose the same set of low-cost projects,
16 which are ostensibly designed to mitigate the dam's impact on the declining steelhead population.

17 Several of the projects envisioned in the FMP and Biological Opinion—those involving the
18 amount, timing, and frequency of water releases from Bradbury Dam and related facilities (the
19 "flow" projects)—conflict with those alternatives under consideration by the State Water Board in
20 connection with its ongoing hearings. The remaining "non-flow" projects consist of so-called
21 "enhancements" (i.e., the removal of natural and man-made barriers) to tributaries that feed into the
22 lower Santa Ynez River.

23 Hilton Creek, which runs through Petitioners' property, is one of the affected tributaries that
24 is the subject the proposed non-flow projects. First, the FMP proposed to remove an existing bedrock
25 chute on the Bureau of Reclamation's ("Reclamation") property that prevented steelhead from
26 passing upstream. COMB had consistently proposed to undertake this project. Petitioners then
27 brought the instant lawsuit against COMB alleging CEQA violations. Unbeknownst to Petitioners
28 until it was too late, COMB made arrangements with Reclamation to have Reclamation undertake the

1 project, and it was completed in December 2005. The bedrock chute project is thus no longer at issue
2 in this action. Second, where state Highway 154 crosses over Hilton Creek, a culvert completely
3 blocks any steelhead from passing upstream. The FMP proposes to remove this culvert (the
4 "Highway 154 culvert project") based on COMB's unsupported contention that upper Hilton Creek
5 (upstream of Highway 154) would become habitat for steelhead. Finally, the FMP proposes to build
6 a "channel extension"—i.e., essentially a new streambed—that will run off of lower Hilton Creek and
7 connect with the Santa Ynez River downstream.

8 Back in 2000, COMB attempted to complete the bedrock chute project on lower Hilton Creek
9 and the Highway 154 culvert project without proper environmental review. Petitioner
10 Ms. Crawford-Hall, however, challenged COMB's action, and this Court issued a writ of mandate
11 finding that COMB violated CEQA. (*Crawford Hall v. COMB*, Santa Barbara County Superior
12 Court Case No. 01045423.) Instead of examining the lack of a scientific rationale for pursuing
13 introduction of steelhead into upper Hilton Creek, COMB pressed forward with its projects. COMB
14 prepared the FMP EIR and purported to analyze the impacts of the Highway 154 culvert project and
15 several other projects, including the flow projects that are not in COMB's purview, but rather must be
16 evaluated and approved by the State Water Board. On November 22, 2004, COMB passed
17 Resolution No. 416, certifying the FMP EIR, adopting overriding considerations, a mitigation and
18 monitoring and reporting plan, and approving the Project, with one exception: COMB did not
19 approve the Highway 154 culvert project. COMB has not provided any explanation for not
20 approving the Highway 154 culvert project, even though it certified the EIR's analysis of the impacts
21 of implement this project. Because COMB has certified an EIR for the highway 154 culvert project,
22 it or another public agency could attempt to approve that project at anytime without conducting any
23 additional environmental review.

24 Following COMB's certification, Petitioners brought the instant lawsuit challenging COMB's
25 preparation and certification of the FMP EIR. The parties have fully briefed the issues, and the case
26 is set for hearing on the merits on October 25, 2005, before the Honorable Diana R. Hall.

1 **II. RESPONDENTS' CERTIFICATION OF THE FMP EIR VIOLATED CEQA**

2 The record and the parties' briefing demonstrates that Petitioners have violated CEQA in
3 preparing and certifying the FMP EIR, and that a writ of mandate must issue requiring COMB to
4 de-certify the FMP EIR. Specifically, COMB violated CEQA in the following respects:

5 **A. COMB Violated CEQA by Improperly Acting as the Lead Agency**

6 COMB violated CEQA by improperly acting as the lead agency for environmental review of
7 the FMP's projects. CEQA requires that the public agency principally responsible for carrying out
8 the project be the lead agency. If more than one agency will carry out the project, CEQA designates
9 the agency with the broader governmental powers as the lead agency. If more than one agency
10 qualifies, CEQA designates the lead agency to be the one that acted first.

11 Here, the State Water Board, not COMB, is the proper lead agency. It is undisputed that the
12 State Water Board is principally responsible for—indeed, has exclusive jurisdiction over—the flow
13 projects. The State Water Board is actively considering several alternatives that will determine what
14 the flow projects will be. COMB violated CEQA by purporting to conduct environmental analysis
15 over these projects that are within the State Water Board's exclusive jurisdiction.

16 **B. The FMP EIR's Description of the Environmental Setting Is Inadequate**

17 CEQA requires that an EIR's description of the environmental settlement be sufficiently
18 detailed to allow "an understanding of the significant effects of the proposed project and
19 alternatives." CEQA Guidelines 15125(a). The FMP EIR failed to contain sufficient information
20 about the State Water Board's ongoing hearings to consider changes to Reclamation's permits, which
21 would directly impact the project. Indeed, in the FMP EIR, COMB mischaracterizes the State Water
22 Board's hearings as addressing a "distinctly different" purpose and focus. COMB also failed to
23 disclose that the State Water Board's hearings could result in revisions to the FMP. These failures
24 deprived the public and the decision makers of an understanding of the significant effects of the FMP
25 and how the State Water Board's ongoing hearings could impact the FMP, and thus violated CEQA.
26 *Friends of the Eel River v. Sonoma County Water Agency*, 108 Cal. App. 4th 859, 874-75 (2003).

1 **C. The FMP EIR's Project Description Is Confusing and Inconsistent**

2 CEQA requires that an EIR's description of the project be accurate, stable and finite and
3 include foreseeable modifications to the project. *County of Inyo v. City of Los Angeles*, 71 Cal.
4 App. 3d 185, 193 (1977); CEQA Guidelines § 15124. The FMP EIR violated these provisions by
5 using a confusing and inconsistent description of the project's activities. Specifically, the FMP EIR's
6 description of surcharging Cachuma Reservoir, and how surcharging will be implemented, is
7 contradictory and unclear. In some places, the FMP EIR states that COMB will adopt an interim
8 surcharge of 1.8 feet, whereas elsewhere it states that COMB will not implement the interim
9 surcharge.¹ COMB did not even attempt to defend this patent deficiency in its briefing to the Court.

10 The FMP EIR's discussion of water releases is also unclear in that in some places, it claims
11 that the proposed water releases can be accomplished under existing permits, whereas elsewhere it
12 states that the proposed water releases are higher than the State Water Board's current water rights
13 orders permit. Again, COMB failed to respond to this deficiency in its briefing. The FMP EIR also
14 claims that studying fish passage over the dam was part of the project, but the FMP EIR's section
15 defining the project fails to list this feasibility study as part of the project. Finally, the FMP EIR
16 failed adequately to discuss the State Water Board's ongoing hearings and how they are likely to
17 impact the FMP EIR's project's definition.

18 **D. The FMP EIR's Cumulative Impacts Analysis Is Grossly Deficient Under CEQA**

19 CEQA requires an EIR to consider "past, present and probable future projects producing
20 related or cumulative impacts." Guidelines § 15130(b)(1)(A). The FMP EIR failed to comply with
21 CEQA by refusing to analyze the cumulative impacts of the State Water Board's ongoing hearings
22 that their potential for radically redefining the project analyzed by the FMP EIR. COMB wrongly
23 asserted that no cumulative impacts analysis of the State Water Board's proceedings was possible
24 because "there is no available information on what type of action, if any, [SWB] may take...." In
25 fact, the State Water Board's draft EIR contained a plentiful and detailed description of the proposed

26 _____
27 ¹ And to further confuse the matter, COMB has apparently fully surcharged Cachuma
28 Reservoir without adopting a 1.8 interim surcharge, which further demonstrates COMB's inconsistent
and contradictory statements.

1 alternatives it was considering regarding water releases from Bradbury Dam. CEQA required COMB
2 to discuss and analyze the cumulative impacts of these alternatives instead of pretending that the
3 information was too scant to permit analysis.

