

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 April 23, 2007
Approximate Start Time

3:30 P.M.

AGENDA

1. COMB CALL TO ORDER, ROLL CALL. (COMB Board of Directors.) *(1 minute)*.
2. 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)*
3. CONSENT AGENDA. (For Board Action by Vote on One Motion Unless Member Requests Separate Consideration.) *(2 minutes)*
 - a. Minutes
 - March 26, 2007 Regular Board Meeting,
 - b. Investment of Funds
 - Financial Reports
 - Investment Reports
 - c. Payment of Claims
4. REPORTS FROM THE MANAGER. (For information.) *(5 minutes)*
 - a. Water Storage
 - b. Water Production & Use, SWP Accounting
 - c. Operations Report
 - d. **Verbal Report** - County Park RMP/EIS Report
 - e. 2006 Surcharge Accounting
 - f. **Verbal Report** - Cachuma Reservoir Current Conditions
5. CAPITAL IMPROVEMENT PROJECTS UPDATE. (For information.) *(5 minutes)*
 - a. **Verbal Report** - Lauro Debris Basin Project
 - b. **Verbal Report** - 2nd Pipeline Project
6. 7TH ANNUAL RECLAMATION CACHUMA OPERATIONS MEETING HELD APRIL 10, 2007. (For information) *(10 minutes)*

7. PROPOSITION 50 AND PROPOSITION 84 INTEGRATED REGIONAL WATER MANAGEMENT PLAN ISSUES. (See CCRB Item #7)
8. CACHUMA PROJECT RENEWAL FUND/TRUST FUND MEETING AND COUNTY WATER AGENCY'S PUBLIC MEETING ON CACHUMA PROJECT \$100,000 CONTRIBUTION HELD APRIL 13, 2007. (See CCRB Item #8)
 - a. Approval of Recommended Use of County Water Agency's Cachuma Project \$100,000 Betterment Fund for FY 2007-2008. (For Board action) (5 minutes)
9. MEASUREMENT OF GOALS AND OBJECTIVES FOR FY 2006-07 AND GOALS AND OBJECTIVES FOR FY 2007-08. (For information.) (10 minutes)
10. **VERBAL REPORT** - CCRB-COMB WEBSITE DEVELOPMENT. (For information.) (1 minutes) (See CCRB Item #10)
11. DIRECTORS' REQUEST FOR AGENDA ITEMS FOR NEXT MEETING. (5 minutes)
12. MEETING SCHEDULE.
 - May 21, 2007 following CCRB at 2:15 P.M., COMB Office
 - Availability of Board Packages on CCRB-COMB Website www.ccrb-comb.org
 - COMB's 50th Anniversary Open House, May 17, 2007 from 2:00 P.M. – 5:00 P.M., COMB Office
13. GENERAL MANAGER'S PERFORMANCE REVIEW.
 - a. [CCRB & COMB JOINT CLOSED SESSION - CCRB RECONVENE.] CONFERENCE WITH BOARDS REGARDING GENERAL MANAGER'S PERFORMANCE, PURSUANT TO GOVERNMENT CODE SECTION 54957 (a). (For Board action.) (30 minutes)
 - b. GENERAL MANAGER'S SALARY AND BENEFITS REVIEW - CCRB RECONVENE. (For Board action.) (15 minutes)
14. CCRB ADJOURNMENT.
15. 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.]

**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, March 26, 2007

1. Call to Order, Roll Call

The meeting was called to order at 3:51 p.m. by President Chuck Evans, who chaired the meeting. Those in attendance were:

Directors present:

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

Others present:

Kate Rees	Douglas Morgan
Chip Wullbrandt	Steve Mack
Bill Hair	Gary Kvistad
Charles Hamilton	Janet Gingras
Greg Wilkinson (via phone)	
Michelle Ouellette (via phone)	

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.

The Board went into closed session at 3:53 p.m. Closed session ended at 4:12 p.m. There was nothing to report out of closed session.

3. Public Comment

There were no comments from the public.

4. Consent Agenda

a. Minutes:

February 26, 2007 Regular Board Meeting

b. Investment Funds

Financial Report
Investment Report

c. Payment of Claims

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

5. Reports from the Manager

a. Water Storage

The monthly report was included in the Board packet

b. Water Production & Use, SWP Accounting

The two monthly reports were included in the Board packet

c. Operations Report

The February 2007 report on operations from Brett Gray was included in the Board packet.

d. 2006 Surcharge Accounting

Ms Rees reported on the 2006 surcharge account included in the board packet. Due to the low rainfall this year the reservoir has not spilled. The remaining nearly 4,600 acre feet of surcharge balance from 2006 will be used for managing the fisheries in 2007.

e. Cachuma Reservoir Current Conditions

Date 03/26/2007

Lake elevation	742.38
Storage	166,064 acre feet
Rain (for the month to date)	0.06 inches
Rain YTD (for the season to date)	3.47 inches
Fish Release-Hilton Creek	12 acre feet per day
Month to Date Fish Release	288.7 acre feet
Month to Date Spill	0.00 acre feet

f. Update on SWRCB Water Rights Fee Litigation

ITEM # 3a

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Ms. Rees highlighted the information included in the board packet concerning the current information she had received regarding the instructions to the State Water Resources Control Board to go back and recalculate the water rights fees.

6. Lauro Dam Safety of Dams Repayment Agreement
a. Status of Member Unit Ratification of Lauro Dam SOD Agreement and Approval of Allocation Agreement

It was reported that all Member Units had approved the Lauro Dam SOD Allocation Agreement. Counsel Hair reminded everyone that they need to send him a signed or certified copy of their resolutions ratifying the Lauro Dam SOD Agreement and approving Allocation Agreement so that he can file a Validation Action in Superior Court. Ms. Rees reported that the cost to date for the Lauro Dam SOD work is \$6,095,165.

7. Reclamation's Comprehensive Facilities Review of Cachuma Project Facilities

Ms. Rees reported on the Comprehensive Facilities Reviews (CFR) that have been conducted to date by the U.S. Bureau of Reclamation. Mechanical engineering and civil engineering reviews of the four dams and balancing reservoirs along the South Coast Conduit (SCC) were conducted during March 2007. Overall, nothing of major concern was noted during the field examinations. The draft report from the CFRs should be distributed for review in about six weeks, after which the final report would be prepared. The CFR for the SCC will be conducted in May.

8. COMB/CCRB Reorganization Process

Director Evans updated the Board on the reorganization process of COMB and CCRB. He reported that he had not been able to meet with the Directors from ID#1 and will do so as soon as schedules can be accommodated. John Jostes has indicated that his allocated budget has been spent. If the Board wishes to continue using his services, Mr. Jostes' budget would need to be augmented.

9. Proposition 50 and Proposition 84 Integrated Regional Water Management Plan Issues

This was thoroughly discussed during the CCRB meeting, item #6, and there was nothing further to add.

10. Directors' Request for Agenda Items for Next Meeting

Director Evans requested that the letter from ID #1 concerning the spill water policy be added to the COMB agenda for the April 23, 2007 meeting for discussion and information only.

11. Meeting Schedule

April 23, 2007 is the next regular COMB Board meeting following the 2:15 P.M. CCRB Board meeting, at the COMB office.

COMB's 50th Anniversary Open House will be held on May 17, 2007 from 2:00 P.M. to 5:00 P.M. at the COMB office.

The Board Packets are availability on the CCRB-COMB Website, www.ccrb-comb.org

12. COMB Adjournment

There being no further business, the meeting was adjourned at 4:45 p.m.

Respectfully submitted,

Kate Rees, Secretary of the Board

APPROVED:

Chuck Evans, President

sec.comb/boardminutes/03.26.07COMB Minutes.doc

Approved _____
Unapproved _____ ✓

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Balance Sheet
 As of March 31, 2007

Mar 31, 07

ASSETS	
Current Assets	
Checking/Savings	
1050 · GENERAL FUND	783,316.02
1100 · REVOLVING FUND	9,557.02
TRUST FUNDS	
1220 · RENEWAL FUND	5,312.79
1210 · WARREN ACT TRUST FUND	38,219.37
Total TRUST FUNDS	43,532.16
Total Checking/Savings	836,405.20
Other Current Assets	
1010 · PETTY CASH	400.00
1200 · LAIF	2,525,589.55
1300 · DUE FROM CCRB	55,585.74
1302 · ASSESSMENTS RECEIVABLE-CARP	72,273.82
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	2,719,353.83
Total Current Assets	3,555,759.03
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	6,423,143.07
Total Other Assets	6,423,143.07
TOTAL ASSETS	10,221,657.63
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2200 · ACCOUNTS PAYABLE	1,847,517.56
Total Accounts Payable	1,847,517.56
Other Current Liabilities	
2550 · VACATION/SICK	61,815.80
2560 · CACHUMA ENTITLEMENT	-158,174.89
2561 · BRADBURY DAM SOD ACT	49,902.00
2562 · SWRCB-WATER RIGHTS FEE	0.76
2590 · DEFERRED REVENUE	43,532.16
Payroll-DepPrm Admin	10.00
Payroll-DepPrm Ops	4.62
Total Other Current Liabilities	-2,909.55
Total Current Liabilities	1,844,608.01
Long Term Liabilities	
2603 · LT SOD Act Liability - Lauro	660,000.00
2600 · Lease Obligation Payable	29,810.84
2601 · Note Payable SBB&T	72,273.82
2602 · SOD Act Liability-Long Term	5,763,143.07
Total Long Term Liabilities	6,525,227.73

comb2
Balance Sheet
As of March 31, 2007

	<u>Mar 31, 07</u>
Total Liabilities	8,369,835.74
Equity	
3000 - Opening Bal Equity	0.95
3901 - Retained Earnings	785,863.52
Net Income	1,065,957.42
Total Equity	<u>1,851,821.89</u>
TOTAL LIABILITIES & EQUITY	<u><u>10,221,657.63</u></u>

7:13 AM
04/18/07
Accrual Basis

comb2
Profit & Loss Budget vs. Actual
July 2006 through March 2007

TOTAL

	Jul '06 - Mar 07	Budget	\$ Over Budget	% of Budget
Income				
3000 REVENUE				
3001 · O&M Budget	2,426,514.00			
3003 · Assessment Revenue-Carp	2,763.58			
3010 · Interest Income	30,894.15			
3020 · Misc Income	0.00			
Total 3000 REVENUE	<u>2,460,171.73</u>			
Total Income	2,460,171.73			
Gross Profit	2,460,171.73			
Expense				
4000 · Reconciliation Discrepancies void	-0.50			
void	0.00			
3100 LABOR				
3150 · Health & Workers Comp	95,771.92	141,391.00	-45,619.08	67.74%
3155 · PERS	49,656.42	69,869.00	-20,212.58	71.07%
3160 · Payroll Comp FICA Ops	21,736.64	30,449.70	-8,713.06	71.39%
3165 · Payroll Comp MCARE Ops	5,142.18	7,121.30	-1,979.12	72.21%
3100 LABOR - Other	0.00	456,501.00	-456,501.00	0.0%
Total 3100 LABOR	<u>485,220.36</u>	<u>705,332.00</u>	<u>-220,111.64</u>	<u>68.79%</u>
3200 VEH & EQUIPMENT				
3201 · Vehicle/Equip Mtce	19,032.86	30,000.00	-10,967.14	63.44%
3202 · Fixed Capital	2,490.82	50,000.00	-47,509.18	4.98%
3203 · Equipment Rental	16,335.61	23,000.00	-6,664.39	71.02%
3204 · Miscellaneous	8,588.79	15,000.00	-6,411.21	57.26%
Total 3200 VEH & EQUIPMENT	<u>46,448.08</u>	<u>118,000.00</u>	<u>-71,551.92</u>	<u>39.36%</u>
3300 · CONTRACT LABOR				
3301 · Conduit, Meter, Valve & Misc	2,073.12	10,000.00	-7,926.88	20.73%
3302 · Buildings & Roads	19,039.26	15,000.00	4,039.26	126.93%
3303 · Reservoirs	34,944.27	50,000.00	-15,055.73	69.89%
3304 · Engineering, Misc Services	8,078.92	20,000.00	-11,921.08	40.4%
Total 3300 · CONTRACT LABOR	<u>64,135.57</u>	<u>95,000.00</u>	<u>-30,864.43</u>	<u>67.51%</u>

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Profit & Loss Budget vs. Actual
July 2006 through March 2007

	Jul '06 - Mar 07	Budget	\$ Over Budget	% of Budget
3400 - MATERIALS & SUPPLIES				
3401 - Conduit, Meter, Valve & Misc	9,839.26	20,000.00	-10,160.74	49.2%
3402 - Buildings & Roads	9,374.39	20,000.00	-10,625.61	46.87%
3403 - Reservoirs	1,857.56	10,000.00	-8,142.44	18.58%
Total 3400 - MATERIALS & SUPPLIES	21,071.21	50,000.00	-28,928.79	42.14%
3500 - OTHER EXPENSES				
3501 - Utilities	2,606.94	6,300.00	-3,693.06	41.38%
3502 - Uniforms	3,915.85	6,500.00	-2,584.15	60.24%
3503 - Communications	17,621.87	18,190.00	-568.13	96.88%
3504 - USA & Other Services	1,933.14	4,000.00	-2,066.86	48.33%
3505 - Miscellaneous	3,632.10	6,000.00	-2,367.90	60.54%
3506 - Training	2,481.12	7,000.00	-4,518.88	35.45%
Total 3500 - OTHER EXPENSES	32,191.02	47,990.00	-15,798.98	67.08%
4999 - GENERAL & ADMINISTRATIVE				
5000 - Director Fees				
5001 - Director Mileage	674.33	856.00	-181.67	78.78%
5000 - Director Fees - Other	8,192.00	9,984.00	-1,792.00	82.05%
Total 5000 - Director Fees	8,866.33	10,840.00	-1,973.67	81.79%
5100 - Legal	42,400.28	72,000.00	-29,599.72	58.89%
5101-1 - Audit	9,175.00	20,000.00	-10,825.00	45.88%
5150 - Unemployment Tax	0.00	6,500.00	-6,500.00	0.0%
5200 - Liability Insurance	37,307.00	38,000.00	-693.00	98.18%
5201 - Health & Workers Comp	41,878.31	47,399.00	-5,520.69	88.35%
5250 - PERS	20,736.92	28,632.00	-7,895.08	72.43%
5260 - Comp FICA Admin	7,951.26	12,156.05	-4,204.79	65.41%
5265 - Comp MCARE Admin	2,017.43	2,842.95	-825.52	70.96%
5300 - Manager Salary	30,180.92	42,993.00	-12,812.08	70.2%
5301 - Administrative Manager	56,369.41	77,615.00	-21,245.59	72.63%
5306 - Administrative Assistant	37,591.12	51,441.00	-13,849.88	73.08%
5310 - Postage/Office Exp	3,846.94	9,000.00	-5,153.06	42.74%

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Profit & Loss Budget vs. Actual
July 2006 through March 2007