4 **E. The Record Contains No Substantial Evidence That Upper Hilton Creek Is**
5 **Suitable Habitat for Steelhead**

6 Finally, the FMP EIR fails to comply with CEQA's requirement that its conclusions and
7 findings be supported by substantial evidence. Specifically, the FMP EIR concluded that upper
8 Hilton Creek contains habitat suitable for steelhead, which, according to COMB, justifies the
9 Highway 154 culvert project. But the record contains absolutely no evidence that upper Hilton Creek
10 has sufficient water flows to support steelhead, or that its creek terrain contains suitable spawning
11 and rearing habitat for steelhead. To the contrary, the record contains un rebutted evidence from a
12 fish biologist, who conducted multiple surveys on upper Hilton Creek during various seasons, that
13 upper Hilton Creek does not have adequate water flows or suitable spawning or rearing habitat for
14 steelhead. The biologist concluded that removing the Highway 154 culvert, and thus arguably
15 allowing steelhead to make their way into the upper reaches of Hilton Creek, would result in
16 steelhead death and amount to "trout murder." In their opposition brief, COMB failed to point to any
17 evidence in the record rebutting these conclusions, and instead relied on evidence of the artificial
18 conditions created by a supplemental watering system in lower Hilton Creek that does not and cannot
19 exist in upper Hilton Creek. In short, there is simply no evidence whatsoever that upper Hilton
20 Creek, upstream of the Highway 154 culvert, can support steelhead. COMB failed to comply with
21 CEQA in concluding otherwise.

22 **III. PETITIONERS' OFFER OF SETTLEMENT**

23 The foregoing errors demonstrate that COMB's certification of the FMP EIR violated CEQA
24 and that a writ of mandate should issue requiring COMB to de-certify the FMP EIR in its entirety.
25 COMB should be required to follow the State Water Board's lead as opposed to attempting jump
26 ahead of the State agency specifically charged with responsibility for overseeing the project.
27 However, in the interest of compromise, Petitioners would be willing to discuss a settlement of the
28 lawsuit on the following terms:

1 1. COMB adopts a resolution decertifying the FMP EIR as it pertains to the Highway
2 154 culvert project and the Hilton Creek Channel Extension project.

3 2. COMB agrees that neither it nor any of its agents or representatives will attempt to
4 conduct, or will conduct, monitoring of Hilton Creek on Petitioners' property, including, without
5 limitation, that portion of Hilton Creek that underpasses Highway 154.

6 3. COMB agrees to immediately cease monitoring of Santa Ynez River where it
7 underpasses Highway 154 (which monitoring activity conflicts with Petitioners' use of Highway 154
8 underpass for cattle movement and other farming operations), and that neither it nor any of its agents
9 or representatives will attempt to conduct, or will conduct further monitoring on Santa Ynez River.

10 4. COMB agrees that it will not propose, pursue, finance or otherwise support any
11 additional projects, alterations, or modifications to or on Hilton Creek, either on its own or in
12 connection with any ongoing or future proceeding or documents, including, without limitation, the
13 Fish Management Plan for the Lower Santa Ynez River or the Bureau of Reclamation's
14 reconsultation with NOAA Fisheries regarding the Southern California steelhead.

15 5. COMB agrees that it will not pursue any other projects, monitoring or otherwise, that
16 will impact, or potentially could impact, San Lucas Ranch's operations or water supplies.

17 6. The Parties stipulate to entry of judgment incorporating the above terms and
18 dismissing the lawsuit with prejudice subject to the Court's ongoing jurisdiction to enforce the
19 settlement agreement.

20 COMB has not made any settlement offer despite Petitioners' repeated requests that COMB
21 do so.

22 Dated: October 5, 2006

MORRISON & FOERSTER LLP

23
24 By: 

R. Chad Hales

25 Attorneys for Petitioners
26 NANCY CRAWFORD-HALL and
27 SAN LUCAS RANCH, INC.
28

1. **PROOF OF SERVICE BY MAIL**
2. (CCP 1013a, 2015.5)

3 I am employed with the law firm of Morrison & Foerster LLP, whose address is 101 Ygnacio
4 Valley Road, Suite 450, Walnut Creek, California, 94596; I am not a party to the within cause; I am
5 over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for
6 collection and processing of correspondence for mailing with the United States Postal Service and
7 know that in the ordinary course of Morrison & Foerster's business practice the document described
8 below will be deposited with the United States Postal Service on the same date that it is placed at
9 Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

10 I further declare that on the date hereof I served a copy of:

11 **SETTLEMENT STATEMENT OF PETITIONERS**
12 **NANCY CRAWFORD-HALL AND SAN LUCAS RANCH, INC.**

13 on the following by placing a true copy thereof enclosed in a sealed envelope addressed as
14 follows for collection and mailing at Morrison & Foerster LLP, 101 Ygnacio Valley Road,
15 Suite 450, Walnut Creek, California 94596-4095, in accordance with Morrison & Foerster's
16 ordinary business practices:
17

18 ***Counsel for Respondent Cachuma Operation and Maintenance Board and***
19 ***Real Parties in Interest Cachuma Conservation Release Board***

20 Michelle Ouellette, Esq.
21 Best Best & Krieger LLP
22 3750 University Avenue
23 P.O. Box 1028
24 Riverside, CA 92502
25

26 I declare under penalty of perjury under the laws of the State of California that the above is
27 true and correct.

28 Executed at Walnut Creek, California, on October 5, 2006.

Margaret D. Rogers
(typed)

(signature)

MINUTES OF A REGULAR MEETING
of the
CACHUMA OPERATION & MAINTENANCE BOARD
held at the
Cachuma Operation & Maintenance Board Office
3301 Laurel Canyon Road, Santa Barbara, CA
Monday, September 25, 2006

1. Call to Order, Roll Call

The meeting was called to order at 3:50 p.m. by President Chuck Evans, who chaired the meeting. Those in attendance were:

Directors present:

C. Charles Evans	Goleta Water District
Robert Lieberknecht	Carpinteria Valley Water District
Matt Loudon	SYR Water Conservation Dist., ID#1
Das Williams	City of Santa Barbara
Robert Puddicombe	Montecito Water District

Others present:

Kate Rees	William Hair
Brett Gray	Steve Mack
Gary Kvistad	Charles Hamilton
Bob Roebuck	Janet Gingras
Gary McFarland	

2. Public Comment

There were no comments from the public.

3. Consent Agenda

- a. **Minutes:** August 28, 2006 Regular Board Meeting
- b. **Investment of Funds**
 - Financial Report
 - Investment Report
- c. **Payment of Claims**

Director Williams moved to approve the Consent Agenda, seconded by Director Lieberknecht. Motion carried, 7/0/0.

4. Cachuma Reservoir Current Conditions

Date 09/25/2006

Lake elevation

747.64 feet

ITEM # 4a

PAGE 1

Storage	180,967 acre feet
Rain (for the month to date)	0.00 inches
Rain YTD (for the season to date)	0.00 inches
Fish Release-Hilton Creek	19.9 acre feet per day
Month to Date Fish Release	496.7 acre feet
Month to Date Spill	0.00 acre feet

Ms Rees reported that the Lauro Safety of Dams (SOD) seismic retrofit project is wrapping up except for the actuator for the emergency shut-off valve in the tunnel. The repair to San Roque Road has been completed and Reclamation has entered into a new contract with URS for the area re-vegetation which will occur throughout the next year. The total construction cost to date is \$5,337,646. The total project cost should be about \$7.1 million of which the Member Units would repay 15% of that cost.

The Bradbury Dam SOD contract has neared completion; the telemetry for the Hilton Creek watering system was one of the last items to be completed and should be finished by the end of October 2006. Reclamation has received a cost for paving the road down to Hilton Creek for approximately \$200,000. The total project cost for the Bradbury Dam SOD has been estimated at \$48 million once completed. When the final cost has been established COMB will renegotiate the Repayment Agreement with Reclamation for the total cost for the Bradbury Dam SOD work of which the Member Units would pay 15% of that cost.

5. Proposed Amendment to Renewal Master Contract for Interest Rate Adjustment

Ms Rees highlighted the discussion from the August 28, 2006 Board meeting regarding the status of changing the interest rate for M&I water in the Renewal Master Contract. The Board had directed Counsel Bill Hair to write a letter to Reclamation requesting that the Cachuma Project interest rate should be based on the Friant contracts. He was also asked to draft an amendment to the Cachuma Renewal Master Contract to that effect. Mr. Hair's draft letter was included in the board packet; however he felt that an amendment was not appropriate at this time. Before drafting a proposed amendment to the Cachuma contract, it was his opinion that the matter needed further investigation and direction from the Board. The letter Mr. Hair drafted was a follow up to a letter former COMB General Manager Bob Wignot sent to Reclamation in March 2005. COMB understood that Reclamation had negotiated long term renewal contracts for at least 2 of the central valley projects. Both of these contracts provided for a lower M&I interest rate than the 20 year treasury constant maturity rate identified in the Cachuma Renewal Master Contract. Because another project had successfully negotiated a lower interest rate in its renewal contract with Reclamation, COMB's request to Reclamation would be to reopen negotiations to change the Cachuma interest rate to the M&I interest rate for the Friant contracts.

Director Loudon moved that the letter requesting a change in interest rates specified for M&I Capitol Costs be sent to Michael Jackson, Area Manager South Central California Area Office Bureau of Reclamation, seconded by Director Lieberknecht, passed 7/0/0.

6. Consideration of Renegotiation of Lauro Dam SOD Repayment Agreement

Ms Rees highlighted the background information on the Lauro Dam SOD Repayment Agreement. Reclamation is looking to renegotiate the cost allocation between Irrigation use and M&I use. When the Lauro SOD Repayment Agreement was negotiated, the repayment obligation was allocated 50.72% to Irrigation uses and 49.28% to M&I uses. The final contract language was approved by the COMB Board on March 27, 2006. However, to date, the final Lauro SOD Agreement has not been forwarded by the Regional Office, so has not been signed by COMB or Reclamation. Reclamation is now of the opinion that the Lauro SOD Agreement needs to be updated by changing the repayment allocations to more accurately reflect how Cachuma water is being used and will be used throughout the term of the contract. The Member Unit managers requested that the financial impact of Reclamation's suggested change be evaluated, which was included in the board packet. Staff has not yet reached a recommendation regarding re-opening contract negotiations but will continue to work with the Member Unit managers to evaluate the issues and provide a recommendation at the October 23, 2006 regular Board meeting. Ms Rees recommended that the Board authorize her to meet with Kirk Rodgers to request that Reclamation stand by its original basis of negotiation of less than a year ago indicating that agreement has been reached and urging COMB's approval of the existing Repayment Agreement. The Board was in agreement that Ms Rees should meet with Mr. Rodgers.

7. Update on Lauro Debris Basin Rehabilitation Project

In an effort to reduce the cost of the Lauro Debris Basin Rehabilitation Project, Brett Gray reported meeting with Vern Williams of Flowers Engineering on September 7, 2006 to review the original proposed project design. Mr. Gray discussed with Mr. Williams several components of the project that might be modified to cut costs. When staff receives the re-design of the project from Mr. Williams, the Ad Hoc Committee of Director Evans, Director Williams, Steve Mack and Kevin Walsh will review the design with staff prior to presenting it to the Board at the October 23rd meeting.

8. Selection of Consultant for Preparation of an EIR for the South Coast Conduit Pipeline Project

Brett Gray reported that three proposals to prepare and EIR for the 2nd Pipeline Project on the Upper Reach of the South Coast Conduit had been submitted to COMB. The proposals were reviewed by a selection committee and a Quality Based Selection process was used to review and evaluate the proposals. Science Applications International Corporation (SAIC) was the preferred choice and staff recommended that the Board approve the proposal from SAIC at a cost of \$115,567.

Director Williams moved to approve that SAIC be hired to prepare an EIR for the 2nd Pipeline Project, seconded by Director Lieberknecht. Passed 6/1/0, Director Loudon abstained.

9. Status of MOU Approval for Development of Integrated Regional Water Management Plan

Ms Rees reported on the status of the IRWMP MOU during the CCRB meeting Item# 7, there was nothing further to discuss.

10. Meeting Schedule

October 2, 2006 Joint Special COMB/ Board Meeting at 2:00-5:00 P.M., at COMB Office

October 23, 2006 Regular Board Meeting following CCRB at 2:15 p.m., COMB Office

11. COMB Adjournment

There being no further business, the meeting was adjourned at 4:34 p.m.

Respectfully submitted,

Kate Rees, Secretary of the Board

APPROVED:

Chuck Evans, President

sec.comb/boardminutes/09.25.06COMB Minutes.doc

Approved _____
Unapproved _____ ✓

ITEM # 4a
PAGE 4

comb2
Balance Sheet
 As of September 30, 2006

Sep 30, 06

ASSETS

Current Assets

Checking/Savings

1050 · GENERAL FUND	128,903.10
1100 · REVOLVING FUND	10,009.74
TRUST FUNDS	
1220 · RENEWAL FUND	29,644.13
1210 · WARREN ACT TRUST FUND	12,613.68

Total TRUST FUNDS 42,257.81

Total Checking/Savings 181,170.65

Other Current Assets

1010 · PETTY CASH	400.00
1200 · LAIF	935,868.37
1300 · DUE FROM CCRB	47,255.94
1302 · ASSESSMENTS RECEIVABLE-CARP	100,480.09
1303 · SOD Act Assessments Receivable	49,902.00
1400 · PREPAID INSURANCE	11,696.72
1401 · W/C INSURANCE DEPOSIT	3,906.00

Total Other Current Assets 1,149,509.12

Total Current Assets 1,330,679.77

Fixed Assets

1500 · VEHICLES	241,943.65
1505 · OFFICE FURN & EQUIPMENT	102,547.22
1510 · TRAILERS	97,803.34
1515 · FIELD EQUIPMENT	305,473.34
1525 · PAVING	22,350.00
1550 · ACCUMULATED DEPRECIATION	-527,362.02

Total Fixed Assets 242,755.53

Other Assets

1910 · LT SOD Act Assess Receivable 5,397,341.07

Total Other Assets 5,397,341.07

TOTAL ASSETS 6,970,776.37

LIABILITIES & EQUITY

Liabilities

Current Liabilities

Accounts Payable

2200 · ACCOUNTS PAYABLE 215,859.66

Total Accounts Payable 215,859.66

Other Current Liabilities

2550 · VACATION/SICK 61,815.80

2561 · BRADBURY DAM SOD ACT -38,204.52

2590 · DEFERRED REVENUE 42,257.81

Payroll-DepPrm Admin 40.00

Payroll-DepPrm Ops 4.62

Total Other Current Liabilities 65,913.71

Total Current Liabilities 281,773.37

Long Term Liabilities

2600 · Lease Obligation Payable 29,810.84

2601 · Note Payable SBB&T 100,480.09

2602 · SOD Act Liability-Long Term 5,397,341.07

Total Long Term Liabilities 5,527,632.00

Total Liabilities 5,809,405.37

Equity

3000 · Opening Bal Equity

3:06 PM

10/17/06

Accrual Basis

comb2

Balance Sheet

As of September 30, 2006

	<u>Sep 30, 06</u>
3901 · Retained Earnings	785,863.52
Net Income	<u>375,506.53</u>
Total Equity	<u>1,161,371.00</u>
TOTAL LIABILITIES & EQUITY	<u><u>6,970,776.37</u></u>

12:51 PM
 10/17/06
 Accrual Basis

comb2
Profit & Loss Budget vs. Actual
 July through September 2006

	Jul - Sep 06	Budget	\$ Over Budget	% of Budget
TOTAL				
Income				
3000 REVENUE	806,910.50			
3001 · O&M Budget	1,039.33			
3003 · Assessment Revenue-Carp	7,071.11			
3010 · Interest Income	0.00			
3020 · Misc. Income				
Total 3000 REVENUE	815,020.94			
Total Income	815,020.94			
Gross Profit	815,020.94			
Expense				
3100 LABOR				
3150 · Health & Workers Comp	32,423.57	141,391.00	-108,967.43	22.9%
3155 · PERS	15,003.98	69,869.00	-54,865.02	21.5%
3160 · Payroll Comp FICA Ops	6,436.32	30,449.70	-24,013.38	21.1%