TOTAL

	Jul '06 - Mar 07	Budget	\$ Over Budget	% of Budget
5311 · Office Equip/Leases	3,739.38	5,750.00	-2,010.62	65.03%
5312 · Misc Admin Expenses	12,148.25	10,000.00	2,148.25	121.48%
5313 · Communications	8,327.91	5,000.00	3,327.91	166.56%
5314 · Utilities	4,674.40	5,300.00	-625.60	88.2%
5315 · Membership Dues	4,950.85	6,150.00	-1,199.15	80.5%
5316 · Admin Fixed Assets	5,303.39	7,000.00	-1,696.61	75.76%
5320 · Admin Facilitator Consultant	24,870.00	27,700.00	-2,830.00	89.78%
5325 · Emp Training/Subscriptions	1,526.67	4,500.00	-2,973.33	33.93%
5330 · Admin Travel/Conferences	5,045.32	5,000.00	45.32	100.91%
5331 · Public Information	97.11	2,000.00	-1,902.89	4.86%
5332 · Transportation	144.06	1,200.00	-1,055.94	12.01%
Total 4999 · GENERAL & ADMINISTRATIVE	369,146.26	499,019.00	-129,872.74	73.98%
5510 · Integrated Reg. Water Mgt Plan	5,123.34	10,000.00	-4,876.66	51.23%
6000 · SPECIAL PROJECTS				
6062 · SCADA	12,587.71	60,000.00	-47,412.29	20.98%
6090-1 · COMB Bidg/Grounds Repair	55,653.30	50,000.00	5,653.30	111.31%
6092 · SCC Improv Plan & Design	66,675.70	300,000.00	-233,324.30	22.23%
6095 · SCC Valve & Cntrl Sta Rehab	48,201.42	600,000.00	-551,798.58	8.03%
6095-1 · Lauro Debris Basin Rehab	6,716.65	0.00	6,716.65	100.0%
6096 · SCC Structure Rehabilitation	55,869.01	400,000.00	-344,130.99	13.97%
6097 · GIS and Mapping	31,778.68	100,000.00	-68,221.32	31.78%
Total 6000 · SPECIAL PROJECTS	277,482.47	1,510,000.00	-1,232,517.53	18.38%
6400 · STORM DAMAGE				
6401 · Storm Damage 2005	6,856.00	100,000.00	-93,144.00	6.86%
Total 6400 · STORM DAMAGE	6,856.00	100,000.00	-93,144.00	6.86%
7000 · LEGAL & LITIGATION				
7002 · Spec Counsel-FMP-BO EIS/R	83,913.06	100,000.00	-16,086.94	83.91%
Total 7000 · LEGAL & LITIGATION	83,913.06	100,000.00	-16,086.94	83.91%
7006 · INTEREST EXPENSE	2,625.79			

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 Accrual Basis

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Profit & Loss Budget vs. Actual
 July 2006 through March 2007

	Jul '06 - Mar 07	Budget	\$ Over Budget	% of Budget
TOTAL				
PAYROLL				
Gross	-0.30			
Gross-CCRB	-0.05			
Total PAYROLL	-0.35			
Total Expense	1,394,214.31	3,235,341.00	-1,841,126.69	43.09%
Net Income	1,065,957.42	-3,235,341.00	4,301,298.42	-32.95%

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APR 07 2007

CACHUMA OPERATION BOARD

This Statement Covers

From: 03/01/07
Through: 03/31/07

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CACHUMA OPERATION AND MAINTENANCE BOARD
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CACHUMA OPERATION AND MAINTENANCE BOARD

Account Number: 871-849343-4
Washington Mutual Bank, FA

Your Account at a Glance

Beginning Balance	\$5,307.88
Checks Paid	\$0.00
Other Withdrawals	\$0.00
Deposits	+\$4.91
Ending Balance	\$5,312.79

Interest Earned	\$4.91
Annual Percentage Yield Earned	1.09%
YTD Interest Paid	\$14.49
YTD Interest Withheld	\$0.00

Date	Description	Withdrawals (-)	Deposits (+)
03/30	Interest Payment		\$4.91

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 March, 2007, 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

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APR 07 2007

CACHUMA OPERATION AND MAINTENANCE BOARD

This Statement Covers

From: 03/01/07
Through: 03/31/07

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

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

Your Account at a Glance

Beginning Balance	\$38,160.69	Interest Earned	\$58.68
Checks Paid	\$0.00	Annual Percentage Yield Earned	1.83%
Other Withdrawals	\$0.00	YTD Interest Paid	\$178.29
Deposits	+\$58.68	YTD Interest Withheld	\$0.00
Ending Balance	\$38,219.37		

Date	Description	Withdrawals (-)	Deposits (+)
03/30	Interest Payment		\$58.68 ✓

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 March, 2007, 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.

Kathleen Rees
Secretary

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OFFICE OF THE TREASURER

SACRAMENTO

Local Agency Investment Fund
 PO Box 942809
 Sacramento, CA 94209-0001
 (916) 653-3001
 www.treasurer.ca.gov/pmia-laif

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CACHUMA OPER AND MAINT



March, 2007 Statement

CACHUMA OPERATION AND MAINTENANCE BOARD

Account Number : 70-42-001

Attn: GENERAL MANAGER

3301 LAUREL CANYON ROAD

SANTA BARBARA CA 93105-2017

Transactions

Effective Date	Transaction Date	Tran- Type	Confirm Number	Authorized Caller	Amount
03-06-2007	03-06-2007	RW	1112480	KATHLEEN REES	- 155,000.00
03-26-2007	03-26-2007	RD	1114529	KATHLEEN REES	1,718,000.00

Account Summary

Total Deposit :	1,718,000.00	Beginning Balance :	962,589.55
Total Withdrawal :	- 155,000.00	Ending Balance :	2,525,589.55

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 March, 2007, 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.

Kathleen A. Rees
 Secretary

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Payment of Claims

As of March 31, 2007

Date	Num	Name	Memo	Split	Amount
1050 · GENERAL FUND					
3/7/2007	15873	Acorn Landscape Manage...	Monthly mtce	2200 · ACC...	-246.65
3/7/2007	15874	ACWA Services Corporati...	Mar EAP	2200 · ACC...	-47.46
3/7/2007	15875	ACWA/Joint Powers Insur...	Property Program renewal 4/1/07-...	2200 · ACC...	-3,542.00
3/7/2007	15876	American Van Equipment,...	Halogen lights/bracket PO#8709	2200 · ACC...	-108.59
3/7/2007	15877	Best, Best & Krieger, LLP	Crawford-Hall CEQA 2/15/07 Sup...	2200 · ACC...	-772.50
3/7/2007	15878	Boyle Engineering Corp.		2200 · ACC...	-11,648.56
3/7/2007	15879	Butera's		2200 · ACC...	-999.83
3/7/2007	15880	CDW Government, Inc.		2200 · ACC...	-4,798.88
3/7/2007	15881	Cedant Web Hosting	Web host/Parked domain Reg#24...	2200 · ACC...	-19.94
3/7/2007	15882	CIO Solutions, Inc.		2200 · ACC...	-5,722.16
3/7/2007	15883	City of SB-Refuse		2200 · ACC...	-186.18
3/7/2007	15884	Coastal Copy		2200 · ACC...	-413.17
3/7/2007	15885	COMB-Petty Cash	Replenish petty cash	2200 · ACC...	-112.45
3/7/2007	15886	COMB - Revolving Fund	Mar 9 & 23, 2007 payrolls/taxes	2200 · ACC...	-115,180.79
3/7/2007	15887	Cox Communications	Business Internet 2/18-3/17/07	2200 · ACC...	-199.00
3/7/2007	15888	Culligan Water	RO system Mar	2200 · ACC...	-20.95
3/7/2007	15889	Direct Safety Company	Speed bumps/spikes PO#8711	2200 · ACC...	-650.12
3/7/2007	15890	Eaton Electrical Inc.	Fan w/alarm high speed & Battery...	2200 · ACC...	-1,133.85
3/7/2007	15891	ECHO Communications	Answering service	2200 · ACC...	-60.00
3/7/2007	15892	Federal Express	CCRB Mailing to J.Abey-Wash DC	2200 · ACC...	-88.95
3/7/2007	15893	Flowers & Associates, Inc.	Jan chrgs Lauro Res Debris Basin...	2200 · ACC...	-3,604.15
3/7/2007	15894	GE Capital	Copier lease Billing ID#90133603...	2200 · ACC...	-427.77
3/7/2007	15895	Giffin Rental Corp.		2200 · ACC...	-438.90
3/7/2007	15896	Home Depot Credit Services		2200 · ACC...	-151.77
3/7/2007	15897	MarBorg Industries		2200 · ACC...	-209.84
3/7/2007	15898	McCormix Corp.	Diesel fuel	2200 · ACC...	-87.03
3/7/2007	15899	McMaster-Carr Supply Co.		2200 · ACC...	-335.72
3/7/2007	15900	Milpas Rental		2200 · ACC...	-188.37
3/7/2007	15901	Nextel Communications	Cellular 1/19-2/18/07	2200 · ACC...	-315.30
3/7/2007	15902	Northern Safety Co. Inc.	Various tools PO#8712	2200 · ACC...	-386.54
3/7/2007	15903	PG&E		2200 · ACC...	-185.07
3/7/2007	15904	Platinum Plus For Business		2200 · ACC...	-3,980.53
3/7/2007	15905	Praxair Distribution	Cylinder rental	2200 · ACC...	-71.41
3/7/2007	15906	Republic Elevator	Scheduled mtce	2200 · ACC...	-220.69
3/7/2007	15907	Reserve Account	Postage refill	2200 · ACC...	-400.00
3/7/2007	15908	Safety-Kleen Systems, Inc.	Regular service	2200 · ACC...	-124.15
3/7/2007	15909	SB Home Improvement C...	Tarp hardware	2200 · ACC...	-21.30
3/7/2007	15910	Sound Billing LLC		2200 · ACC...	-329.93
3/7/2007	15911	Southern California Edison	Main ofc/outlying stations	2200 · ACC...	-970.66
3/7/2007	15912	Staples Credit Plan	Ofc supplies	2200 · ACC...	-355.20
3/7/2007	15913	State Compensation Insur...	Payroll report-Feb 2007	2200 · ACC...	-3,231.77
3/7/2007	15914	TechnoFlo Systems	Ultra mag flow meter PO#8706	2200 · ACC...	-3,735.77
3/7/2007	15915	The Wharf		2200 · ACC...	-428.14
3/7/2007	15916	Tri-County Office Furniture	New desk unit-JG	2200 · ACC...	-4,376.05
3/7/2007	15917	Underground Service Alert	54 new tickets	2200 · ACC...	-86.40
3/7/2007	15918	UPS	Lending library returns	2200 · ACC...	-12.78
3/7/2007	15919	Verizon Wireless	Cellular	2200 · ACC...	-174.17
3/7/2007	15920	Orchard Supply Hardware		2200 · ACC...	-333.23
3/12/2007	15921	ACWA Services Corp. (AS...	Cov period 4/1-5/1/07	2200 · ACC...	-9,821.29
3/12/2007	15922	CIO Solutions, Inc.	Support	2200 · ACC...	-1,278.75
3/12/2007	15923	County of Santa Barbara	Hazardous waste disposal	2200 · ACC...	-109.75
3/12/2007	15924	Fleet Fueling	Fuel/fuel cards	2200 · ACC...	-2,073.81
3/12/2007	15925	J&C Services	2/16,26 office cleaning	2200 · ACC...	-250.00
3/12/2007	15926	MCT Trailers	Big Tex trailer repair	2200 · ACC...	-510.89
3/12/2007	15927	Nordman, Cormany, Hair ...	Gen Counsel Feb services	2200 · ACC...	-3,776.00
3/12/2007	15928	Paychex, Inc.	2/9,23/07 payrolls/taxes	2200 · ACC...	-250.19
3/12/2007	15929	Prudential Overall Supply		2200 · ACC...	-302.80
3/12/2007	15930	Republic Elevator	Scheduled mtce	2200 · ACC...	-297.06
3/12/2007	15931	Science Applications Inter...	Env. services-SCC/Goleta Reach ...	2200 · ACC...	-318.75
3/12/2007	15932	Southern California Edison	Glen Anne gate	2200 · ACC...	-17.59
3/12/2007	15933	The MedCenter, Inc.	BG treatment	2200 · ACC...	-200.80

7:33 AM
04/18/07
Accrual Basis

comb2
Payment of Claims
As of March 31, 2007

Date	Num	Name	Memo	Split	Amount
3/12/2007	15934	Verizon California		2200 · ACC...	-368.72
3/12/2007	15935	Best, Best & Krieger, LLP	Crawford-Hall CEQA Feb services	2200 · ACC...	-7,564.72
3/15/2007	15936	AirPhotoUSA	Digital Aerial Photos	2200 · ACC...	-6,488.39
3/15/2007	15937	Caterpillar Financial Servi...	Backhoe lease Contract #001-025...	2200 · ACC...	-1,294.06
3/15/2007	15938	Fed Ex Kinko's, Inc.	Copies of spec for Boyle	2200 · ACC...	-188.57
3/15/2007	15939	J&C Services	3/2,9 office cleaning	2200 · ACC...	-250.00
3/15/2007	15940	Rockhurst University	PowerPoint Seminar-SO	2200 · ACC...	-186.75
3/19/2007	15941	Squidly's Car Wash	Vehicle wash/mtce	2200 · ACC...	-150.00
3/20/2007	15942	ACWA/Joint Powers Insur...	Public Employee Fidelity Program...	2200 · ACC...	-1,006.00
3/20/2007	15943	David Nageotte	Reimb steel toe boots	2200 · ACC...	-116.90
3/20/2007	15944	Federal Express	CCRB Mailings	2200 · ACC...	-93.27
3/20/2007	15945	Public Employees' Retire...	Valuation Fee-Actuarial	2200 · ACC...	-200.00
3/20/2007	15948	Verizon California	SCADA	2200 · ACC...	-516.99
3/20/2007	15949	AT&T	Feb 27, 2006 statement	2200 · ACC...	-246.02
3/21/2007	15950	E.S.R.I.	Seminar-ArcGIS, Pasadena 4/24/...	2200 · ACC...	-195.00
3/21/2007	15951	E.S.R.I.	Seminar-ArcGIS, Pasadena 4/24/...	2200 · ACC...	-195.00
3/27/2007	15952	Santa Barbara Bank&Trust	#11 of 16 qtrly pymt princ & int	2200 · ACC...	-14,965.26
3/28/2007	15953	Business Card		2200 · ACC...	-3,205.77
Total 1050 · GENERAL FUND					<u>-227,573.77</u>
TOTAL					<u><u>-227,573.77</u></u>

**CACHUMA OPERATION AND MAINTENANCE BOARD
WATER STORAGE REPORT**

MONTH: **MARCH 2007**

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	346.50 Feet
Water in Storage	84.40 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	546.10 Feet
Water in Storage	531.52 Acre Feet

ORTEGA RESERVOIR

Capacity at 460' elevation:	OUT OF SERVICE	65 Acre Feet
Capacity at outlet at elevation 440':		0 Acre Feet
Stage of Reservoir Elevation		0.00 Feet
Water in Storage		0.00 Acre Feet

CARPINTERIA RESERVOIR

Capacity at 384' elevation:	45 Acre Feet
Capacity at outlet elevation 362':	0 Acre Feet
Stage of Reservoir Elevation	374.70 Feet
Water in Storage	22.85 Acre Feet

TOTAL STORAGE IN RESERVOIRS

Change in Storage	554.36 Acre Feet
	19.22 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	742.16 Feet
Water in Storage	165,462 AF
Area	2,748
Evaporation	878.0 AF
Inflow	412.3 AF
Downstream Release WR8918	0 AF
Fish Release	372.9 AF
Spill/Seismic Release	0 AF
State Project Water	0 AF
Change in Storage	-1,968 AF
Tecolote Diversion	2,095.1 AF

06-07 ENTITLEMENT

**CACHUMA OPERATION AND MAINTENANCE BOARD
WATER PRODUCTION AND WATER USE REPORT
FOR THE MONTH OF MARCH 2007 AND THE WATER YEAR TO DATE**

(All in rounded Acre Feet)

			MONTH TOTAL			YTD TOTAL
WATER PRODUCTION:						
Cachuma Lake (Tec. Diversion)			2,095			12,890
Tecolote Tunnel Infiltration			121			879
Glen Anne Reservoir			0			0
Cachuma Lake (County Park)			6			22
State Water Diversion Credit			412			618
Gibraltar Diversion Credit			0			0
Bishop Ranch Diversion			100			100
Meter Reads			1,647			12,307
So. Coast Storage gain/(loss)			19			(63)
Total Production			2,222			13,791
Total Deliveries			2,178			12,962
Unaccounted-for			44			829
% Unaccounted-for			1.97%			6.01%
	GWD	SB CITY	MWD	CVWD	SYRWCD	TOTAL
WATER USE:						
					ID. #1	
M&I	726	656	0	74	6	1,462
Agricultural	122	0	0	63	0	185
TOTAL FOR MONTH	848	656	0	137	6	1,647
Same Mo/prev. yr	618	540	124	122	9	1,413
M&I Yr to date	4,846	3,729	1,224	610	22	10,431
Ag. Yr to date	1,155	0	161	554	0	1,870
TOTAL YTD	6,001	3,729	1,385	1,164	22	12,301
USAGE % YTD	42.5%	25.4%	40.2%	25.4%	1.0%	31.4%
Previous Year/YTD	4,239	2,215	1,226	1,053	24	8,757
Evaporation	0	23	0	5	0	28
Evaporation, YTD	58	137	6	33	0	234
Entitlement	9,322	8,277	2,651	2,813	2,651	25,714
Carryover	4,884	6,790	715	1,836	0	14,225
Carryover Balances Spilled YTD	0	0	0	0	0	0
Surplus^^	0	0	0	0	0	0
State Water Exchange^	136	91	91	60	(378)	0
Transfers*/Adjustment***	(90)	90	0	0	0	0
Passthrough H2O**	0	(36)	0	0	0	(36)
TOTAL AVAILABLE	14,251	15,212	3,457	4,709	2,273	39,903
REMAINING BALANCE	8,192	11,346	2,066	3,512	2,251	27,367

* GWD transferred 90.18 AF to City of Santa Barbara for LCMWC agreement.

** City relinquished 6 AF per "Passthrough" agrmt for March 2007 (No Passthrough during spill conditions).

State Water Deliveries for March to Lake Cachuma were MWD 369 AF; CVWD 0 AF
GWD 0 AF (Morehart 0 AF); City of S.B. 0 AF; and LaCumbre 43 AF: (Ratheon 0 AF).

^ Per SWP Exchange Agrmt GWD received 42 AF; MWD received 27;

City of SB received 27 AF; and CVWD received 18 AF from ID#1 in March 2007.

PERCENT OF WATER YEAR ELAPSED:

50.0%

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Operations Report – March 2007

Cachuma Project water usage for the month of March 2007 was 1,647 acre-feet, compared with 1,412 acre-feet for the same period in 2006. Cachuma Project water use for the 12 months ending 31 March 2007 was 25,982 acre-feet, compared with 27,998 acre-feet for the 12 months ending 31 March 2006.

The average flow from Lake Cachuma into the Tecolote Tunnel was 68 acre-feet per day. Lake elevation was 742.88 feet at the beginning of the month and 742.16 feet at the end. Recorded rainfall at Bradbury Dam was 0.15 inches for the month and 6.43 inches for the rainfall season, which commenced on July 1, 2006.

Santa Barbara wheeled 445 acre-feet of Gibraltar water through Lauro Reservoir during the month. 349 acre-feet of State Water Project water was wheeled through Cachuma Project facilities and delivered to South Coast Member Units during the month.

The USBR visited this month and performed a Comprehensive Facilities Review (CFR) on our four dams. These reviews are conducted every six years and include civil and mechanical engineering examinations of the four dam maintained and operated by COMB. All the dams were inspected and no critical issues were found. The group did find several items that they would like changed but nothing of a critical nature. A draft report is expected in April and a final report in June. We will supply copies of the final reports to the COMB Board once it is finalized.

Work continued on the 2nd pipeline project with a walk of the proposed pipeline alignments. The goal of the walk was to determine the viability of the alignments from an environmental, geotechnical, engineering, and construction standpoint. Several alignments were changed and some determined to be too difficult for construction and poor geotechnically. This walk also allowed the consultants to become familiar with the project area and is the first step in getting the environmental field work started. The environmental and initial engineering work is moving ahead slowly but surly.

Miscellaneous work completed this month includes:

- Work was completed on the Lauro Drain Project.
- Work continued on the COMB GIS system.
- Work continued on the new flow meter in the Carpinteria area of the SCC.
- Weed abatement occurred this month with the mowing of weeds at Lauro Reservoir and the spraying of weeds at Lauro Reservoir, Ortega Reservoir, Carpinteria Reservoir, and Sheffield Control Station.
- CDF cleared brush at the North Portal.
- SCADA communication with Corona Del Mar Water Treatment plant was recently established. The SCADA screen was upgraded for the new CDM information.
- Office Electrical and communication occurred on one of the trailers with the replacement of the main breaker and the installation of communication conduit and raceways.

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 RESERVOIR

DISPOSITION OF 2006 SURCHARGE WATER "FISH ACCOUNT" (UNOFFICIAL)

DATE	DESCRIPTION	AMOUNT (acre feet)	SURCHARGE BALANCE (acre feet)
5/31/2006	End of Spill Surcharge	9,200	9,200
6/30/2006	June Fish Release	605	8,595
7/31/2006	July " "	620	7,975
8/31/2006	August " "	613	7,362
9/30/2006	September " "	596	6,766
10/31/2006	October " "	409	6,357
11/30/2006	November " "	354	6,003
12/31/2006	December " "	360	5,643
1/31/2007	January " "	352	5,291
2/28/2007	February " "	328	4,963
3/31/2007	March " "	373	4,590
4/30/2007	April " "	392 projected	4,198 projected
	TOTAL		9,200

kr\comb\cachuma 2006 surcharge account 043007

US Department of the Interior
Bureau of Reclamation
Mid-Pacific Region
South-Central California Area Office
CACHUMA PROJECT, CALIFORNIA
Seventh Annual
Operations Coordination Meeting
Tuesday • April 10, 2007 • 8:00 am – 10:00 am

A G E N D A

1. Welcome and Introductions
2. USBR Operations Outlook & Activities
3. CCWA Operations Outlook & Activities
4. Water Rights Release Outlook
5. COMB Operations Outlook & Activities
6. Fishery Activities
7. Prevention of Quagga Mussels in Lake Cachuma
8. Cachuma Project – Guidelines for Operation

Added: Santa Barbara County Parks RMP/EIS

Meeting Location: Cachuma Operation & Maintenance Board (COMB)
3301 Laurel Canyon Road
Santa Barbara, CA 93105
(805) 687-4011

U.S. Department of the Interior
 Bureau of Reclamation
 Mid-Pacific Region
 South-Central California Area Office

Cachuma Project, California
Operations Outlook

October 2006 - November 2007

<u>MONTH</u>	<u>PRECIP</u>	<u>CCWA</u>	<u>INFLOW</u>	<u>EVAP.</u>	<u>T. TUNNEL</u>	<u>FISH</u>	<u>WR REL</u>	<u>SPILL</u>	<u>EOM STOR</u>	<u>EOM ELEV</u>
October	40	100	-147	861	2,560	409	0	0	180,203	747.38
November	48	125	-76	562	2,459	354	0	0	176,366	746.06
December	376	0	-50	380	2,030	360	0	0	173,088	744.91
January	301	0	266	335	2,484	352	0	0	170,644	744.04
February	701	7	760	484	1,261	328	0	0	168,040	743.10
March	34	412	932	878	2,097	373	0	0	167,435	742.88
April	0	450	650	1,260	2,400	402	0	0	165,465	742.16
May	0	540	500	1,600	2,600	440	0	0	162,503	741.07
June	0	580	350	1,630	3,000	200	0	0	158,903	739.72
July	0	640	250	1,670	3,200	0	0	0	155,003	738.24
August	0	620	150	1,440	3,400	0	5,650	0	145,373	734.46
September	0	570	100	1,220	3,000	0	4,960	0	136,343	730.75
October	40	600	250	1,000	2,800	0	3,580	0	129,213	727.71
November	120	650	350	800	2,500	0	1,810	0	124,493	725.64
Totals	1,660	5,294	4,285	14,120	35,791	3,572	16,000	0	121,959	724.50

- Notes:
1. April-November 2007 are estimated.
 2. All values are in acre-feet with the exception of ELEV which is in feet above MSL.
 3. WY 07 Project Water= 26,447 acre-feet

**CACHUMA OPERATION AND MAINTENANCE BOARD
MEMORANDUM**

DATE: April 23, 2007
TO: Members of the Board of Directors
FROM: Kate Rees, Interim General Manager *KR*
RE: Recommended Use of County Water Agency's Cachuma Project \$100,000
Betterment Fund for Fiscal Year 2007-2008

RECOMMENDATION:

Approve the expenditure of the County Water Agency's Cachuma Project \$100,000 Betterment Fund for Fiscal Year 2007-2008 to support the ongoing Lower Santa Ynez River Fisheries Monitoring Program and related activities as follows:

USGS/County Santa Ynez River stream gage data collection program	\$50,000
Lower Santa Ynez River Fish Management Plan and Biological Opinion implementation activities	\$40,000
Repayment to Santa Barbara County Water Agency for Cachuma Park boat launch ramp modifications (year 4 of 5)	<u>\$10,000</u>
Total:	\$100,000

DISCUSSION:

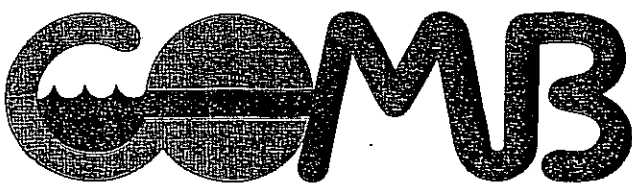
Article 8. (b) of the Cachuma Project Member Unit Contracts with Santa Barbara County Water Agency requires the County Water Agency to provide \$100,000 per year for beneficial purposes consistent with the Water Agency Act and within the Santa Ynez River watershed or the Cachuma Project service area. All decisions relating to the expenditure of such funds are to be concurred in, by both the County Water Agency and COMB (as the successor agency to the Cachuma Project Authority), acting by unanimous vote.

Since the Member Unit Contracts were renewed along with the Cachuma Project Master Contract in 1995, the County Water Agency's Cachuma Project \$100,000 Contribution has been used each year for expenditures within the lower Santa Ynez River watershed, mainly to fund activities related to the Fisheries MOU, the Lower Santa Ynez Fish Management Plan, and the Cachuma Project Biological Opinion. The County Water Agency Manager was advised by letter dated April 16, 2006, from the COMB General Manager, of the recommended expenditures for the \$100,000 Betterment Fund for FY 2007-2008 as noted above. See copy attached.

At the April 13, 2007 public meeting on this subject, County Water Agency Manager, Rob Almy, stated that he expects that the County Water Agency Board of Directors will concur with the recommended expenditures as proposed in the COMB letter.

KR.COMB/admin/Boardmemo/042307_100K COMB memo

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CACHUMA OPERATION AND MAINTENANCE BOARD

3301 LAUREL CANYON ROAD
SANTA BARBARA, CALIFORNIA 93105-2017
TELEPHONE (805) 687-4011 FAX (805)569-5825
www.ccrb-comb.org
contactus@cachuma-board.org

April 16, 2007

Rob Almy, Manager
Santa Barbara County Water Agency
123 East Anapamu Street
Santa Barbara, CA 93101

Re:Water Agency \$100,000 Cachuma Project Betterment Fund for Fiscal Year 2007-08

Dear Mr. Almy:

On behalf of the Cachuma Operation and Maintenance Board (COMB), I am writing to request that the Water Agency concur with the recommendation of the Cachuma Member Units for the use of the Water Agency's \$100,000 Cachuma Project Betterment Fund in the 2007-2008 fiscal year. The recommendation calls for the full expenditure of this money to support the ongoing Lower Santa Ynez River Fisheries Program and related activities as follows: \$50,000 for the USGS/County Santa Ynez River stream gage data collection program; \$10,000 for repayment to the County Agency reserves for Cachuma Park boat launch modifications; and \$40,000 toward implementing the Lower Santa Ynez River Fish Management Plan and Cachuma Project Biological Opinion.

COMB's Board of Directors will consider the proposed use of the Water Agency contribution at its next meeting on April 23, 2007. The Board is expected to formally endorse the recommendation of the Cachuma Member Units.

I trust that the Water Agency will also agree with this expenditure, to provide funding for these valuable studies.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Kate Rees', written in a cursive style.

Kate Rees
Interim General Manager

kr ccrb admin/renewal-trust fund/100K_Almy COMBltr_041607

ITEM # 8a
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CACHUMA OPERATION & MAINTENANCE BOARD

Measurement of 2006-2007 Goals and Objectives

Goal 1: To Improve Communications & Information Systems

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
<ul style="list-style-type: none"> Prepare annual update of the Communications Directory in the Standing Operating Procedures (SOP) and Emergency Action Plan (EAP) manuals. 	2/07	Completed February 2007
<ul style="list-style-type: none"> Design and develop Cachuma Project Geographic Information System (GIS). 	7/08	In Progress – Completion by 7/08
<ul style="list-style-type: none"> Development of new COMB Website. 	9/06	In Progress – Completion by 7/07

Goal 2: To Achieve Favorable Outcomes in Contracts and Agreements with USBR

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
<ul style="list-style-type: none"> Research Alternatives to capitalize cost of Bradbury Dam Radial Gates Rehabilitation and Betterment Project. 	9/07	Completed – Result: Could not capitalize cost per Reclamation guidelines.
<ul style="list-style-type: none"> Request USBR to recalculate interest rate for M&I water in Renewal Master Contract I75r-1802R. 	9/07	Completed following meeting with Reclamation in October 2006.

- Resolve outstanding cost issues with Bradbury Dam SOD Act Repayment Contract 01-WC-20-2030. 9/07 Completed
- Monitor remaining USBR Safety of Dams modification projects at Bradbury Dam:
 - 1) Hilton Creek Telemetry and Access Road Improvements. Ongoing
 - 2) Borrow Sites Re-vegetation Work. Complete by late Summer 2007
- Monitor Lauro Dam SOD construction 12/06 Completed – 12/06

Goal 3: To Facilitate Interagency Communication and Coordination for Design and Construction of Projects

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
• Facilitate COMB and Member Unit Capital Improvement Projects Coordination meetings.	Ongoing Throughout Fiscal Year	Ongoing
• Coordinate with USBR, Montecito and Carpinteria Valley Water District on Ortega Reservoir Cover Project.	Ongoing Throughout Fiscal Year	In Progress – Completion Fall 2007
• Coordinate with USBR and Member Units to carry out Project Management Plan for Lauro Dam SOD Construction.	Completion by 12/06	Construction Complete – Revegetation scheduled for Fall 2007
• Coordinate with USBR and Goleta Water District to redo the Cost/Benefit Analysis for physical modification to Glen Anne Dam to address SOD Issues.	Revised Analysis TBA	Work with USBR to get the facility re-evaluated – 3/2008

Goal 4: To Enhance Workplace Environmental & Safety Programs and Standards

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
<ul style="list-style-type: none"> Conduct periodic self-inspections for all Cachuma Project sites as designated in the Illness and Injury Prevention Program. 	Ongoing Throughout Fiscal Year	Staff Committee appointed – Ongoing Inspections 1 st year inspections will be completed by 6/07
<ul style="list-style-type: none"> Annual review and training of safety programs. 	In Progress	Scheduled completion 9/07
<ul style="list-style-type: none"> Write additional safety programs required by OSHA. <ol style="list-style-type: none"> Emergency Action Plan Blood Borne Pathogens 	Completion by 3/07	Emergency Action Plan completion - 9/07 Blood Borne Pathogens – Completed 12/06

Goal 5: To Improve Cachuma Project Conveyance Systems Operations

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
<ul style="list-style-type: none"> SCC Hydraulic Capacity Study report and computer model Phase II Tasks 	Fall 2006	Completed
<ul style="list-style-type: none"> Construct modifications at Corona Del Mar Turnout. 	Fall 2006	Completed
<ul style="list-style-type: none"> Upgrade SCADA system for remote operation and monitoring of the SCC system. 	4/07	In Progress – Completion by 12/07
<ul style="list-style-type: none"> Integrate COMB SCADA with SCADA systems operated by South Coast Member Units, CCWA and USBR (both at Bradbury Dam). 	10/06	Completed

- Coordinate and conduct a shutdown and inspection of the Tecolote Tunnel by COMB staff. Winter 06/07 Not Completed

Goal 6: To Rehabilitate and Improve Cachuma Project Conveyance System Components

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
• Improve and enlarge the Lauro Debris Basin.	Completion of design and partial construction by 6/07	In Progress
• Complete 2005 Winter Storm Damage Repairs.	Completion of repairs by 6/07	Not Completed
• Upgrade storm drain system for Lauro office area.	Construction Summer 2006	Completed
• Install new line valves in the SCC Carpinteria Reach.	2 nd Line Valve 3 rd Line Valve 4 th Line Valve	Completed Not Completed In Progress
• Rehabilitate 20 SCC air vent, blow-off or lateral valves and related structures.	Rehabilitatin of 60-70 structures completed. Completion of additional 20 structures by 3/07.	Completed
• SCC Alternative Analysis and Life Expectancy Studies.	Draft study completed by 4/05. Distribution to	Not Completed

- Member Unit Managers for review 5/05.
- Draft study completed 5/06. Distribution to Member Unit Managers for review 8/06.
- Not Completed

1) Carpinteria Reach (Lauro/Cater to Ortega)

2) Goleta and Carpinteria Reach Additional Study

Goal 7: To Carry Out and Improve Administrative Policies and Procedures

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
• Re-work Summary of Water Use report for clarity purposes.	Completion by 9/06	In progress
• Implement new financial chart of accounts.	Completion by 6/07	Once re-organization is completed
• Review annual Employee Evaluation Program	Fall 2006	Completed
• Re-organize administrative/organizational files for accessibility and retention purposes.	Ongoing	In Progress

Goal 8: To Develop and Improve Staff Training Programs

<i>Objectives</i>	<i>Projected Completion Date</i>	<i>Status</i>
• Provide resources for staff educational and job skills enhancement training programs.	Ongoing	Ongoing

Employee Appreciation Luncheon - Ongoing

Ongoing

- Implement programs to reward educational and term-of-service accomplishments.