12:50 PM
10/17/06
Accrual Basis

comb2
Profit & Loss Budget vs. Actual
July through September 2006

	Jul - Sep 06	Budget	\$ Over Budget	% of Budget
3165 - Payroll Comp MCARE Ops	1,505.29	7,121.30	-5,616.01	21.1%
3100 LABOR - Other	0.00	456,501.00	-456,501.00	0.0%
Total 3100 LABOR	149,215.70	705,332.00	-556,116.30	21.2%
3200 VEH & EQUIPMENT				
3201 - Vehicle/Equip Mtce	5,831.85	30,000.00	-24,168.15	19.4%
3202 - Fixed Capital	1,312.03	50,000.00	-48,687.97	2.6%
3203 - Equipment Rental	4,456.37	23,000.00	-18,543.63	19.4%
3204 - Miscellaneous	2,187.36	15,000.00	-12,812.64	14.6%
Total 3200 VEH & EQUIPMENT	13,787.61	118,000.00	-104,212.39	11.7%
3300 - CONTRACT LABOR				
3301 - Conduit, Meter, Valve & Misc	510.85	10,000.00	-9,489.15	5.1%
3302 - Buildings & Roads	9,750.18	15,000.00	-5,249.82	65.0%
3303 - Reservoirs	11,493.33	50,000.00	-38,506.67	23.0%
3304 - Engineering, Misc Services	0.00	20,000.00	-20,000.00	0.0%
Total 3300 - CONTRACT LABOR	21,754.36	95,000.00	-73,245.64	22.9%
3400 - MATERIALS & SUPPLIES				
3401 - Conduit, Meter, Valve & Misc	709.21	20,000.00	-19,290.79	3.5%
3402 - Buildings & Roads	4,353.29	20,000.00	-15,646.71	21.8%
3403 - Reservoirs	21.10	10,000.00	-9,978.90	0.2%
Total 3400 - MATERIALS & SUPPLIES	5,083.60	50,000.00	-44,916.40	10.2%
3500 - OTHER EXPENSES				
3501 - Utilities	970.60	6,300.00	-5,329.40	15.4%
3502 - Uniforms	2,416.21	6,500.00	-4,083.79	37.2%
3503 - Communications	3,101.03	18,190.00	-15,088.97	17.0%
3504 - USA & Other Services	777.63	4,000.00	-3,222.37	19.4%
3505 - Miscellaneous	1,055.14	6,000.00	-4,944.86	17.6%
3506 - Training	383.37	7,000.00	-6,616.63	5.5%
Total 3500 - OTHER EXPENSES	8,703.98	47,990.00	-39,286.02	18.1%
4999 - GENERAL & ADMINISTRATIVE				
5000 - Director Fees	274.33	856.00	-581.67	32.0%
5001 - Director Mileage	3,200.00	9,984.00	-6,784.00	32.1%
Total 5000 - Director Fees	3,474.33	10,840.00	-7,365.67	32.1%
5100 - Legal	9,880.00	72,000.00	-62,120.00	13.7%
5101-1 - Audit	5,752.00	20,000.00	-14,248.00	28.8%
5150 - Unemployment Tax	0.00	6,500.00	-6,500.00	0.0%
5200 - Liability Insurance	36,713.00	38,000.00	-1,287.00	96.6%
5201 - Health & Workers Comp	14,827.67	47,399.00	-32,571.33	31.3%
5250 - PERS	6,510.97	28,632.00	-22,121.03	22.7%
5260 - Comp FICA Admin	2,705.92	12,156.05	-9,450.13	22.3%

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10/17/06

Accrual Basis

comb2
Profit & Loss Budget vs. Actual
 July through September 2006

TOTAL

	Jul - Sep 06	Budget	\$ Over Budget	% of Budget
5265 · Comp MCARE Admin	632.84	2,842.95	-2,210.11	22.3%
5300 · Manager Salary	9,530.82	42,993.00	-33,462.18	22.2%
5301 · Administrative Manager	17,577.84	77,615.00	-60,037.16	22.6%
5306 · Administrative Assistant	11,870.88	51,441.00	-39,570.12	23.1%
5310 · Postage/Office Exp	1,346.47	9,000.00	-7,653.53	15.0%
5311 · Office Equip/Leases	1,510.22	5,750.00	-4,239.78	26.3%
5312 · Misc Admin Expenses	2,709.00	10,000.00	-7,291.00	27.1%
5313 · Communications	770.18	5,000.00	-4,229.82	15.4%
5314 · Utilities	1,880.61	5,300.00	-3,419.39	35.5%
5315 · Membership Dues	346.50	6,150.00	-5,803.50	5.6%
5316 · Admin Fixed Assets	0.00	7,000.00	-7,000.00	0.0%
5320 · Admin Facilitator Consultant	6,270.00	20,000.00	-13,730.00	31.4%
5325 · Emp Training/Subscriptions	899.47	4,500.00	-3,600.53	20.0%
5330 · Admin Travel/Conferences	855.90	5,000.00	-4,144.10	17.1%
5331 · Public Information	37.35	2,000.00	-1,962.65	1.9%
5332 · Transportation	68.20	1,200.00	-1,131.80	5.7%
Total 4999 · GENERAL & ADMINISTRATIVE	136,170.17	491,319.00	-355,148.83	27.7%
5510 · Integrated Reg. Water Mgt Plan	0.00	10,000.00	-10,000.00	0.0%
6000 · SPECIAL PROJECTS				
6062 · SCADA	6,251.04	60,000.00	-53,748.96	10.4%
6090-1 · COMB Bldg/Grounds Repair	6,092.85	50,000.00	-43,907.15	12.2%
6092 · SCC Improv Plan & Design	16,675.04	300,000.00	-283,324.96	5.6%
6095 · SCC Valve & Cntrl Sta Rehab	26,852.52	600,000.00	-573,147.48	4.5%
6096 · SCC Structure Rehabilitation	7,639.42	400,000.00	-392,360.58	1.9%
6097 · GIS and Mapping	4,344.60	100,000.00	-95,655.40	4.3%
Total 6000 · SPECIAL PROJECTS	67,855.47	1,510,000.00	-1,442,144.53	4.5%
6400 · STORM DAMAGE				
6401 · Storm Damage 2005	0.00	100,000.00	-100,000.00	0.0%
Total 6400 · STORM DAMAGE	0.00	100,000.00	-100,000.00	0.0%
7000 · LEGAL & LITIGATION				
7002 · Spec Counsel-FMP-BO EIS/R	36,042.08	100,000.00	-63,957.92	36.0%
Total 7000 · LEGAL & LITIGATION	36,042.08	100,000.00	-63,957.92	36.0%
7006 · INTEREST EXPENSE	901.54			
PAYROLL				
Gross	0.08			
Gross-CCRB	-0.18			
Total PAYROLL	-0.10			
Total Expense	439,514.41	3,227,641.00	-2,788,126.59	13.6%
Net Income	375,506.53	-3,227,641.00	3,603,147.53	-11.6%

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Local Agency Investment Fund
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CACHUMA O&M BOARD



September, 2006 Statement

CACHUMA OPERATION AND MAINTENANCE BOARD

Attn: GENERAL MANAGER

3301 LAUREL CANYON ROAD

SANTA BARBARA CA 93105-2017

Account Number : 70-42-001

Transactions

Effective Date	Transaction Date	Transaction Type	Confirmation Number	Authorized Caller	Amount
09-12-2006	09-11-2006	RW	1089726	KATHLEEN REES	- 50,000.00

Account Summary

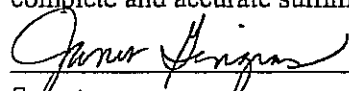
Total Deposit :	0.00	Beginning Balance :	985,868.37
Total Withdrawal :	- 50,000.00	Ending Balance :	935,868.37

MEMO TO: Board of Directors
 Cachuma Operation & Maintenance Board

FROM: Kathleen Rees, Secretary

SUBJECT: COMB INVESTMENT POLICY

The above statement of investment activity for the month of September, 2006, complies with legal requirements for investment policy of government agencies, AB 1073. I hereby certify that it constitutes a complete and accurate summary of all LAIF investments of this agency for the period indicated.


 Secretary

ITEM # 46PAGE 6

P.O. BOX 1098
 NORTHRIDGE, CA 91328-1098

This Statement Covers

 From: 09/01/06
 Through: 09/30/06

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 CACHUMA OPERATION AND MAINTENANCE BOARD
 3301 LAUREL CANYON RD
 SANTA BARBARA CA 93105-2017

169525



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Your Guaranteed Great Rate Money Market Detail Information

CACHUMA OPERATION AND MAINTENANCE BOARD
Account Number: 871-849343-4
Washington Mutual Bank, FA

Reduce your stress when the unexpected happens. First Protector pays your monthly mortgage payment when a disaster occurs, such as a flood, fire, tornado, or hurricane. For information about how to protect your home call (800) 349-9756 or go to www.disastercoverage.com. OFFER #DDA275055U8

Your Account at a Glance

Beginning Balance	\$5,054.48	Interest Earned	\$5.15
Checks Paid	\$0.00	Annual Percentage Yield Earned	1.25%
Other Withdrawals	\$0.00	YTD Interest Paid	\$33.23
Deposits	+\$5.15	YTD Interest Withheld	\$0.00
Ending Balance	\$5,059.63		

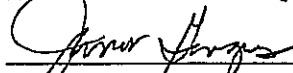
Date	Description	Withdrawals (-)	Deposits (+)
09/29	Interest Payment		\$5.15

MEMO TO: Board of Directors
 Cachuma Operation & Maintenance Board

FROM: Kathleen Rees, Secretary

SUBJECT: COMB INVESTMENT POLICY

The above statement of investment activity for the month of September, 2006, complies with legal requirements for investment policy of government agencies, AB 1073. I hereby certify that it constitutes a complete and accurate summary of all Washington Mutual Bank investments of this agency for the period indicated.