Ongoing

Ongoing

- Evaluate possible employee retention programs.

CACHUMA OPERATION & MAINTENANCE BOARD

2007 – 2008 Goals and Objectives

Goal 1: To Improve Communications & Information Systems

Objectives:

A) Prepare annual update of the Communications Directory in the Standing Operating Procedures (SOP) and Emergency Action Plan (EAP) manuals.

Status: Completion by 2/08.

B) Design and develop Cachuma Project Geographic Information System (GIS).

Status: In progress - Completion by 7/08.

C) Development of new COMB Website.

Status: Completion by 7/07

Goal 2: To Achieve Favorable Outcomes in Contracts and Agreements with USBR

Objectives:

A) Renegotiate USBR Bradbury Dam SOD agreement after final costs determined.

Status: 6/08

B) Monitor Hilton Creek watering system projects to completion.

1) Hilton Creek Telemetry and Access Road Improvements

Status: Completed by 9/07

2) Borrow Sites Re-vegetation Work.

Status: Completed

C) Monitor Lauro Dam SOD repayment contract

Status: Ongoing

Goal 3: To Facilitate Interagency Communication and Coordination for Design and Construction of Projects

Objectives:

D) Facilitate COMB and Member Unit Capital Improvement Projects Coordination meetings.

Status: Ongoing throughout 2007-08.

- E) Coordinate with USBR, Montecito and Carpinteria Valley Water District on Ortega Reservoir Cover Project.
 - a. Periodic site meetings.
 - b. Phase III planning.

Status: Ongoing through Fall 2007.

- F) Coordinate with USBR and Member Units to carry out Project Management Plan for Lauro Dam SOD Construction.
 - a. Re-vegetation program monitoring

Status: Completion by 12/07.

- G) Coordinate with USBR and Goleta Water District to redo the Cost/Benefit Analysis for physical modification to Glen Anne Dam to address SOD Issues.

Status: Revised analysis TBA.

Goal 4: To Enhance Workplace Environmental & Safety Programs and Standards

Objectives:

- A) Conduct periodic self-inspections for all Cachuma Project sites as designated in the Illness and Injury Prevention Program.

Status: Ongoing – Completion 3/08.

- B) Annual review and training of safety programs.

Status: Ongoing – Completion 3/08.

- C) Write additional safety programs required by OSHA.
 - 1) Emergency Action Plan

Status: In Progress – Scheduled completion 9/07.

Goal 5: To Improve Cachuma Project Conveyance Systems Operations

Objectives:

- A) Upgrade SCADA system for remote operation and monitoring of the SCC system.

Status: In Progress - Completion by 12/07.

- B) Coordinate and conduct a shutdown and inspection of the Tecolote Tunnel by COMB staff.

Status: Completion by winter 2007-08.

Goal 6: To Rehabilitate and Improve Cachuma Project Conveyance System Components

Objectives:

- A) Improve and enlarge the Lauro Debris Basin.
Status: Permits in progress – Completion 12/07.
Design in progress - Completion of design scheduled for 12/07.
Complete construction by 12/08.
- B) Upper Reach SCC 2nd Pipeline Project.
Status: Environmental in progress – Completion 12/07.
Initial design in progress - Completion 12/07.
Determine and procure funding – Completion 3/08.
- C) Complete 2005 Winter Storm Damage Repairs.
Status: Completion of repairs by 6/08.
- D) Install new line valves in the SCC Carpinteria Reach.
Status: 3rd Line Valve – Completion winter 2007/08.
4th Line Valve – Planning phase 4/08.
5th Line Valve – Planning phase 4/08.
- E) Rehabilitate 20 SCC air vent, blow-off or lateral valves and related structures continued.
Status: Completion of additional 10 structures by 3/08.
Upgrade 5 water meters - Lower Reach SCC 3/08.
Abandon Lat 3A Vault 3/08.
- F) SCC Alternative Analysis and Life Expectancy Studies.
1) Carpinteria Reach (Lauro/Cater to Ortega)
Status: Draft study completed 4/05. Finalize report 1/08.
2) Goleta and Carpinteria Reach Additional Study.
Status: Draft study completed 5/06. Finalize report 1/08.

Goal 7: To Carry Out and Improve Administrative Policies and Procedures

Objectives:

- A) Implement new financial chart of accounts.
Status: Complete after re-organization.
- B) Re-organize administrative / organizational files for accessibility and retention purposes.

Status: Ongoing Project

C) Review annual Employee Evaluation Program

Status: Ongoing

D) Review and update Employee Handbook Employment and General Policies.

Status: In Progress

E) Develop Accounting and Administrative Department Procedure Guides for specific tasks.

Status: In Progress

Goal 8: To Develop and Improve Staff Training Programs

Objectives:

A) Provide resources for staff educational and job skills enhancement training programs.

Status: Ongoing

B) Implement programs to reward educational and term-of-service accomplishments.

Status: Ongoing

C) Evaluate possible employee retention programs.

Status: Ongoing

FYI

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GOVERNMENT CODE § 6103

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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 Petitioners,

15 v.

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

18 Respondents.

19
20
21 CACHUMA CONSERVATION
22 RELEASE BOARD, and DOES 21-50,

23 Real Parties in Interest.
24
25
26
27
28

Case No. 1171135
Hon. Judge: Timothy J. Staffel

**RESPONDENT'S AND REAL PARTY IN
INTEREST'S JOINT OPPOSITION TO
PETITIONERS' MOTION FOR LEAVE
TO FILE AMENDED PETITION FOR
WRIT OF MANDATE**

Date: April 25, 2007
Time: 8:30 a.m.
Dept: SM1

[Declaration of Kathleen A. Rees in Support of
Respondent's and Real Party in Interest's Joint
Opposition to Petitioners' Motion for Leave to
File Amended Petition for Writ of Mandate filed
concurrently herewith]

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**RESPONDENT'S AND REAL PARTY IN INTEREST'S JOINT OPPOSITION TO PETITIONERS' MOTION FOR
LEAVE TO FILE AMENDED PETITION FOR WRIT OF MANDATE**

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1 **I. INTRODUCTION**

2 Petitioners Crawford-Hall and San Lucas Ranch, Inc. ("Petitioners" or "Crawford-Hall")
3 have made the extraordinary request of asking the Court to amend their Petition to add multiple
4 new causes of action involving entirely new parties, new facts, and requiring new briefing and an
5 essentially new administrative record more than two years after the Petition for Writ of Mandate
6 was originally filed. In so doing, Petitioners are attempting an end-run around the California
7 Environmental Quality Act's ("CEQA") strict statute of limitations by endeavoring to
8 fundamentally change the nature of their lawsuit long after the statutory period has run.

9 The Petition currently names only Respondent Cachuma Operation and Maintenance
10 Board ("COMB" or "Respondent") and Cachuma Conservation Release Board ("CCRB" or "Real
11 Party in Interest"), and challenges only COMB's 2004 certification of the Final EIR for the
12 Lower Santa Ynez River Fish Management Plan and Cachuma Project Biological Opinion ("Final
13 EIR") and approval of the projects in the FMP/BO under CEQA. Granting Petitioners' Motion
14 for Leave to File First Amended Petition for Writ of Mandate and Complaint ("Motion") would
15 entail adding two new parties – the California Department of Transportation ("Caltrans") and
16 Caltrans' Director Will Kempton – and four new causes of action – including Caltrans' alleged
17 violations of both CEQA and due process under the California and United States Constitutions.
18 These new causes of action are without exception based on facts that occurred years after
19 COMB's action and months after briefing was complete and the case was set for hearing.
20 Allowing such significant changes in the Petition and adding entirely unrelated parties and causes
21 of action at this late date would be untimely and highly prejudicial, and thus would not be "in
22 furtherance of justice."

23 Petitioners' Motion is untimely for at least two reasons. First, it is untimely because the
24 parties it seeks to add and the causes of action it seeks to introduce are barred by the statute of
25 limitations. The statute of limitations applicable to COMB's action expired two years ago, such
26 that no new parties can now be added. Further, even the statute of limitations as to Caltrans'
27 more recent action expired months before Petitioners brought their Motion. Second, this Motion
28 is untimely because granting it will require a lengthy and unacceptable delay in hearing the case

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1 on its merits. The administrative record was certified more than a year ago, and briefing has been
2 complete since August 2006. The case is currently ready for hearing. Consequently, the hearing
3 on the merits, which was originally scheduled for October 2006, will be substantially delayed in
4 violation of the interests of justice.

5 Further, Petitioners' Motion – if granted – will be highly prejudicial to Respondent. First,
6 and as a direct result of the delay Petitioners seek to impose on the Parties, Respondent will
7 necessarily incur significant new expenses in costs and attorneys' fees and be required to
8 complete again nearly all of the work that has been done thus far on this case. Petitioners'
9 attempt to introduce new parties, new facts, new allegations, and a new lead agency will require
10 significant supplementation of the administrative record, if not preparation of an entirely separate
11 record. The current record took more than a year to prepare and already consists of sixty-four
12 volumes and more than 30,000 pages. In addition, all briefing on the case has been complete for
13 months, and due to Petitioners' proposed amendments, many if not all issues will need to be
14 briefed again. Should they prevail, Petitioners seek "their costs and reasonable attorneys' fees"
15 from COMB, further evidencing the burdensome and prejudicial nature of Petitioners' Motion.
16 Accordingly, because Petitioners' Motion is barred by the statute of limitations, untimely, and
17 prejudicial to COMB, the Motion should be denied.

18 **II. FACTS**

19 The projects challenged here are designed to improve the aquatic ecosystem of the Lower
20 Santa Ynez River and protect endangered Southern California steelhead by: (1) creating new
21 habitat and improving existing habitat in the lower river and its tributaries; (2) improving access
22 to spawning and rearing habitat in the lower river and its tributaries; and (3) increasing public
23 awareness and support for beneficial actions on private land. (39 AR 371:17397.) Crawford-
24 Hall's Motion is her fourth attempt to stop these beneficial and greatly needed efforts. This time,
25 her objections focus on the Highway 154 Culvert Project ("Project") on Hilton Creek. (Amended
26 Petition at 13:21-15:26.) While Hilton Creek traverses Crawford-Hall's property, all construction
27 related to the Highway 154 Culvert Project will take place entirely on Caltrans' right-of-way
28 surrounding Highway 154. (39 AR 371:17435.)

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1 **A. Background Information**

2 As described in COMB's Opposition Brief (Opp. at 3:19-6:14), the Cachuma Project
3 consists of Bradbury Dam, Cachuma Lake, and associated water conveyance structures. (39 AR
4 371:17395.) COMB's member agencies operate and maintain the Cachuma Project's water
5 conveyance facilities, while the U.S. Bureau of Reclamation ("Reclamation") actually owns the
6 facilities and operates the Dam. (39 AR 371:17396; Petition, ¶ 6.)

7 In 1997, NOAA Fisheries' National Marine Fisheries Service ("NMFS") designated the
8 Southern California steelhead, including the population in the lower Santa Ynez River, as an
9 endangered species. (39 AR 371:17381.) NMFS issued a final Biological Opinion ("BO") in
10 2000, which incorporated the projects described in the Lower Santa Ynez River Fish
11 Management Plan ("FMP"). (39 AR 371:17380.) These projects were intended "to identify,
12 valuate, and recommend potential management actions that will benefit fish and other aquatic
13 resources in the lower Santa Ynez River." (*Ibid.*) In addition, the BO included mandatory terms
14 and measures that were required to be implemented to minimize "take" and facilitate the survival
15 of the steelhead. (39 AR 371:17381, 17498.) COMB is jointly responsible, along with
16 Reclamation, for implementation of the FMP and BO. (39 AR 371:17398.) Among the projects
17 identified in the FMP/BO were the Hilton Creek Cascade/Chute Project and the Hilton Creek
18 Highway 154 Culvert Project. (39 AR 371:17408 Tbl. 2-1; 17430-17436.)

19 **B. Litigation And Environmental Review History**

20 **1. Crawford-Hall's First Petition**

21 In 2001, Crawford-Hall filed the first of her several petitions for writ of mandate.
22 (Opening, 8.) In the first suit, she challenged the Mitigated Negative Declaration COMB had
23 prepared for the Hilton Creek Cascade/Chute Project, arguing that COMB must instead prepare
24 an Environmental Impact Report for all projects identified in the FMP/BO, including the Hilton
25 Creek Cascade/Chute Project. (Opening 8; 64 AR 30462.) The Court granted Crawford-Hall's
26 writ petition and entered judgment against COMB. (32 AR 220:14752-56.)

27 In response, COMB and Reclamation began preparation of a joint Environmental Impact
28 Report/Environmental Impact Statement ("EIR/EIS"), with Reclamation acting as lead agency
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1 under the National Environmental Policy Act, COMB acting as lead agency under CEQA, and
2 Caltrans being named as the sole responsible agency. (32 AR 214:14735; 39 AR 371:17400;
3 Motion 6:1-9.) Caltrans was designated as a responsible agency because it had approval authority
4 over a single one of the FMP/BO projects identified in the EIR/EIS: a project to modify the fish
5 passage barrier where Hilton Creek passes under a bridge on Highway 154 ("Highway 154
6 Culvert Project"). (39 AR 371:17400.) Caltrans' limited approval authority over that Project
7 arose from its jurisdiction over Highway 154 and its adjoining road right-of-way where the
8 Project would be located, as well as Caltrans' intention to correct a long-standing fish passage
9 barrier caused by construction of the highway. (39 AR 371:17400, 17434-35; Motion, 1:10-12.)
10 The EIR/EIS stated that Caltrans "will consider" adopting the certified EIR if Caltrans later
11 approved the Highway 154 Culvert Project, not that it was required to do so. (39 AR 371:17400.)

12 On November 22, 2004, COMB certified the Final EIR and approved the FMP/BO
13 projects with the exception of the Hilton Creek Cascade/Chute Project and the Hilton Creek
14 Highway 154 Culvert Project. (Petition, ¶ 57; 45 AR 425:20416.) Indeed, COMB never
15 approved the Highway 154 Culvert Project and does not have any plans to approve the Project in
16 the future. (Petition, ¶ 57; Motion 1:13; Rees Decl. at ¶ 3.) On November 24, 2004, COMB filed
17 a Notice of Determination with the Santa Barbara County Clerk, who posted the Notice for 30
18 days as required under CEQA; the 30-day statute of limitations ran on December 24, 2004. (Pub.
19 Res. Code, §§ 21152(a), (c), 21167(c); 45 AR 430:20475, 20481.) As the lead agency under the
20 EIS, Reclamation approved all of the projects under the EIS and completed construction of the
21 Hilton Creek Cascade Chute Project in December 2005. (Rees Decl. ¶ 3.)

22 2. Crawford-Hall's Second Petition

23 On December 23, 2004, Crawford-Hall filed another petition for writ of mandate against
24 COMB – which is the case currently at issue.¹ (Petition, ¶ 1.) This time, she is seeking to set

25
26 ¹ For Crawford-Hall's third petition, she filed suit in federal court in December 2005 against the U.S. Department of
27 the Interior and the Bureau of Reclamation. (*Crawford-Hall v. Norton*, Case No. CV 05-08708 GHK [C.D.Cal.]).
28 The federal complaint and the Petition in this case were virtually identical. (Cf. Opp. RJN, Exh. 1 to Petition filed
12/23/04.) The same day, Crawford-Hall also filed an Application for a Temporary Restraining Order for the
cascade/chute Project on Hilton Creek. (Opp. RJN, Exh. 9.) The federal court denied Crawford-Hall's Application
for a restraining order, and Crawford-Hall dismissed her federal case.

1 aside the entire FMP/BO Project and the EIR (the document which she had demanded be
2 prepared in her first Petition), including all approvals related to the implementation of the FMP
3 and BO. (Petition, ¶ 1; Prayer, ¶ 1.)

4 This lawsuit names only COMB and Real Party in Interest CCRB, not Reclamation, the
5 lead agency under NEPA, nor Caltrans, the only responsible agency referenced in the EIR.
6 Because the lawsuit does not name Reclamation, yet Petitioners' allegations challenge
7 Reclamation's role in Project approval and Reclamation's reliance on the EIS/EIR, COMB filed a
8 demurrer on May 5, 2005. (See Not. of Demurrer & Demurrer.) In this demurrer, COMB argued
9 that Reclamation was a necessary and indispensable party to this action because Reclamation will
10 be injured if the case goes forward without it. (Memo. of Ps & As in Support of Demurrer, 6:9-
11 8:15.) Petitioners opposed the motion, arguing that all necessary Parties were already named in
12 the lawsuit, and that "the Court can grant the existing parties – Petitioners and COMB – complete
13 relief." (Pet. Opp. to Dem. at 9:12-13.) This Court denied the demurrer, agreeing with
14 Petitioners that all necessary Parties were already included in the action.

15 The administrative record for this case was certified approximately one year ago, in April
16 2006. (See Certif. of Admin. Rec.) As lodged with the Court on August 30, 2006, this record
17 consists of eleven banker's boxes, containing 64 volumes of more than 30,000 pages of
18 documents supporting COMB's decision. Briefing was completed on August 30, 2006, and the
19 case was originally set for hearing on October 25, 2006. (See Not. of Amended Hearing Date,
20 filed 10/19/06.) This hearing date was moved several times, from October 25 to December 18,
21 and finally to January 29, 2007, at which point it was taken off calendar because of ongoing
22 settlement discussions. (Not. of Amended Hearing Date, filed 10/19/06; Stip. to Continue
23 Hearing, filed 11/22/06, 1:4-5.) Nonetheless, all briefing has been completed, and the case is
24 ready for hearing at any time.

25 3. Caltrans Project Approval Process

26 Two years after COMB certified its EIR but refused to approve the Highway 154 Culvert
27 Project, Caltrans independently decided to pursue that Project as its own. (See Pet. Exh. 1, at pp.
28 2-5.) Acting as CEQA lead agency, Caltrans analyzed the Project, approved it, and filed its

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1 Notice of Exemption (“NOE”), relying on a Class 33 categorical exemption for small habitat
2 restoration projects. (Pet. Exh. 1, at p. 2.) Caltrans also filed the NOE with the Santa Barbara
3 County clerk on December 15, 2006; this triggered the 35-day statute of limitations for
4 challenging its action, which ended on January 19, 2007. (Pub. Res. Code, §§ 21167(d), 21152;
5 Cal. Code Regs., tit. 14 [“State CEQA Guidelines”], §§ 15062, 15112(c)(2); Pet. Exh. 1, at p. 2.)
6 No challenge was filed within this period.

7 Neither COMB’s General Manager, Kathleen Rees, nor any of her subordinates ever
8 spoke to anyone at Caltrans regarding Caltrans’ decision to go forward with this Project. (Rees
9 Decl. at ¶ 6.) Similarly, neither Gary Ruggerone – Caltrans’ Senior Environmental Planner
10 monitoring the Project – nor anyone else at Caltrans called, sent documents, or otherwise
11 contacted COMB regarding Caltrans’ pursuit of this Project. (Rees Decl. at ¶¶ 5, 6.) COMB was
12 not named as a responsible agency or otherwise ever notified of this action, and Caltrans did not
13 rely on COMB’s EIR for its approval. (Rees Decl. at ¶¶ 6, 7.)

14 Over two months after the January expiration of the statute of limitations for challenging
15 Caltrans’ approval, Crawford-Hall is attempting to add causes of action against Caltrans that
16 challenge its December 15 approval.

17 **III. ARGUMENT**

18 **A. Standard of Review for Requests for Leave to Amend Pleadings**

19 Each party has the right to amend its pleadings once, without leave of the court, within a
20 brief time after its original pleading is filed. (Code Civ. Proc., § 472.) Subsequent to that time,
21 amendment of a pleading is only permitted with leave of the court. (Code Civ. Proc., §§
22 473(a)(1), 576; *Loser v. E. R. Bacon Co.* (1962) 201 Cal.App.2d 387, 389.)

23 A trial court may, in its discretion, allow an amendment to a complaint pursuant to Code
24 of Civil Procedure section 473 if the court determines that allowing the amendment would be “in
25 furtherance of justice.” (Code Civ. Proc., §§ 473(a)(1), 576.) While amendments are generally
26 liberally allowed, such liberality is not absolute; a court must use discretion based on the specific
27 facts of each case. (*Dibblee v. Title Ins. & Trust Co.* (1942) 55 Cal.App.2d 286, 295.)

28 There are several instances in which this liberal policy does not apply because allowing

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1 the amendment would not be "in furtherance of justice." For example, it does not apply where
2 the amendment attempts to state "another and distinct cause of action" or attempts to present an
3 entirely different set of facts by the amendment. (*Klopstock v. Superior Court* (1941) 17 Cal.2d
4 13, 19, 20.) Similarly, it does not apply if the amendment is attempting to bring in a new party
5 under a different cause of action than that originally pled. (*Garrison v. Board of Directors* (1995)
6 36 Cal.App.4th 1670, 1678.) Additionally, where an amendment is untimely and subject to a
7 demurrer for being barred by the statute of limitations, the liberal policy of amendment does not
8 apply. (*Yee v. Mobilehome Park Rental Review Bd.* (1998) 62 Cal.App.4th 1409, 1429.)
9 Furthermore, it only applies when no prejudice is shown to adverse parties; therefore, if any
10 prejudice is shown, the liberal policy does not apply. (*Huff v. Wilkins* (2006) 138 Cal.App.4th
11 732, 746.) Under any of the above scenarios, denial of leave to amend is proper. (See, e.g., *Yee,*
12 *supra*, 62 Cal.App.4th at 1429; *Garrison, supra*, 36 Cal.App.4th at 1678.)

13 Further, case law overwhelmingly demonstrates that courts should deny leave to amend in
14 instances where the motion is (1) untimely or (2) prejudicial to the opponent. (See, e.g., *Landis v.*
15 *Superior Court* (1965) 232 Cal.App.2d 548, 554; *Magpali v. Farmers Group Inc.* (1996) 48
16 Cal.App.4th 471, 487; *Dibblee, supra*, 55 Cal.App.2d at 294-295.) A motion is untimely if, for
17 example, the other party has unreasonably delayed in adding a party. (*Huff, supra*, 138
18 Cal.App.4th at 746.) Similarly, prejudice can be established by showing the amendment would
19 require delaying the trial, that it would result in the loss of critical evidence, or that the
20 amendment would add to the costs of preparation or increase the burden of discovery. (*Magpali,*
21 *supra*, 48 Cal.App.4th at 486-488.)

22 Here, the Motion is untimely, is highly prejudicial to the Respondent and Real Party in
23 Interest, and is barred by the statute of limitations. Accordingly, the liberal policy of allowing
24 amendment does not apply, and allowing the amendment would not serve the interests of justice.
25 Therefore, Petitioners' Motion should be denied in its entirety.

26 **B. Petitioners' Motion Is Untimely**

27 A motion to amend is untimely where the moving party has unreasonably delayed in
28 bringing the motion or in adding a proposed new party. (*Huff, supra*, 13 Cal.App.4th at 746.)

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1 Additionally, a motion may be untimely where it will significantly delay the hearing. (See
2 *Magpali, supra*, 48 Cal.App.4th at 486-488.) The court should consider negative effect of the
3 belated amendment on the adverse party in determining whether allowing the amendment is in
4 furtherance of justice. (*Ibid.*; *Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 940.)

5 **1. The Statute Of Limitations Bars Crawford-Hall's New Causes Of**
6 **Action**

7 The general rule of permissive amendments does not apply when the proposed addition
8 would be barred by the statute of limitations if brought in a separate action. (See *Kerr-McGee*
9 *Chemical Corp. v. Superior Court* (1984) 160 Cal.App.3d 594, 598-599.) Leave to amend is
10 properly denied when an amendment would be futile because it is legally barred. (*Yee, supra*, 62
11 Cal.App.4th at 1429.) "Generally, leave to amend must be liberally granted [citation] provided
12 there is no statute of limitations concern, nor any prejudice to the opposing party."² (*Solit v.*
13 *Tokai Bank* (1999) 68 Cal. App. 4th 1435, 1448 (emphasis added).) Instead, Section 473
14 subdivision (a) is not available to add a new party after the statute of limitations has run; its
15 purpose is instead to correct minor mistakes, such as to substitute a party's real name for a
16 misspelled name used in the pleadings. (*Kerr-McGee, supra*, 160 Cal.App.3d at 598-599.) Thus,
17 the general rule is a motion to amend should be denied if the added claims are brought outside the
18 statute of limitations.

19 When an amended complaint raises issues that would be barred by the statute of
20 limitations if filed as a part of a new lawsuit, the amended complaint must "relate back" to the
21 original complaint. (*Foxborough v. Van Atta* (1994) 26 Cal.App.4th 217, 230.) "An amended
22 complaint relates back to the original complaint when it (1) is based on the same general set of

23 _____
24 ² In the furtherance of justice, a court may allow a party to amend a pleading to add the name of another party, even if
25 it would otherwise be barred by the statute of limitations. (*Garrison, supra*, 36 Cal.App.4th at 1677.) However,
26 courts should only grant such a motion "when recovery under an amended complaint is sought on the same basic set
27 of facts as the original pleading." (*Id.* at 1678 (emphasis added); see also *Hobson v. Raychem Corp.* (1999) 73
28 Cal.App.4th 614, 626.) In addition, the amended complaint must "restate[] the identical cause of action." (*Garrison,*
supra, 36 Cal.App.4th at 1678 (emphasis added).) If these two conditions are not met, granting such a motion would
be highly prejudicial to opposing parties and would not further the interests of justice. (*Ibid.*) Because Petitioners'
new allegations involve actions that took place more than two years after the action it is challenging in this lawsuit,
and because their amended complaint identifies four new causes of action, these conditions are not met here, and
Petitioners' Motion should be denied.

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1 facts as the original, (2) seeks relief for the same injuries, and (3) refers to the same incident.”
2 (*Ibid.*(emphasis added).) An amended pleading cannot “relate back” if it refers to a different
3 incident. (*Ibid.*) If the proposed amendment does not “relate back,” and it is otherwise time
4 barred by the statute of limitations, it is proper for a court to deny leave to amend. (*Id.* at 230-
5 231.) Furthermore, “an amended complaint that adds a new defendant does not relate back to the
6 date of filing the original complaint, and the statute of limitations is applied as of the date the
7 amended complaint is filed, not the date the original complaint is filed.” (*Woo v. Superior Court*
8 (1999) 75 Cal.App.4th 169, 176 (emphasis added); *Warren v. Atchison, Topeka & Santa Fe Ry.*
9 *Co.* (1971) 19 Cal.App.3d 24, 39.)³ Finally, amendments naming public entities cannot relate
10 back to the original complaint. (*Chase v. State* (1977) 67 Cal.App.3d 808, 812-813.)

11 a. **The Statute Of Limitations Bars Challenging COMB’s**
12 **Approval**

13 COMB certified the EIR and approved all but two of the projects analyzed in it more than
14 two years ago. (Petition, ¶ 57; 45 AR 425:20416; Rees Decl. ¶ 3.) On November 24, 2004,
15 COMB filed and posted a Notice of Determination, which triggered the 30-day statute of
16 limitations for challenging this approval. (Pub. Res. Code, § 21152(a), (c), 45 AR 430:20475,
17 20481.) The statute of limitations for a challenge to this approval ran on December 24, 2004.
18 (Pub. Res. Code, § 21167.) While Crawford-Hall did file a challenge against COMB prior to Dec
19 24th, she missed her opportunity to sue Caltrans under this approval by more than two years.
20 Therefore, Crawford-Hall’s untimely attempt to add Caltrans at this late date should be denied. In
21 addition, under the cases cited above, Petitioners’ new charges cannot “relate back” because
22 Petitioners admit that their proposed amendment involves a different incident and a different
23 public entity. (Motion, 6:15-7:16.) Petitioners’ claims are barred by the statute of limitations,

24
25 ³ The only exception is if a substitution is made under Code of Civil Procedure section 474 of a new defendant in
26 place of a fictitious Doe defendant named in the original complaint as to whom the same cause of action was stated in
27 the original complaint. (*Woo, supra*, 75 Cal.App.4th at 176.) However, if the petitioner was not “genuinely ignorant
28 of Defendant’s identity” when it filed its original complaint, then “a new defendant may not be added after the statute
of limitations has expired even if the new defendant cannot establish prejudice resulting from the delay.” (*Id.* at 177
(emphasis added).) Here, Crawford-Hall was fully aware Caltrans was listed as a responsible agency in the EIR and
thus cannot claim she was ignorant of its identity or involvement with the Project. (See, e.g., Ps & As in Supp. of
Motion 1:15-17.)
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1 and it would be an abuse of discretion for the Court to grant their Motion.

2 **b. The Statute Of Limitations Bars Any Challenge To Caltrans'**
3 **Approval Under CEQA**

4 Of its own volition, and without any involvement from COMB, Caltrans analyzed and
5 decided to approve a project to modify the fish passage barrier in Hilton Creek under a bridge on
6 Highway 154. (See Pet. Exh. 1 at pp. 2-5; Rees Decl. ¶ 6.) Caltrans filed a NOE and had it
7 publicly posted on December 15, 2006. (Pet. Exh. 1, at p. 2.) The thirty-five day statute of
8 limitations for bringing a legal challenge to this approval thus expired on January 19, 2007. (Pub.
9 Res. Code, § 21167(d).) Courts strictly interpret and apply the statute of limitations under CEQA.
10 (See, e.g., *Lee v. Lost Hills Water Dist.* (1978) 78 Cal.App.3d 630, 634.)