 Secretary

ITEM # 46
 PAGE 7

P.O. BOX 1098
 NORTHRIDGE, CA 91328-1098

This Statement Covers

 From: 09/01/06
 Through: 09/30/06

 CACHUMA OPERATION AND MAINTENANCE BOARD
 TRUST FUND
 3301 LAUREL CANYON RD
 SANTA BARBARA CA 93105-2017

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Your Guaranteed Great Rate Money Market Detail Information

**CACHUMA OPERATION AND MAINTENANCE BOARD
 TRUST FUND**
**Account Number: 871-849358-3
 Washington Mutual Bank, FA**

Reduce your stress when the unexpected happens. First Protector pays your monthly mortgage payment when a disaster occurs, such as a flood, fire, tornado, or hurricane. For information about how to protect your home call (800) 349-9756 or go to www.disastercoverage.com. OFFER #DDA275055U8

Your Account at a Glance

Beginning Balance	\$12,595.67	Interest Earned	\$18.01
Checks Paid	\$0.00	Annual Percentage Yield Earned	1.75%
Other Withdrawals	\$0.00	YTD Interest Paid	\$360.86
Deposits	+\$18.01	YTD Interest Withheld	\$0.00
Ending Balance	\$12,613.68		

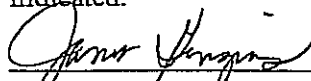
Date	Description	Withdrawals (-)	Deposits (+)
09/29	Interest Payment		\$18.01

MEMO TO: Board of Directors
 Cachuma Operation & Maintenance Board

FROM: Kathleen Rees, Secretary

SUBJECT: COMB INVESTMENT POLICY

The above statement of investment activity for the month of September, 2006, complies with legal requirements for investment policy of government agencies, AB 1073. I hereby certify that it constitutes a complete and accurate summary of all Washington Mutual Bank investments of this agency for the period indicated.


 Secretary

ITEM # 46
 PAGE 8

Payment of Claims

As of September 30, 2006

Date	Num	Name	Memo	Split	Amount
1050 · GENERAL FUND					
9/1/2006	15360	COMB - Revolving Fund	Sep 8 & 22, 2006 payrolls/taxes	2200 · ACCO...	-93,002.16
9/1/2006	15361	ACWA Services Corporation ...	Sep EAP	2200 · ACCO...	-47.46
9/1/2006	15362	Cedant Web Hosting		2200 · ACCO...	-19.94
9/1/2006	15363	Cox Communications	Business Internet 8/18-9/17/06	2200 · ACCO...	-199.00
9/1/2006	15364	Nextel Communications	Cellular 7/19-8/18/06	2200 · ACCO...	-317.39
9/1/2006	15365	PG&E		2200 · ACCO...	-195.08
9/1/2006	15366	Platinum Plus For Business		2200 · ACCO...	-2,125.04
9/1/2006	15367	Platinum Plus For Business	JG-vacuum for ofc Ending #4184	2200 · ACCO...	-269.36
9/1/2006	15368	Platinum Plus For Business		2200 · ACCO...	-359.98
9/11/2006	15369	Squidly's Car Wash	Vehicle wash/mtce	2200 · ACCO...	-80.00
9/12/2006	15370	A-OK Mower Shops, Inc.		2200 · ACCO...	-152.87
9/12/2006	15371	Acom Landscape Managem...	Monthly mtce	2200 · ACCO...	-239.70
9/12/2006	15372	ACWA Services Corp. (ASC)	Cov period 10/1-11/1/06	2200 · ACCO...	-8,843.64
9/12/2006	15373	AT&T	Aug 27, 2006 statement	2200 · ACCO...	-154.89
9/12/2006	15374	Best, Best & Krieger, LLP		2200 · ACCO...	-36,042.08
9/12/2006	15375	Boyle Engineering Corp.		2200 · ACCO...	-11,615.57
9/12/2006	15376	Butera's		2200 · ACCO...	-88.53
9/12/2006	15377	C. Charles Evans	8/28 Reg mtg-8/2 Spec mtg	2200 · ACCO...	-264.90
9/12/2006	15378	Caterpillar Financial Services...	Backhoe lease Contract #001-02586...	2200 · ACCO...	-1,294.06
9/12/2006	15379	Challenge Asphalt	Lauro yard PO#06-07-02	2200 · ACCO...	-6,200.00
9/12/2006	15380	CIO Solutions, Inc.	Updates/wireless print server/new P...	2200 · ACCO...	-503.75
9/12/2006	15381	City of SB-Refuse		2200 · ACCO...	-155.74
9/12/2006	15382	COMB-Petty Cash	Replenish petty cash	2200 · ACCO...	-99.52
9/12/2006	15383	Culligan Water	RO system Sep	2200 · ACCO...	-20.95
9/12/2006	15384	D & J Trucking Co., Inc.		2200 · ACCO...	-396.00
9/12/2006	15385	Das Williams	8/28 Reg mtg-8/2 Spec mtg	2200 · ACCO...	-263.38
9/12/2006	15386	ECHO Communications	Answering service	2200 · ACCO...	-54.20
9/12/2006	15387	Employment Development D...	Unemployment-2nd qtr 2006 M.Mason	2200 · ACCO...	-1,540.00
9/12/2006	15388	Famcon Pipe & Supply	Flanges PO#8634	2200 · ACCO...	-1,627.03
9/12/2006	15389	Fed Ex Kinko's, Inc.		2200 · ACCO...	-157.70
9/12/2006	15390	Federal Express	CCRB Mailings	2200 · ACCO...	-24.76
9/12/2006	15391	FGL Environmental	Hilton Creek samples	2200 · ACCO...	-108.00
9/12/2006	15392	Fleet Fueling	Fuel/fuel cards	2200 · ACCO...	-1,878.21
9/12/2006	15393	Flowers & Associates, Inc.	Jul chrgs Lauro Res Rd mtce improv ...	2200 · ACCO...	-5,259.28
9/12/2006	15394	GE Capital		2200 · ACCO...	-569.85
9/12/2006	15395	Graham Chevrolet-Cadillac	Check engine warning lght '00 Chev	2200 · ACCO...	-95.00
9/12/2006	15396	Graybar Electric Company, I...	Block/plugs	2200 · ACCO...	-34.94
9/12/2006	15397	Home Depot Credit Services		2200 · ACCO...	-354.48
9/12/2006	15398	J&C Services	8/18,25 office cleaning	2200 · ACCO...	-250.00
9/12/2006	15399	Jan Abel	8/28 Reg mtg-8/2 Spec mtg	2200 · ACCO...	-273.80
9/12/2006	15400	Lash Construction, Inc.	Dump fees-Lauro yard	2200 · ACCO...	-55.00
9/12/2006	15401	Matt Loudon	8/28 Reg mtg-8/2 Spec mtg	2200 · ACCO...	-306.47
9/12/2006	15402	McCormix Corp.	Diesel fuel	2200 · ACCO...	-165.50
9/12/2006	15403	McMaster-Carr Supply Co.		2200 · ACCO...	-1,064.01
9/12/2006	15404	Milpas Rental	Trencher	2200 · ACCO...	-179.58
9/12/2006	15405	Network Solutions	CACHUMA-BOARD.ORG domain na...	2200 · ACCO...	-24.99
9/12/2006	15406	Orchard Supply Hardware		2200 · ACCO...	-322.64
9/12/2006	15407	Paychex, Inc.	8/11 & 25/06 payrolls/taxes	2200 · ACCO...	-198.12
9/12/2006	15408	Powell Garage		2200 · ACCO...	-1,249.37
9/12/2006	15409	Praxair Distribution	Cylinder rental	2200 · ACCO...	-35.87
9/12/2006	15410	Prudential Overall Supply		2200 · ACCO...	-288.04
9/12/2006	15411	Quinn Company	Teeth for backhoe	2200 · ACCO...	-101.99
9/12/2006	15412	Republic Elevator	Scheduled mtce	2200 · ACCO...	-208.33
9/12/2006	15413	Robert Lieberknecht	8/28 Reg mtg-8/2 Spec mtg	2200 · ACCO...	-281.18
9/12/2006	15414	SB County Public Health	Lab testings	2200 · ACCO...	-59.50
9/12/2006	15415	SB Home Improvement Center		2200 · ACCO...	-130.39
9/12/2006	15416	Sound Billing LLC	Oil change/service-Explorer	2200 · ACCO...	-41.45
9/12/2006	15417	Southern California Edison		2200 · ACCO...	-1,283.51
9/12/2006	15418	Specialty Tool, LTD	Misc supplies	2200 · ACCO...	-44.93
9/12/2006	15419	Standard Automation & Cont...	InTouch Runtime 3000 PO#8644	2200 · ACCO...	-3,545.59
9/12/2006	15420	State Compensation Insuran...	Payroll report-Aug 2006	2200 · ACCO...	-2,683.06
9/12/2006	15421	The Gas Company	Gas-main office	2200 · ACCO...	-3.21
9/12/2006	15422	The Wharf		2200 · ACCO...	-1,753.16
9/12/2006	15423	Titan Industrial & Safety Sup...		2200 · ACCO...	-1,624.11
9/12/2006	15424	Tri-County Office Furniture	Credenza & return-Admin Sec	2200 · ACCO...	-1,707.81
9/12/2006	15425	Underground Service Alert	57 new tickets	2200 · ACCO...	-91.20
9/12/2006	15426	UPS	Lending library returns-BG	2200 · ACCO...	-11.74
9/12/2006	15427	Verizon California		2200 · ACCO...	-339.97

Payment of Claims

As of September 30, 2006

Date	Num	Name	Memo	Split	Amount
9/12/2006	15428	Verizon Wireless	Cellular	2200 · ACCO...	-176.55
9/12/2006	15429	Western Farm Service, Inc.	Rodent bait	2200 · ACCO...	-130.13
9/12/2006	15430	Western Welding	Plates & cutting	2200 · ACCO...	-52.45
9/12/2006	15431	Staples Credit Plan	Ofc supplies	2200 · ACCO...	-559.27
9/12/2006	15432	DeWeese Customs	Spools/flanges/welding	2200 · ACCO...	-422.50
9/12/2006	15433	Personnel Concepts	Fire extinguisher posters	2200 · ACCO...	-48.94
9/13/2006	15434	Standard Automation & Cont...	Wonderware InTouch HMI training-SO	2200 · ACCO...	-2,565.00
9/13/2006	15435	Fed Ex Kinko's, Inc.	Color copies of signs for field	2200 · ACCO...	-24.89
9/13/2006	15436	MarBorg Industries		2200 · ACCO...	-163.04
9/19/2006	15437	Federal Express	CCRB Mailings	2200 · ACCO...	-40.68
9/19/2006	15438	Verizon California	SCADA	2200 · ACCO...	-494.36
9/20/2006	15439	Adele Capponi	Reimb-hotel/meals/mileage	2200 · ACCO...	-469.11
9/21/2006	15440	Angelus Block Co., Inc.	Block-retaining walls-Lauro yard	2200 · ACCO...	-605.84
9/21/2006	15441	Salsbury Industries	Mail box/pedestal/address placard	2200 · ACCO...	-325.93
9/21/2006	15442	Santa Barbara Bank&Trust	#9 of 16 qtrly pymt princ & int	2200 · ACCO...	-14,965.26
9/26/2006	15443	Squidly's Car Wash	Vehicle wash/mtce	2200 · ACCO...	-100.00
Total 1050 · GENERAL FUND					<u>-214,122.91</u>
TOTAL					<u><u>-214,122.91</u></u>

12:49 PM
10/17/06
Accrual Basis

comb2
Payment of Claims-Renewal Fund
September 2006

Date	Num	Name	Memo	Split	Amount
Sep 06 9/26/2006	15444	Cachuma O & M-Renewal F...	Transfer of MWD Rene...	1050 · G...	24,584.50
Sep 06					<u>24,584.50</u>

CACHUMA OPERATION AND MAINTENANCE BOARD
WATER STORAGE REPORT

MONTH: **September 2006**

GLEN ANNIE RESERVOIR

Capacity at 385' elevation:	518 Acre Feet
Capacity at sill of intake at 334' elevation:	21 Acre Feet
Stage of Reservoir Elevation	345.00 Feet
Water in Storage	74.06 Acre Feet

LAURO RESERVOIR

Capacity at 549' elevation:	600 Acre Feet
Capacity at sill of intake at 512' elevation:	84.39 Acre Feet
Stage of Reservoir Elevation	548.10 Feet
Water in Storage	572.39 Acre Feet

ORTEGA RESERVOIR

Capacity at 460' elevation:	65 Acre Feet
Capacity at outlet at elevation 440':	0 Acre Feet
Stage of Reservoir Elevation	449.10 Feet
Water in Storage	26.31 Acre Feet

CARPINTERIA RESERVOIR

Capacity at 384' elevation:	45 Acre Feet
Capacity at outlet elevation 362':	0 Acre Feet
Stage of Reservoir Elevation	376.80 Feet
Water in Storage	27.50 Acre Feet

TOTAL STORAGE IN RESERVOIRS

Change in Storage	626.19 Acre Feet
	46.51 Acre Feet

CACHUMA RESERVOIR

Capacity at 750' elevation:	188,030 Acre Feet
Capacity at sill of tunnel 660' elevation:	26,109 Acre Feet

Stage of Reservoir Elevation	747.38 Feet
Water in Storage	180,203 AF
Area	2,917
Evaporation	1,281.4 AF
Inflow	94.3 AF
Downstream Release WR8918	0 AF
Fish Release	595.7 AF
Spill/Seismic Release	0 AF
State Project Water	150 AF
Change in Storage	-4,565 AF
Tecolote Diversion	2,932.2 AF

COMB STATE WATER PROJECT ACCOUNTING - SOUTH COAST ONLY (Does not include SYRWCD, ID#1 or exchange water)

MONTH	DELVRD TO LAKE	CVWD		MWD		Transf		Delvd to SC		S.B.		Delvd to SC		GWD		Delvd to SC		LCMWC		Delvd to SC		RSYS		Delvd to SC		MLC		Delvd to SC	
		to Lake	Stored	to Lake	Stored	from CV	to SC	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored		to Lake
2006																													
Bal. Frwd		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
January	45	0	0	12	0	0	0	0	0	12	0	0	0	0	18	0	0	0	0	0	0	0	0	0	0	0	0	0	0
February	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
March	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
April	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
May	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
June	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
July	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
August	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
September	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
October	185	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
November	276	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
December	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	506	0	0	12	0	0	0	0	12	12	0	0	12	18	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

COMB STATE WATER PROJECT ACCOUNTING - SOUTH COAST ONLY (Does not include SYRWCD, ID#1 or exchange water)

MONTH	DELVRD TO LAKE	CVWD		MWD		Transf		Delvd to SC		S.B.		Delvd to SC		GWD		Delvd to SC		LCMWC		Delvd to SC		RSYS		Delvd to SC		MLC		Delvd to SC	
		to Lake	Stored	to Lake	Stored	from CV	to SC	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored	to Lake	Stored		
2006																													
Bal. Frwd		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
January	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
February	111	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
March	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
April	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
May	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
June	60	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
July	121	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
August	111	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
September	150	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
October	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
November	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
December	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	553	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Operations Report – September 2006

Cachuma Project water usage for the month of September 2006 was 2,479 acre-feet, compared with 2,418 acre-feet for the same period in 2005. Cachuma Project water use for the 12 months ending 30 September 2006 was 23,941 acre-feet, compared with 26,227 acre-feet for the 12 months ending 30 September 2005.

The average flow from Lake Cachuma into the Tecolote Tunnel was 94 acre-feet per day. Lake elevation was 748.92 feet at the beginning of the month and 747.38 feet at the end. Recorded rainfall at Bradbury Dam was 0.00 inches for the month and 0.00 inches for the rainfall season, which commenced on July 1, 2006.

Santa Barbara wheeled 667 acre-feet of Gibraltar water through Lauro Reservoir during the month. 150 acre-feet of State Water Project water was wheeled through Cachuma Project facilities and delivered to South Coast Member Units during the month.