11 Crawford-Hall failed to file suit against Caltrans during this period.⁴ Because she would
12 be barred from bringing such a suit directly due to the statute of limitations, Crawford-Hall is
13 attempting to sneak this challenge into her existing case against COMB and improperly join these
14 entirely unrelated causes of action.⁵ Because bringing a direct suit would be untimely, it is also
15 untimely to amend the petition to add these unrelated facts and barred causes of action.

16 ⁴ In an apparent attempt to excuse the untimeliness of their claims, Petitioners argue that Caltrans' NOE was
17 ineffective because Caltrans never "approved" the Project. (Ps & As in Supp. of Motion at 7:6-10.) What Petitioners
18 ignore, however, is that CEQA does not require a "formal" approval before the statute of limitations begins to run.
19 Indeed, CEQA makes clear an "approval" is "the decision by a public agency which commits the agency to a definite
20 course of action in regard to a project The exact date of approval of any project is a matter determined by each
21 public agency according to its rules, regulations, and ordinances." (State CEQA Guidelines, § 15352(a) [emphases
22 added].) Here, Caltrans "committed" itself to the Highway 154 Culvert Project and filed a NOE declaring this
23 commitment. Further, and as Petitioners explained under oath, this process was "consistent with Caltrans' practice"
24 for approving projects. (Owsowitz Decl. 3:1.) Additionally, CEQA provides that NOEs may be filed "[w]hen a
25 public agency decides that a project is exempt from CEQA and the public agency approves or determines to carry out
26 the project." (State CEQA Guidelines, § 15062.) Accordingly, Caltrans' NOE was properly filed, in accordance
27 with its own practice and policies, once it committed itself to carrying out the Highway 154 Culvert Project. Finally,
28 and regardless of the form Caltrans used to "approve" its Project, CEQA's plain language makes it clear that, any
action challenging a NOE "shall be commenced within 35 days from the date of the filing by the public agency . . . of
the [NOE]." (Pub. Res. Code, § 21167(d).) Here, Caltrans' NOE was filed on December 15, 2006; the statute of
limitations ran on January 19, 2007; and Petitioners failed to bring their action against Caltrans within that period.

⁵ It is noteworthy that not all of Petitioners' amended claims are based on CEQA. Petitioners' third and fourth
amended causes of action assert that Caltrans violated Petitioners' federal and state due process rights by providing
inadequate notice of Caltrans' issuance of a Notice of Exemption for the Highway 154 Culvert Project. (See First
Amended Petition for Writ of Mandate & Complaint for Declaratory Relief (35:17-38:12.) These causes of action,
however, are similarly barred by CEQA's strict, 35-day statute of limitations. (*Lee, supra*, 78 Cal.App.3d at 635
["Appellants argue, however, that due process requires that they be given more or better notice than that prescribed
by [CEQA's] statute. We do not agree."]; *Sagaser v. McCarthy* (1986) 176 Cal.App.3d 288, 299 ["The rights
derived from the environmental quality act are not of constitutional dimension and the Legislature constitutionally
may eliminate any of its requirements."].)
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1 Therefore, in the interests of justice, the Court should deny this Motion to Amend.

2 **2. Briefing Has Been Complete For Months**

3 Once all preliminary work has been completed and the parties are ready for trial, it is too
4 late to significantly amend a complaint, and any motion to amend is untimely. (*Marvin v. Marvin*
5 (1976) 18 Cal.3d 660, 667 [leave denied because amendment offered after all preparations for
6 trial were complete, and granting the amendment would entail continuance and resulting
7 inconvenience and expense to defendant].) Here, Petitioners' motion is untimely because all
8 briefing has been complete since August 2006, and significantly amending the Petition will result
9 in a substantial delay of the hearing. (See, e.g., Pet. Reply, filed 8/30/06; *Maggali, supra*, 48
10 Cal.App.4th at 486-488.) Here, the case is not only ready for hearing, but was originally
11 scheduled for hearing almost six months ago. (See Not. of Amend. Hearing Date & Cont'd MSC,
12 filed 10/19/06.) If Petitioners are allowed to add two new parties and four new causes of action,
13 entirely new briefing will need to be drafted to address all of the new issues and facts, which will
14 cause significant delay before the case can be heard on the merits.

15 Besides the need for additional briefing, the administrative record would need to be
16 significantly supplemented. As discussed above, the administrative record is already sixty-four
17 volumes – more than 30,000 pages – long. It took more than a year to prepare and certify the
18 administrative record in this case. (Cf. Not. of Elec. to Prepare AR, filed 12/23/04, & Cert. of
19 AR, filed 4/10/06.) Because an administrative record must contain all of the documents relied
20 upon by the lead agency in approving the project, an entirely new record – consisting of all
21 documents relied upon by Caltrans for its approval of the Highway 154 Culvert Project – will
22 need to be assembled and reviewed. (See, e.g., Pub. Res. Code, § 21167.6(e); *Protect Our Waters*
23 *v. County of Merced* (2003) 110 Cal.App.4th 362, 365, 372-373.)

24 Further, the new parties and new causes of action are wholly unrelated to COMB and the
25 existing cause of action. COMB did not approve and now has no connection to the Highway 154
26 Culvert Project, while Caltrans has established itself as the lead agency on the Highway 154
27 Culvert Project. As lead agency, it will be Caltrans', and not COMB's, duty to specify the
28 material that constitutes the record of proceedings. (Pub. Res. Code, §§ 21081.6, 21082.2; State

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1 CEQA Guidelines, §§ 15074(b), 15091(e).) Should the Motion be granted, the current record,
2 which is based on a 2004 approval by COMB and not a 2006 approval by Caltrans, will have to
3 be supplemented with the Caltrans' administrative record. Because all of the new facts alleged by
4 Petitioners occurred after the current record was certified, COMB may be required to augment its
5 own record, and COMB will certainly have to review all of the documents Caltrans considered in
6 approving its Project. The time it will take to locate all of these documents, review them, prepare
7 the record, and then certify it will cause considerable further delay and cost.

8 For these reasons, Petitioners' Motion is untimely. Allowing Petitioners to significantly
9 amend their Petition at this late date would not be in the interests of justice. Therefore, the Court
10 should exercise its discretion to deny this belated Motion.

11 **3. Petitioners Have Continually Insisted That COMB Is The Only**
12 **Respondent That Should Be Included In This Case**

13 Caltrans was the sole responsible agency identified in the FMP/BO EIR/EIS, and,
14 regarding COMB's approvals, could have been included from the beginning of the lawsuit if
15 Petitioners wished to challenge Caltrans' part in the EIR/EIS approval process or its involvement
16 with any portion of the Highway 154 Culvert Project. (See Pet. Surreply in Opp. to Respondents'
17 Demurrer 2:11-12 [conceding that "responsible agencies have 'an interest in the proceeding'"].)
18 In Petitioners' Memorandum of Points and Authorities in Opposition to Respondents' Demurrer,
19 they admitted that all Parties needed in the lawsuit were already in the lawsuit "because the Court
20 can grant the existing parties – Petitioners and COMB – complete relief." (Opp. to Dem. at 9:12-
21 13.) According to Petitioners, "the sole issue is whether COMB violated CEQA." (*Id.* at 9:16-
22 17; see also 12:16-17 ["this litigation is limited to the narrow issue of whether COMB violated
23 CEQA"]; 14:22-23 ["the only obligations at issue are those of COMB under CEQA"]; Opp. to
24 Demurrer, 1:23-24 [Petitioners assert their challenge is to "COMB's and only COMB's -- failure
25 to comply with state law"].) Caltrans' completely separate project involving an unrelated
26 approval has nothing to do with this "narrow issue."

27 Petitioners earlier admitted Caltrans was not needed in this case. Years later, they are now
28 attempting to change their tactics by challenging Caltrans' approval, which the CEQA statute of
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1 limitation clearly bars. "Where a party assumes a certain position in a legal proceeding, and
2 succeeds in maintaining that position, he may not thereafter, simply because his interests have
3 changed, assume a contrary position, especially if it be to the prejudice of the [other] party."
4 (*People v. Torch Energy Servs., Inc.* (2002) 102 Cal.App.4th 181, 189.) The Court should not
5 reward Petitioners' attempt to contradict their prior arguments and assert an untimely lawsuit
6 against Caltrans. As such, their Motion should be denied.

7 C. Petitioners' Motion Is Highly Prejudicial

8 1. Legal Requirements For Prejudice

9 Amendments should only be allowed when no prejudice is shown to adverse parties.
10 (*Huff, supra*, 138 Cal.App.4th at 746.) Prejudice is present, however, where an amendment will
11 result in delay of the trial or will greatly add to the costs and burden of preparation for the trial.
12 (*Magpali, supra*, 48 Cal.App.4th at 486-488.) Furthermore, an amendment that states "another
13 and distinct cause of action" late in the case is likely to prejudice the opposing party, because a
14 respondent "should not be required to answer a wholly different legal obligation from that
15 originally stated." (*Klopstock, supra*, 17 Cal.2d at 20.) Prejudice is also present where an
16 amendment "state[s] facts which give rise to a wholly distinct and different legal obligation."
17 (*Ibid.*) Adding a new cause of action that "change[s] the tenor and complexity of the complaint
18 from its original focus" late in the litigation process is likewise highly prejudicial to the opposing
19 party. (See *Magpali, supra*, 48 Cal.App.4th at 487.) In addition, prejudice can be demonstrated
20 merely by showing the amendment will require the opposing party to incur significant additional
21 legal fees. (*Hulsey v. Ruehler* (1990) 218 Cal.App.3d 1150, 1159.)

22 The amendments propounded by Petitioners state facts entirely unrelated to the facts in its
23 original Petition and would make the case significantly more complex. The Amendment seeks to
24 challenge a different entity regarding a different approval and involving a different CEQA action.
25 Accordingly, these new facts give rise to "wholly distinct and different legal obligations[s]." In
26 addition, these new facts and allegations also significantly "change the tenor and complexity of
27 the complaint," and would require Respondents to answer a "wholly different legal obligation"
28 than that which has already been extensively briefed. Showing a single one of these conditions is

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1 sufficient to establish prejudice against the opposing party. Not one but all of these situations
2 apply in the present case. Thus, Petitioners' Motion should be denied.

3 **2. Respondents Would Be Highly Prejudiced By The Added Costs And**
4 **Delay If This Motion Were Granted**

5 Petitioners claim without support that "COMB will not be prejudiced by Petitioners [sic]
6 obtaining leave to amend" despite the significant added delay, new briefing burden, and attendant
7 costs of reviewing anew the supplemented administrative record. (Motion 9:21.) Petitioners'
8 assertion is patently false. As discussed above, adding two new parties and four new causes of
9 action at this late point in the case will significantly prejudice COMB in several ways. First, it
10 will result in a considerable delay in the case being heard on the merits. The administrative
11 record took more than a year to prepare and certify, and the briefing took several months. (Cf.
12 Not. of Elec. to Prepare AR, filed 12/23/04 & Cert. of AR, filed 4/10/06.) It is therefore likely
13 that all of the additional work that would be required if this substantial amendment were granted
14 would also be very time consuming. This added delay alone is sufficiently prejudicial to support
15 the denial of Petitioners' Motion. (*Marvin, supra*, 18 Cal.3d at 667.) In addition to the prejudice
16 of extensive delay, this amendment would also be prejudicial because it would add enormous new
17 costs of reviewing, and possibly preparing, the supplemented administrative record and entirely
18 re-briefing the case. Prejudice includes the incurring of additional legal fees. (*Hulsey, supra*, 218
19 Cal.App.3d at 1159.) The additional legal fees that will be incurred to respond to a quadrupled
20 number of causes of action will be substantial.

21 In fact, Petitioners' unsupported statement "COMB may, but will not be obligated to
22 participate in additional briefing on the claims against Caltrans" is flatly false. Failing to file
23 papers or answer charges could constitute legal malpractice. (See, e.g., *Munoz v. Davis* (1983)
24 141 Cal.App.3d 420, 423 (attorney negligent for failing to file within statutory period).) Further,
25 "[o]nce filed, an amended pleading making substantive changes supersedes the original
26 therefore, a new round of pleadings is required." (Weil & Brown, Cal. Practice Guide: Civ. Proc.
27 Before Trial (Rutter Group 2006) ¶ 6:688, p. 6-171.) Adding a single new cause of action based
28 on a legal theory different than that originally pled constitutes a substantive change. (*Ford v.*

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1 *Superior Court* (1973) 34 Cal.App.3d 338, 343.) Under this standard, adding four new causes of
2 action and copious new facts undeniably qualifies as “substantive changes.” The enormous cost
3 of legal fees incurred in drafting anew – or at the very least substantially supplementing – all
4 briefing required in a complex case such as this will be highly prejudicial to COMB and the
5 public interests it represents.

6 Moreover, the fact Petitioners’ prayer for relief requests costs and attorneys’ fees from
7 COMB shows that even if COMB failed to respond to any of the new allegations and defaulted on
8 all of the new briefing, it could still have to pay for Petitioners’ costs and attorney’s fees if
9 Petitioners were to prevail. (First Amd. Pet. at 43:15.) Therefore, Petitioners’ additional cost
10 burden could later become Respondent’s burden; this added cost alone prejudices Respondent.⁶
11 Accordingly, this Court should deny Petitioners’ Motion to Amend.

12 **IV. CONCLUSION**

13 For the reasons stated above, COMB and CCRB pray that the Court deny Petitioners’
14 Motion to Amend their Petition for Writ of Mandate and Complaint.

15 Dated: April 10, 2007

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16
17 By: 

GREGORY K. WILKINSON
MICHELLE OUELLETTE
CHARITY B. SCHILLER
Attorneys for Respondent and Real Party in
Interest CACHUMA OPERATION AND
MAINTENANCE BOARD and
CACHUMA CONSERVATION
RELEASE BOARD

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26 ⁶ If the Court permits the amendment, the interests of justice require that the prejudice to COMB be ameliorated.
27 (*Fuller v. Vista Del Arroyo Hotel* (1941) 42 Cal.App.2d 400, 404.) For example, if the prejudice is increased costs
28 and fees, a court may require the amending party to pay all costs and fees incurred in responding to the amended
claims. (*Ibid.*) Here, however, such a measure would not eliminate the prejudicial delay Petitioners’ amendment
would cause, nor the waste of time incurred from adding allegations barred by the statute of limitations.
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PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is Best Best & Krieger LLP, 3750 University Avenue, Suite 400, P.O. Box 1028, Riverside, California 92502. On April 10, 2007, I served the following document(s):

RESPONDENT'S AND REAL PARTY IN INTEREST'S JOINT OPPOSITION TO PETITIONERS' MOTION FOR LEAVE TO FILE AMENDED PETITION FOR WRIT OF MANDATE

- By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):
 - Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

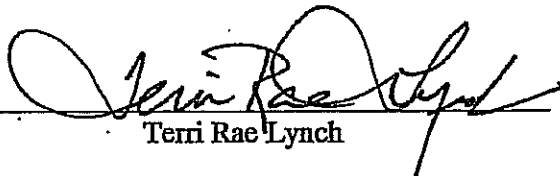
- By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

Andrew B. Sabey
Cox, Castle & Nicholson LLP
555 Montgomery Street, Ste. 1500
San Francisco, CA 94111

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

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

Executed on April 10, 2007, at Riverside, California.