A leak was reported at the San Antonio Creek Blow-Off on the morning of September 18th. This structure is one of the worst structures for access and condition. Vehicle access stops a half mile from the site and this structure is scheduled for rehabilitation in the next year. Staff was sent to evaluate leak. The structure was flooded and pumping was required to determine extent of the problem. Staff mobilized pumps, tools and confined space entry equipment to the site. All equipment was carried in by foot. Once the structure was pumped water was spraying into the air 10 feet above the structure and the leak was 20 feet below the top of the structure. Once staff was harnessed and all confined space equipment was in place, staff entered the structure to determine what was leaking. Quickly staff determined that the leak was caused by a cracked 1-inch tee on the 3-inch siphon system. Staff worked a 3-inch gate valve that feeds the 1-inch line off the SCC. This valve is in poor condition but was closed enough to allow the 1-inch line to be repaired with minimal flow going through it. This leak is significant but it could have been worse. This structure has 18-inch piping in it and is very difficult to access. If this leak had been worse the repair would have been very difficult and costly. Staff is working with the Santa Barbara Parks Department to reestablish roads to the structure and the priority of this structure will be reevaluated.

Structure rehabilitation continued this month with work on blow-off piping. Blow-off piping consists of the riser piping, a tee, a steel spool through the structure wall, and the discharge piping. New riser piping was installed in seven structures and work began on the discharge piping at one structure. This work will continue through the summer and fall until first rains.

Engineering and planning continues on the larger rehabilitation projects scheduled for winter. This work includes the removal of lateral 14 in the Goleta Reach, the next new line valve located at El Carro Park, and the line valve scheduled for Montecito Yard. These projects require extensive planning, preparation and coordination for them to work within the limited project windows and shutdowns. The first two of these projects are scheduled for January through March of this winter.

Miscellaneous work completed this month includes:

- Weed abatement continued at Glen Anne Reservoir with California department of Forestry.
- CDMT Electrical work continued.
- Lauro Dam Modification inspection and punch list preparation.
- Work continued on the COMB GIS system.

Routine operation and maintenance activities conducted during the month included:

- Sample water at North Portal Intake Tower
- Complete Maintenance Management Program work orders
- Read anode rectifiers and monitor cathodic protection systems
- Monitor conduit right-of-way and respond to Dig Alert reports
- Read piezometers and underdrains at Glen Anne, Lauro and Ortega Dams
- Read meters, conduct monthly dam inspections, and flush venture meters


Brett Gray
Operations Supervisor

Cachuma Project Issues Meeting with Regional Director, Kirk Rodgers
Tuesday, October 17, 2006 at 2:00 PM
Bureau of Reclamation Mid-Pacific Regional Office, Sacramento

AGENDA

1. SWRCB Cachuma Project EIR - Delay and Cost Issues
2. Cachuma Project Biological Opinion Reconsultation – Potential Issues Resulting from Uncompleted Tributary Projects
3. Lauro Dam SOD Repayment Agreement – Irrigation and M&I Water Allocation
4. Cachuma Project Renewal Master Contract - M&I Interest Rate Adjustment

TRUSTEES:

- DIVISION 1 — LOS OLIVOS
Harlan J. Burchardi
- DIVISION 2 — SOLVANG
David Jamieson
- DIVISION 3 — SOLVANG
Lee F. Bettencourt
- DIVISION 4 — SANTA YNEZ
Harry F. Poor
- TRUSTEE-AT-LARGE
Matthew Loudon

CHRIS DAHLSTROM
Manager/Secretary

HATCH & PARENT
A Law Corporation
General Counsel

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

IMPROVEMENT DISTRICT NO. 1

P.O. BOX 157 • 3622 SAGUNTO STREET
SANTA YNEZ, CALIFORNIA 93460
TEL: (805) 688-6015 • FAX: (805) 688-3078

RECEIVED

SEP 25 2006

CACHUMA O&M BOARD

September 22, 2006

Board of Directors
Cachuma Conservation Release Board
3301 Laurel Canyon
Santa Barbara, CA 93105

Board of Directors
Cachuma Operation and Maintenance Board
3301 Laurel Canyon
Santa Barbara, CA 93105

Re: Joint Representation Arrangements

Dear Members of the Board:

The Santa Ynez River Water Conservation District, Improvement District No.1, ("District") Board of Trustees has become aware that Cachuma Conservation Release Board ("CCRB") and Cachuma Operation and Maintenance Board ("COMB") are not complying with the terms of the various agreements with the District in relation to the use of the District's consultants on matters of common interest. As a result, the District's Board believes that it is necessary to clarify its relationship with CCRB and COMB on these matters to ensure that the individual and mutual interests are respected.

As you are aware, the District, CCRB and Bureau of Reclamation ("USBR") as signatories to the Memorandum of Understanding ("MOU") in 1993 for Cooperation in Research and Fish Maintenance on the Santa Ynez River downstream of Bradbury Dam, jointly developed the Fish Management Plan ("FMP") as part of the SYRTAC. This process of decision making and funding was done independently by the District and CCRB using their respective experts, legal counsel and consultants. In 1997, the National Marine Fisheries Service listed the southern California Steelhead as endangered and the FMP emphasized actions on this public trust resource. The FMP was completed in 2000 and a subsequent Biological Opinion ("BO") was prepared by the National Marine Fisheries Service for USBR's continuing operation of the Cachuma Project.

In 1999, the District entered into a Joint Legal Advocacy Agreement with CCRB to coordinate our respective efforts and represent our collective interest with USBR before the State Water Resources Control Board ("State Board") regarding the water rights permits for the continuing operation of the Cachuma Project. During that parallel time frame, the Member Agencies elected to prepare the FMP EIS/EIR through COMB as the co-lead agency with USBR. The environmental review for the FMP was subsequently challenged in court in one prior action and one pending action.

In 2003, the District agreed to allow its special water rights legal counsel, Greg Wilkinson of Best, Best & Krieger and its water rights engineer, Ali Shahroody of Stetson Engineers to jointly represent the District and CCRB in coordination with USBR before the State Board. The joint representation was narrowly defined and provided the District with the right to withdraw its consultants from such arrangement in the event the District determined that its interests before the State Board no longer coincided with the interests of CCRB.

In December 2003, the District agreed to allow Greg Wilkinson to represent COMB regarding legal matters, which stemmed from the FMP EIR challenge and was related to the State Board hearings. As with CCRB, the representation provided to COMB was narrowly circumscribed and provided the District with the right to withdraw its special legal counsel from such arrangement in the event the District determined that its interests no longer coincided with the interests of COMB.

The joint advocacy arrangement has generally worked well since its inception, providing benefits to the District, CCRB and COMB, in a way to unify the common interests (as appropriate), increase influence before the State Board and provide cost savings. Notwithstanding the benefits, the District has advised CCRB and COMB from time to time that certain aspects of the agreed arrangements are not being carefully followed. Examples of such situations include requests for services from the District's consultants which are beyond the scope of and/or inconsistent with our joint advocacy arrangements, attending meetings where the District must either be present or authorize COMB to represent its interests, communications with the District's consultants without informing the District, and entering into agreements related to the FMP without District action. A couple of specific examples include COMB's request to Greg Wilkinson to review the legislation related to certain State bonds, CCRB's retention of Ali Shahroody in connection with passage flow augmentation or river hydrology support, CCRB representatives attending meetings with the Bureau of Reclamation or other agencies without a District representative, and the contract for re-vegetation services with Ms. Fournier.

The requirements of the joint advocacy arrangement between the District and CCRB and COMB must be carefully followed to avoid compromising the District's other interests which have been, are or may become adverse with respect to the interests of the other Member agencies. The above examples represent a serious compromise of the District's interests. Further, the reorganization discussions regarding CCRB and COMB have highlighted other areas of sensitivity where the Member agencies believed commonality of interests exists, but where in fact there are or may be emerging differences of opinion. The District does not want to see these differences and/or the lack of following agreed protocols, jeopardize our relationship.

The relationship of the District with the City of Santa Barbara, Goleta Water District, Montecito Water District and the Carpinteria Valley Water District is further complicated by the number of interconnecting organizations, contracts and individual interests. These complications include: COMB, which consists of all five agencies, but with the majority of issues now relating to south coast transmission and storage; CCRB which includes four agencies with contractual participation by the District only on limited matters, but which the District has been otherwise historically adverse to CCRB related to water rights on the Santa Ynez River; Bureau of Reclamation Master Contract with the County Water Agency (CWA) and the corresponding Member Unit contracts with the CWA; the Settlement Agreement between the District, CCRB, Santa Ynez River Water Conservation District, and the City of Lompoc; CWA obligations being performed by COMB without a contract; the Employee Services Agreement, which has expired, between COMB and CCRB; and the individual interests of each agency in relation to water rights.