Terri Rae Lynch

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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: Timothy J. Staffel

**DECLARATION OF KATHLEEN A. REES
IN SUPPORT OF RESPONDENT'S AND
REAL PARTY IN INTEREST'S JOINT
OPPOSITION TO PETITIONERS'
MOTION FOR LEAVE TO FILE
AMENDED PETITION FOR WRIT OF
MANDATE**

Date: April 25, 2007
Time: 8:30 a.m.
Dept: SM1

[Respondent's and Real Party In Interest's Joint
Opposition To Petitioners' Motion For Leave To
File Amended Petition For Writ Of Mandate filed
concurrently herewith]

RVPUB\CSCHILLER\730267.1

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DECLARATION OF KATHLEEN A. REES

1. I am the General Manager of the Cachuma Operation and Maintenance Board ("COMB"), which is a Joint Powers Agency comprised of the City of Santa Barbara, Goleta Water District; Montecito Water District; Carpinteria Valley Water District ("South Coast Member Agencies"); and the Santa Ynez River Water Conservation District - Improvement District No. 1. I am also Manager of the Cachuma Conservation Release Board ("CCRB"), a Joint Powers Agency comprised of the South Coast Member Agencies. I have personal knowledge of the following facts and, if called upon, could competently testify thereto.
2. I have worked for COMB and CCRB for 14 years, and based on my years of service and position as General Manager, I have particular knowledge of COMB and am familiar with its practices and policies. I am specifically familiar with COMB's approvals and actions regarding the preparation of the 2004 Final Environmental Impact Report/Environmental Impact Statement ("Final EIR/EIS") for the projects included in the Lower Santa Ynez River Fish Management Plan and Cachuma Project Biological Opinion ("FMP/BO").
3. COMB certified the Final EIR on November 22, 2004, and approved all of the FMP/BO projects described in it, except for the Hilton Creek Cascade Chute Project and the Hilton Creek Highway 154 Culvert Project ("Project"). COMB has never approved the Hilton Creek Highway 154 Culvert Project and has no plans to approve it in the future.
4. The U.S. Bureau of Reclamation ("Reclamation") issued a Record of Decision for the Final EIS in October 2004, thereby approving all FMP/BO projects in the EIS, including

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the Hilton Creek Cascade Chute and Highway 154 Culvert projects. Reclamation completed construction of the Hilton Creek Cascade Chute Project in December 2005.

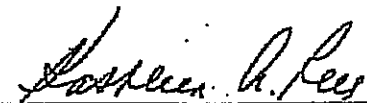
5. Sometime during the summer 2005, I informed Gary Ruggerone at Caltrans by telephone that COMB had certified the Final EIR for CEQA adequacy for all projects in the FMP/BO, including the Highway 154 Culvert Project, but had withheld approval of the Hilton Creek Cascade Chute and Highway 154 Culvert projects. I did not state that the Highway 154 Culvert Project was no longer part of the EIR.

6. At no time after COMB certified the 2004 Final EIR, including during settlement negotiations with Crawford-Hall/San Lucas Ranch, did I or any of my subordinates speak with anyone at Caltrans regarding Caltrans' decision to approve and undertake the Highway 154 Culvert Project. No emails, documents, letters, telephone calls, or other communications were exchanged between COMB and Caltrans regarding Caltrans' decision. Neither I nor any of my subordinates ever encouraged Caltrans to go forward with this Project on its own, or consulted with Caltrans regarding its use of an exemption under the California Environmental Quality Act.

7. I had no prior knowledge that Caltrans approved the Project and filed a Notice of Exemption. I was informed of Caltrans' action by COMB's attorney, Best, Best & Krieger, on February 12, 2007, who had received the information from legal counsel for Nancy Crawford-Hall and San Lucas Ranch. To date, COMB has not been formally notified of Caltrans' action.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 9, 2007, in Santa Barbara, California.


KATHLEEN A. REES

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PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is Best Best & Krieger LLP, 3750 University Avenue, Suite 400, P.O. Box 1028, Riverside, California 92502. On April 10, 2007, I served the following document(s):

DECLARATION OF KATHLEEN A. REES IN SUPPORT OF RESPONDENT'S AND REAL PARTY IN INTEREST'S JOINT OPPOSITION TO PETITIONERS' MOTION FOR LEAVE TO FILE AMENDED PETITION FOR WRIT OF MANDATE

By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

Placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

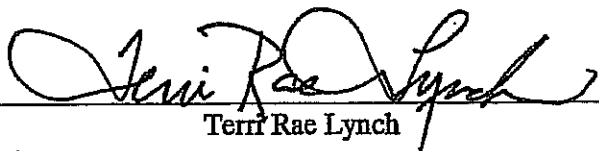
By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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

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

Executed on April 10, 2007, at Riverside, California.


Terri Rae Lynch

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7 SAN LUCAS RANCH

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA BARBARA

10
11 NANCY CRAWFORD-HALL, an individual, and
SAN LUCAS RANCH, INC., a California
12 Corporation,

13 Petitioners,

14 vs.

15 CACHUMA OPERATION AND
MAINTENANCE BOARD; DOES 1-20;
16 CALIFORNIA DEPARTMENT OF
TRANSPORTATION; WILL KEMPTON,
17 Director, California Department of
18 Transportation; and DOES 51-70,

19 Respondents.

20
21 CACHUMA CONSERVATION RELEASE
BOARD, and DOES 21-50,

22 Real Parties in Interest
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CASE NO. 1171135

UNLIMITED JURISDICTION

**REPLY IN SUPPORT OF PETITIONERS'
MOTION FOR LEAVE TO FILE FIRST
AMENDED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY RELIEF**

Date: April 25, 2007

Time: 8:30 a.m.

Dep't: SM1

Judge: Honorable Timothy J. Staffel

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1 **I. INTRODUCTION**

2 Respondent Cachuma Operation and Maintenance Board's and Real Party in Interest Cachuma
3 Conservation Release Board's (collectively "COMB") joint opposition only confirms that Petitioners
4 should be given leave to amend their complaint to allege CEQA and due process claims against the
5 California Department of Transportation ("Caltrans"). COMB's main argument—that leave to amend
6 should be denied because the CEQA claims against Caltrans are subject to demurrer—is devoid of
7 merit. As an initial matter, COMB has no standing to assert affirmative defenses only applicable to
8 Caltrans. Moreover, COMB's argument ignores Petitioners' constitutional due process and
9 declaratory relief claims, which are not subject to CEQA's short statute of limitations, and are not
10 otherwise subject to demurrer. And Petitioners' CEQA claims against Caltrans are not time-barred
11 because Caltrans has still not performed the triggering event for the statute—filing a *valid* Notice of
12 Exemption. The Notice of Exemption that Caltrans did file for the Highway 154 culvert project was
13 void *ab initio* for at least two independent reasons. First, Caltrans failed to approve the project prior to
14 issuing the notice, which prior approval is a statutory requirement for valid notices of exemption.
15 Second, as a responsible agency, Caltrans was not free to proceed by way of a Notice of Exemption.
16 It was required to discharge its duties as a responsible agency, which it has not done. Thus, contrary
17 to COMB's position, neither Petitioners' due process claims nor CEQA claims are subject to
18 demurrer.

19 COMB's backup argument—that it will be prejudiced if Petitioners are allowed to amend—is
20 equally unavailing. COMB ignores that none of Petitioners' proposed amendments raise new claims
21 against COMB. Thus, under well-settled law, COMB need not file an answer to the Amended
22 Petition, much less prepare a new record or participate in additional briefing. Moreover, to the extent
23 there is additional evidence beyond the existing record, it will be produced by *Caltrans and/or*
24 *Petitioners, not COMB*. Indeed, COMB's own declarant, Ms. Reese, testified that since certification
25 of the FMP EIR, COMB has had no communication with Caltrans regarding its approval of Highway
26 154 culvert project. (*See* Declaration of Kathleen A. Reese ("Reese Decl."), ¶ 6.) Thus, if Ms. Reese
27 is to be believed, COMB does not even have information that it could contribute to the record beyond
28 what it has already prepared. Finally, COMB fails to show that allowing Petitioners to amend would

1 cause any delay to a resolution of Petitioners' claims against COMB. And to the extent any such
2 delay materializes, it is well within the Court's power and discretion to manage the case (for example,
3 through bifurcation of Petitioners' claims against COMB and hearing those first) to minimize
4 prejudice, if any, to COMB.

5 In the end, it is inarguable that (1) Petitioners seek to timely raise valid due process,
6 declaratory relief and CEQA claims against Caltrans for its recent activity on the Highway 154 culvert
7 project; (2) Petitioners' claims arise from Caltrans' dereliction of its duty as a responsible agency
8 under the FMP EIR—the same document already at issue in this action; (3) the record that has already
9 been produced in this case will form most of the record for the CEQA claims against Caltrans; (4)
10 both the Court and the parties will achieve efficiencies and save costs by having the same Court hear
11 Petitioners' claims in the same action; and (5) COMB has not, and cannot, demonstrate that it would
12 be prejudiced by allowing Petitioners to amend their Petition. Accordingly, the Court should grant
13 Petitioners' motion and allow Petitioners to file their First Amended Petition and Complaint for
14 Declaratory Relief.

15 II. ARGUMENT

16 A. Petitioners Have Demonstrated that They Are Entitled to Amend Their Petition to 17 Add Claims Against Caltrans.

18 As pointed out in Petitioners' moving papers, leave to amend should be liberally granted, and
19 it is error to refuse to grant leave to amend where the opposing party has failed to demonstrate
20 prejudice:

21 If the motion to amend is timely made and the granting of the motion will not
22 prejudice the opposing party, it is error to refuse permission to amend and
23 where the refusal also results in a party being deprived of the right to assert a
meritorious cause of action or a meritorious defense, it is not only error but an
abuse of discretion.

24 *Morgan v. Superior Court*, 172 Cal. App. 2d 527, 530 (1959) (internal citations omitted).¹ Petitioners'
25 Amended Petition raises legitimate claims against Caltrans for its recent activity on the Highway 154

26 ¹ COMB miscites *Garrison v. Bd. of Directors*, 36 Cal. App. 4th 1670, 1678 (1995) for the proposition
27 that the liberal policy favoring amendments "does not apply if the amendment is attempting to bring in
28 a new party under a different cause of action than that originally pled." (Opp. at 7:4-6.) The court in
Garrison, however, neither stated nor held any such thing. Rather, the court acknowledged that in

1 culvert project. Caltrans violated CEQA by abdicating its duties as a responsible agency under the
2 FMP EIR and issuing a void Notice of Exemption prior to issuing an approval for the project.
3 Moreover, Caltrans' withholding of notice of its actions from Petitioners so that Petitioners would not
4 object to its Categorical Exemption violated Petitioners' due process rights. Contrary to COMB's
5 repeated (and incorrect) suggestion, these claims do not implicate COMB and COMB will not be
6 required to respond to the Amended Petition. Nevertheless, the claims are integrally related to the
7 FMP EIR—the very document that Petitioners are challenging, and COMB is defending, in this
8 action. The documents are the same, the claims are not.

9 As COMB concedes the record relevant to Petitioners claims against Caltrans will include
10 many of the documents that are part of the current record. (*See* Opp. at 11:19-22 (“[A]n
11 administrative record must contain all of the documents relied upon by the lead agency in approving
12 the project”) It thus makes perfect sense in terms of judicial economy to permit Petitioners to
13 amend. The alternative is to force Petitioners to bring a separate lawsuit against Caltrans (which they
14 will if leave to amend is denied), which will probably not be (at least initially) assigned to the same
15 department as this action. Thus, either Petitioners would need to move to consolidate or a judge in
16 another department would need to familiarize himself or herself with many, if not most, of the same
17 facts that are already before this Court. Likewise, as COMB admits, a record would need to be
18 prepared in the Caltrans action—a record that would be almost entirely duplicative of the record
19 already before this Court.

20 In short, the enormous amount of court and staff time that would be unnecessarily expended
21 should the two lawsuits proceed in separate departments can be entirely avoided by simply permitting
22 Petitioners to amend their petition in this action. And as explained below, Petitioners' claims are not
23 subject to demurrer and COMB does not, and cannot, demonstrate it would be prejudiced by allowing
24 Petitioners leave to amend their petition.

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28 some cases (not in Garrison, however), a party's amended complaint that adds a new plaintiff may be
barred by the applicable statutes of limitation. *Id.* at 1678.

1 **B. Petitioners' Claims Against Caltrans Are Not Subject to Demurrer.**

2 COMB's main argument against Petitioners obtaining leave to amend is that Petitioners'
3 claims against Caltrans are purportedly barred by CEQA's thirty-five day statute of limitations that
4 allegedly began running on December 15, 2006 with Caltrans' filing of the Notice of Exemption for
5 the Categorical Exemption for the Highway 154 culvert project. (See Opp. at 8-11.) COMB's attack
6 fails for at least three reasons.

7 First, COMB lacks standing to even raise the argument that Petitioners' claims against
8 Caltrans are subject to demurrer. COMB only has standing to assert its own legal rights and interests,
9 not those of third parties, such as Caltrans. See, e.g., *Matrixx Initiatives, Inc. v. Doe*, 138 Cal. App.
10 4th 872, 881 (2006) (appellants lacked standing to resist discovery order on grounds that it violated
11 constitutional rights of third parties); see also *Independent Roofing Contractors of California*
12 *Unilateral Apprenticeship Committee v. California Apprenticeship Council*, 114 Cal. App. 4th 1330,
13 1341 (2004) (“[A] plaintiff generally must assert his own legal rights and interests, and cannot rest
14 his claim to relief on the legal rights or interests of third parties.”) (quotation omitted). As explained
15 by the U.S. Supreme Court, and reiterated in *Matrixx Initiatives, Inc.*:

16 Without such limitations-closely related to Art. III concerns but essentially
17 matters of judicial self-governance-the courts would be called upon to decide
18 abstract questions of wide public significance even though other governmental
institutions may be more competent to address the questions and even though
judicial intervention may be unnecessary to protect individual rights.

19 *Matrixx Initiatives, Inc.*, 138 Cal. App. 4th at 878 (internal citation omitted). Here, COMB's
20 arguments have nothing to do with its own legal rights. Instead COMB speculates about affirmative
21 defenses Caltrans may or may not attempt to assert. The Court does not even know whether Caltrans
22 will assert the defenses COMB imagines. COMB lacks standing to assert these speculative arguments
23 in an attempt to defeat Petitioners' motion.

24 Second, COMB ignores Petitioners' constitutional due process and declaratory relief causes of
25 action. (See Amended Petition, ¶¶ 163-181.) The Amended Petition alleges that Caltrans violated
26 Petitioners' Federal and State constitutional due process rights by, among other things, “withholding
27 notice of the Caltrans Defendants' issuance of the Categorical Exemption and of its culvert survey
28 from Petitioners in order to prevent alerting Petitioners to the Caltrans Defendants' attempt to proceed

1 with the Highway 154 culvert project on a Categorical Exemption.” (See, e.g., Amended Petition,
2 ¶¶ 62, 163-174.) Likewise, the Amended Petition alleges that Caltrans’s policy and practice of not
3 issuing approvals for projects deemed eligible to proceed on a Categorical Exemption violates CEQA.
4 (Id. at ¶¶ 175-181.) These claims do not challenge Caltrans’ determination regarding the Highway -
5 154 culvert project on CEQA grounds, and thus are not subject to CEQA’s thirty-five day statute of
6 limitations.² See, e.g., *Calvert v. County of Yuba*, 145 Cal. App. 4th 613, 621 (2006) (rejecting
7 agency’s argument that petitioner’s challenge to its decision was barred by the statute of limitations,
8 reasoning that because petitioners “do not challenge the [agency’s] determination on CEQA grounds .
9 . . . the CEQA statute of limitations does not apply.”). COMB’s opposition to Petitioners’ motion to
10 amend thus fails as an initial matter because it ignores that Petitioners should be given leave to allege
11 due process and declaratory relief claims against Caltrans.