The above summary of the many relationships that exist between the agencies highlights the complex nature of these relationships and the need for clarity in communications, decision making and representation. As can be seen, each of the agencies wears a number of "hats" which are not interchangeable even though the same agencies may or may not be involved in a particular issue. Consequently, an issue cannot simply be assigned to CCRB or COMB because the same agencies are involved due to the variety of interests which are not always aligned. The District is keenly aware of these relationships, which is one of the reasons it is continually raised these type of issues to ensure that the agencies are making decisions in the correct capacity and that CCRB and/or COMB representatives are acting within their authority.

The District does not want to be forced into further limiting or restricting the use of its consultants for the areas of joint representation but the District cannot allow its consultants to be used for other work that may compromise their ability to work for the District on other matters that are or may become adverse to others. As such, it is essential to maintain clear lines of communications and to better coordinate our efforts with respect to the joint advocacy arrangements for the State Board hearings, the BO and the FMP. It must also be remembered that Greg Wilkinson and Ali Shahroody are the District's consultants and only represent CCRB and COMB by agreement with the District and then on a very limited basis.

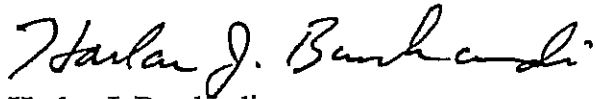
Consistent with the above described arrangements, the District must: participate in and approve all direction to its consultants; participate in and approve all decisions related to FMP; be involved in all communications with its consultants and CCRB; be involved in all communications with third parties related to CCRB and the FMP; and, participate in, approve and execute any agreements where the District is involved CCRB in the FMP or other matters of interest that involve all Member Units.

The District's Board of Trustees believes that the above protocols will assist in maintaining our agreed upon relationship and advocating our mutual interests. We trust that these arrangements will be acceptable to CCRB, COMB and each of the other Member agencies. The District requests that a meeting be arranged with CCRB and COMB staff to workout the details to clarify lines of communication and develop agreed protocols in furtherance of our mutual interests. If

any of the other agencies have concerns, then we should identify and discuss them in further detail.

The Board of Trustees appreciates your consideration of the matters presented in this letter.

Sincerely,



Harlan J. Burchardi,
President, Board of Trustees

Cc: Gary Kvistad, Hatch & Parent
Goleta Water District
City of Santa Barbara
Montecito Water District
Carpinteria Valley Water District

[COMB and CCRB Letterheads]

October 23, 2006

Harlan Burchardi, President and Board of Trustees
Santa Ynez River Water Conservation District, Improvement District No. 1
P.O. box 157
Santa Ynez, CA 93460

RE: Letter from Santa Ynez River Water Conservation District, ID No. 1 Regarding
Joint Representation Arrangements

Dear Harlan and Members of the Board of Trustees:

We have reviewed your letter of September 22, 2006, and have the following comments to make. The CCRB Board and the South Coast Member Units of the COMB Board agree with your comments relative to not jeopardizing your future representation by attorneys Best, Best, and Krieger and use of consultant Stetson Engineers if the need should arise. We think that consideration of your comments should be placed in the context of the current reorganization evaluation going on by the combined COMB-CCRB Boards and the ID No. 1 Board. We will fully address each of the concerns in your September 22, 2006 letter during the reorganization process, if that comes to fruition. If it does not do so in the near future, we will have our staff, together possibly with a representative from each of our Boards and your Board, meet to consider these issues.

In the meantime, we will follow the provisions contained in the existing joint representation agreement.

We trust this interim response is acceptable to you.

Yours very truly,

Jan E. Abel, President
Cachuma Conservation Release Board

Chuck Evans, President
Cachuma Operation & Maintenance Board

COMB ITEM 11
PAGE 1

CACHUMA OPERATION AND MAINTENANCE BOARD

MEMORANDUM

DATE: October 23, 2006
TO: Board of Directors
FROM: Kate Rees, Interim General Manager
RE: **Change in Interest Rate for Cachuma Renewal Master Contract**

Recommendation:

1. That COMB Board of Directors, acting on behalf of the Cachuma Project Member Units, accepts Reclamation's proposed revised interest rate of 4.59% for payment of the M&I portion of the remaining capital cost of the Cachuma Project from October 1, 2005 through September 30, 2015.
2. Direct staff to send a letter to Kirk Rodgers, Regional Director, Mid-Pacific Region, memorializing acceptance of the proposed revised interest rate, and requesting written acknowledgment and approval of the revised interest rate.

Discussion:

Under the Cachuma Renewal Master Contract sub article 6 (e)(2)(B)(ii), the contract states [paraphrased] that if at any time during the Repayment period Reclamation executes a long-term renewal contract for water deliveries from another Reclamation project in which the interest rate is lower than the 20 year Treasury constant maturity rate identified in the Cachuma Renewal Master Contract (7.75%), then negotiations would be reopened to change the Cachuma interest rate to an interest rate calculated "in the same manner as the interest rate calculated in such long-term renewal contract." In 2001, Reclamation negotiated two renewal contracts with water agencies in the Friant Water Authority with an interest rate of approximately 3.5%. For several years, staff has been attempting to reopen negotiations with Reclamation in order to adjust the Cachuma M&I interest rate accordingly.

To that end, your manager and Greg Wilkinson of Best, Best & Krieger met with Kirk Rodgers, Reclamation's Regional Director, on Tuesday October 16, 2006 to negotiate a change in the interest rate as specified in the Cachuma Renewal Master Contract for interest payable on the M&I capital cost from October 1, 2005 through September 30, 2015.

Mr. Rodgers addressed the Lauro SOD Repayment Agreement issue and the Cachuma Renewal Master Contract interest issue together in the discussion. He presented the following offer. He agreed he would sign the Lauro SOD Repayment Agreement with no changes to the negotiated Irrigation/M&I percent water use allocations (51% Irrigation; 49% M&I), if the Member Units agreed to accept a 4.59% revised interest rate for the interest payable on the M&I capital costs. Mr. Rodgers used 20 year Treasury constant maturity rate from August 2005, which was about when the first 10 year 3% M&I interest rate period ended. The proposed 4.59% would be retroactive to October 1, 2005 and continue through September 30, 2015.

The Friant contracts were not negotiated in the same manner as the Cachuma contract. Therefore, Mr. Rodgers did not think it appropriate for Cachuma to receive the same negotiated M&I interest rate as the Friant contracts. Further, if the Friant contracts were negotiated today based on the 20 year Treasury constant maturity rate, the interest rate would higher than 3.5%.

I believe Reclamation's proposed interest rate is fair, and recommend that it be accepted. No further negotiations would be necessary on either the Lauro SOD Repayment Agreement or the Cachuma Renewal Master Contract. Therefore, there would be no additional \$258,000 in interest charges for the Lauro SOD Repayment Agreement. Mr. Rodgers' offer is outside of the normal Reclamation procedural requirements for evaluation of contract changes. Therefore, he has requested an answer as soon as possible. All of the Member Unit managers have reviewed this offer and believe the proposed interest rate to be in the best interest of their individual districts or City.

COMB is not a signatory to the Cachuma Renewal Master Contract. However, COMB's General Counsel has suggested that COMB may act on behalf of its Member Units as provided under Article 3.1 Powers of the 1996 Amended and Restated Agreement for Establishment of a Board of Control to Operate and Maintain the Cachuma Project. That article states that COMB has the power to perform all acts necessary and convenient to the purposes of the parties, including, without limitation, any and all acts necessary to carry out fully, on behalf of each of the parties, the provisions of the Transfer O&M Agreement, the Cachuma Project Master Contract, the Cachuma Project Renewal Master Contract, and all other agreements between the United States, the Cachuma Member Units and other agencies.

Therefore, to expedite the process, I recommend that the COMB Board, acting on behalf of its Member Units, approve by motion action, modification to the M&I interest rate as proposed by Mr. Rodgers. I would further recommend that staff be directed to send a letter to Mr. Rodgers memorializing its acceptance of the revised interest rate of 4.59%, and requesting written acknowledgment and approval of the revised interest rate by the Bureau of Reclamation.