12 Finally, COMB’s argument that Petitioners’ CEQA claims against Caltrans are time-barred
13 fails on the merits. CEQA’s thirty-five day statute of limitations that governs claims arising from
14 issuance of Categorical Exemptions does not begin to run until a *valid* Notice of Exemption has been
15 filed. See Cal. Pub. Res. Code §§ 21108(b), 21167(d); Cal. Code Regs., tit. 14, § 15062. A state
16 agency, such as Caltrans, cannot file a valid Notice of Exemption unless and until it has *first* approved
17 the project: “The notice [of exemption] shall be filed, if at all, *after approval of the project.*” Cal.
18 Code Regs., tit. 14, § 15062; see also Cal. Code Regs., tit. 14, § 15061(d) (“Although the notice [of
19 exemption] may be kept with the project application at this time, the notice shall not be filed with the
20 Office of Planning and Research or the county clerk until the project has been approved.”); *County of*
21 *Amador v. El Dorado County Water Agency*, 76 Cal. App. 4th 931, 962-65 (1999) (holding that notice

22 ² Contrary to COMB’s nonsensical suggestion (see Opp. at 10, fn. 5.), Petitioners’ due process claims
23 do not seek more notice than that required by CEQA, but rather allege that Caltrans violated
24 constitutional principles of due process by, among other things, taking actions that deprived
25 Petitioners of notice. (See, e.g., Amended Petition, ¶¶ 62, 163-174.) The case law cited by COMB is
26 not only readily distinguishable, but it fails to support COMB’s novel argument that Petitioners’ due
27 process claims are governed by CEQA’s statute of limitations. In *Lee v. Lost Hills Water Dist.*, 78
28 Cal. App. 3d 630 (1989), petitioners brought only CEQA claims (no due process claims were alleged)
and the court merely rejected the argument that due process entitled petitioners to “more or better
notice than that provided by [CEQA]”. *Id.* at 635. The court in *Sagaser v. McCarthy*, 176 Cal. App.
3d 288 (1986) was never asked to decide a statute of limitations question, and it merely held that
legislation exempting certain projects from CEQA did not violate petitioners’ due process rights.

1 of exemption was invalid because it was filed prior to the agency's approval of the project). Where an
2 agency purports to issue a notice of exemption prior to approving the project, the notice of exemption
3 is void *ab initio*, and the statute of limitations is extended to 180 days after project approval. *See*
4 *County of Amador*, 76 Cal. App. 4th at 963 (citing Cal. Code Regs., Titl. 14, §§ 15062(d),
5 15112(c)(2), (c)(5)). Here, the Amended Petition alleges that Caltrans failed to approve the Highway
6 154 culvert project prior to filing its notice of exemption. (*See* Amended Petition, ¶¶ 155-158.) Thus,
7 on its face, the Amended Petition demonstrates that Petitioners' CEQA claim against Caltrans is not
8 barred by the statute of limitations.³

9 COMB also attempts to create a factual dispute about whether COMB's Notice of Exemption
10 constituted an approval of the Highway 154 culvert project. (*See* Opp. at 10, fn. 4.) This effort is
11 unavailing on a motion for leave to amend. The allegations in the Amended Petition (*see* Amended
12 Petition at ¶¶ 155-158) must be taken as true for purposes of determining whether Petitioners have
13 stated a cause of action. *See, e.g., Sunset Drive Corp. v. City of Redlands*, 73 Cal. App. 4th 215, 218-
14 19 (1999) ("In evaluating an order sustaining a demurrer to a pleading . . . [w]e assume the truth of all
15 material facts which have been properly pleaded, of facts which may be inferred from those expressly
16 pleaded, and of any material facts of which judicial notice has been requested and may be taken."). In
17 any event, COMB's contention is flat wrong. The Notice of Exemption itself demonstrates that it
18 cannot be deemed a project "approval" because it fails to indicate that Caltrans was "agreeing to be
19

20 ³ COMB attempts to make much ado about the fact that Petitioners are only now seeking to name
21 Caltrans as opposed to having named Caltrans at the outset of the litigation. (*See* Opp. at 5:12-13;
22 9:18-19.) This argument, which has no bearing on the merits of Petitioners' motion, ignores that the
23 Amended Petition seeks to add claims against Caltrans that *arise out of Caltrans recent (December*
24 *2006) activity on the Highway 154 culvert project*. It is pretty simple, there was no cause of action
25 against Caltrans until Caltrans acted. These claims *could not be brought* when Petitioners' initiated
26 this action. Likewise lacking in merit is COMB's argument that Petitioners are somehow estopped
27 from raising claims against Caltrans. (*See* Opp. at 12:27-13:6.) At the time Petitioners responded to
28 COMB's demurrer and stated, in briefing to the Court, that complete relief could be accorded to the
existing parties (which at the time was true), Caltrans had not attempted to approve the Highway 154
culvert project, had not eschewed its duties as a responsible agency, and had not violated Petitioners'
due process rights. *People v. Torch Energy Servs., Inc.*, 102 Cal. App. 4th 181 (2002) is not to the
contrary. *Id.* at 189 (holding that defendant was estopped from invoking federal preemption to evade
responsibilities under permits where defendant had expressly agreed to be bound by permits and
waived objections to permits). No such estoppel exists here

1 legally bound” to implement the Highway 154 culvert project. *See County of Amador*, 76 Cal. App.
2 4th at 965 (“The agency commits to a definite course of action [and therefore ‘approves’ a project
3 within the meaning of the Guidelines] not simply by being a proponent or advocate of the project, but
4 by agreeing to be legally bound to take that course of action.”) (citations omitted).

5 In short, COMB fails to demonstrate that Petitioners’ claims against Caltrans are subject to
6 demurrer or that Petitioners should otherwise be deprived of their right to allege claims against
7 Caltrans for its conduct vis-à-vis the Highway 154 culvert project.⁴

8 **C. COMB Has Failed to Demonstrate That It Will Be Prejudiced If Petitioners Are**
9 **Given Leave to Amend.**

10 COMB’s argument that it will be “prejudiced” if Petitioners are given leave to amend fares no
11 better. Reduced to its essence, COMB provides nothing more than unsupported hyperbole and outright
12 misstatements about the purported effects on COMB of granting Petitioners’ motion for leave to
13 amend. None of COMB’s myriad contentions has merit.

14 As an initial matter, most of COMB’s claims of prejudice are based on the false assumption
15 that the Amended Petition alleges new causes of action against COMB. For example, COMB argues
16 that it will be prejudiced because a new administrative record will need to be prepared and COMB
17 will allegedly have to “augment its own record” and “review all of the documents Caltrans considered
18 in approving its Project.” (Opp. at 1:5; 11:15-19; 12:3-6; 14:16-20) Likewise, COMB argues that
19 “entirely new briefing will need to be drafted to address all the new issues and facts.” (*Id.* at 1:4,
20 11:12-14; 14:21-15:5.) According to COMB, these undertakings will require it to incur additional
21 legal fees, thus causing it prejudice. (*Id.*) There is no merit, however, to these contentions. None of
22 the proposed new claims against Caltrans are alleged against COMB—they are all brought against
23 Caltrans only. Accordingly, COMB, who has already answered an original petition, will not have to

24 _____
25 ⁴ COMB makes the perplexing argument that the statute of limitations bars a challenge to COMB’s
26 approval. (*See* Opp. at 8-10.) Petitioners do not seek leave to add any claims against COMB and thus
27 the statute of limitations pertaining to COMB’s approval is irrelevant to Petitioners’ motion.
28 Petitioners made this crystal clear in their moving papers. (*See* Petitioners’ MPA at 2:21-22; 9:19-21
 (“Petitioners are not seeking to add any claims against COMB . . . and thus COMB will not be
 prejudiced by Petitioners obtaining leave to amend.”). COMB itself admits as much. (Opp. at 11:24-
 25.) COMB’s argument about the statute of limitations for its approvals is utterly irrelevant.

1 file an to answer the Amended Petition, but can simply rely on the existing answer: “Where the
2 amended complaint makes new allegations concerning one of several codefendants, the others need
3 not answer the amended pleading. Their answers to the original complaint prevent entry of default.”
4 *See, e.g.*, Robert I. Weil and Ira A. Brown, *Civil Procedure Before Trial*, ¶ 6:693 (Rutter Group 2006)
5 (citing *Carrasco v. Craft*, 164 Cal. App. 3d 796, 810 (1985)).⁵ COMB will thus not even need to
6 answer the Amended Petition, much less participate in additional briefing or prepare a new record.
7 COMB, of course, may choose to participate in Petitioners’ claims against Caltrans, but it will not be
8 required to, and any participation will be of its own choosing.⁶ COMB thus cannot demonstrate that it
9 will be prejudiced by allowing Petitioners to allege claims against Caltrans.

10 Moreover, COMB’s own declarant, Kate Reese, admitted that after certification of the FMP
11 EIR in 2004, neither she nor any her subordinates spoke with Caltrans regarding Caltrans’ decision to
12 approve the Highway 154 culvert project. (*See Declaration of Kathleen A. Reese in Support of*
13

14 ⁵ The authorities cited by COMB are easily distinguishable in that, they involve new allegations and
15 claims/defenses against an *existing party*, not, as here, allegations brought against a different party.
16 (*See Opp. at 13-15 (citing Huff v. Wilkins*, 138 Cal. App. 4th 732, 746 (2006) (denying motion for
17 leave to amend to add allegations to existing defendant where plaintiff alleged no new facts and new
18 claim failed as a matter of law); *Magpali v. Farmers Group, Inc.*, 47 Cal. App. 4th 1024 (1996)
19 (affirming denial of leave to amend new cause of action against an existing party on the eve of trial);
20 *Hulsey v. Koehler*, 218 Cal. App. 3d 1150, 1159 (1990) (affirming denial of motion to amend answer
21 to allege an affirmative defense against the existing plaintiff); *Ford v. Superior Ct.*, 34 Cal. App. 3d
22 338, 343 (1973) (reversing trial court’s denial of motion to vacate default judgment where plaintiff’s
23 amended complaints should have been, but were not, served on the defendant.) Likewise, COMB
24 misplaces reliance on *Klopstock v. Superior Ct.*, 17 Cal.2d 13, 21-22 (1941) (*see Opp. at 13*) as that
25 court affirmed a trial court’s decision to grant leave to amend a complaint that substituted a correct
26 plaintiff.
27

28 ⁶ COMB’s request for an award of attorneys fees and costs to respond to the Amended Petition should
Petitioners’ motion be granted is frivolous. (*See Opp. at 15, fn.6.*) COMB has no obligation to
respond to the Amended Petition and should bear its own costs and fees should it voluntarily choose to
respond. The 1940’s slip-and-fall case cited by COMB is not to the contrary. *See Fuller v. Vista Del*
Arroyo Hotel, 42 Cal. App. 2d 400, 404 (1941). There, the court allowed the defendant to amend his
answer on the eve of trial, which forced plaintiff to call and prepare numerous witnesses for trial,
which costs the court said would be borne by the defendant. Even if *Fuller* could be read to support
the general proposition that an amendment to a pleading entitled opposing parties to recoup their costs
to respond (and *Fuller* supports no such thing), the case is entirely distinguishable in that here, COMB
is in no way forced to respond to the Amended Petition because no new claims are being raised
against COMB.

1 Respondent's and Real Party in Interest's Joint Opposition to Petitioners' Motion for Leave to File
2 Amended Petition for Writ of Mandate, ¶ 6.)⁷ What documents could COMB possibly have relevant
3 to Caltrans' approval of the Highway 154 culvert project if no one from COMB has interacted with
4 Caltrans on the issue since certification of the FMP EIR? Assuming Ms. Reese's declaration to be
5 true, COMB would not have any relevant documents and thus could not be burdened by allegedly
6 having to prepare a new record. COMB's own declarant thus completely undermines its hollow claim
7 that it will be prejudiced by incurring legal fees to prepare or review a new administrative record.

8 Finally, COMB claims that it will be unduly prejudiced by the delay that it assumes will occur
9 between a hearing on the merits of Petitioners' claims against COMB and a hearing on the merits of
10 Petitioners' claims against Caltrans. (*See Opp.* at 11:7-9, 12-14; 14:9-15.) COMB, however, fails to
11 demonstrate that there would be any such delay—the Court has not yet set a date for a hearing on the
12 merits of Petitioners' claims against COMB. Moreover, it is entirely within the Court's power and
13 discretion to manage this action to reduce or eliminate delay of Petitioners' claims against COMB
14 resulting from Petitioners' claims against Caltrans. *See, e.g.,* Cal. Code Civ. Proc. § 1048(b) ("The
15 court, in furtherance of convenience *or to avoid prejudice* . . . may order a separate trial of any cause
16 of action . . .") (emphasis added). Thus, to the extent that COMB's concern about suffering prejudice
17 from delay materializes, which is doubtful, any prejudice can be eliminated through relatively simple
18 case management procedures. The same management procedures would alleviate COMB's concern
19 about sharing responsibility for legal fees incurred by Petitioners to prosecute claims against Caltrans.
20 (*See Opp.* at 15:6-11.)

21 In the end, COMB simply cannot demonstrate that it would be prejudiced by giving
22 Petitioners' leave to amend their Petition in order to allege new claims against Caltrans. In light of the
23 strong policy favoring leave to amend, and the inarguable fact that judicial efficiency and economy for
24 all the parties would be achieved by allowing Petitioners claims against COMB and Caltrans to be
25 heard before the same Court, Petitioners' motion should be granted.

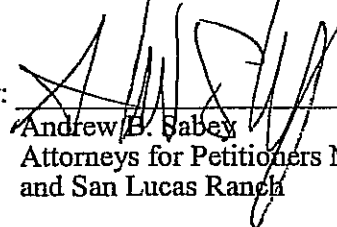
26
27 ⁷ Interestingly, Ms. Reese's declaration stops short of denying that someone from COMB misinformed
28 Caltrans that the Highway 154 culvert project was not in the FMP EIR (*see Owsowitz Decl.*, ¶ 3)—it
merely states that *Ms. Reese* did not misinform Caltrans. (*See Reese Decl.*, ¶ 5.)

1 **III. CONCLUSION**

2 For the foregoing reasons, Petitioners request that the Court grant them leave to amend their
3 Petition to allege claims against Caltrans.

4 DATED: April 18, 2007

COX, CASTLE & NICHOLSON LLP

6 By: 
7 ~~Andrew B. Sabey~~
8 Attorneys for Petitioners Nancy Crawford-Hall
9 and San Lucas Ranch

PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 555 Montgomery Street, Fifteenth Floor, San Francisco, California 94111-2585.

(For messenger) my business address is 1533 Wilshire Boulevard, Los Angeles, CA 90017-2210.

On April 18, 2007, I served the foregoing document(s) described as REPLY IN SUPPORT OF PETITIONERS' MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF on ALL INTERESTED PARTIES in this action by placing the original a true copy thereof enclosed in a sealed envelope addressed as follows:

Michelle Ouellette, Esq.
Best, Best & Krieger LLP
3750 University Ave., Ste. 400
P.O. Box 1028
Riverside, CA 92502

On the above date:

(BY U.S. MAIL/ EXPRESS MAIL) The sealed envelope with postage thereon fully prepaid was placed for collection and mailing following ordinary business practices. I am aware that on motion of the party served, service is presumed invalid if the postage cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing set forth in this declaration. I am readily familiar with Cox, Castle & Nicholson LLP's practice for collection and processing of documents for mailing with the United States Postal Service and that the documents are deposited with the United States Postal Service the same day as the day of collection in the ordinary course of business.

(BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

(BY FACSIMILE TRANSMISSION) On April 18, 2007, at ____ a.m./p.m. at San Francisco, California, I served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was (____) ____-____, and the telephone number of the receiving facsimile number was (____) ____-____. A transmission report was properly issued by the sending facsimile machine, and the transmission was reported as complete and without error. Copies of the facsimile transmission cover sheet and the transmission report are attached to this proof of service.

(BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

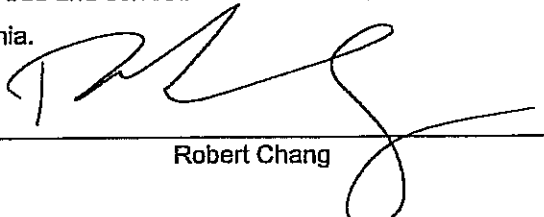
(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

(FEDERAL ONLY) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I hereby certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 18, 2007, at San Francisco, California.



Robert Chang