

2019

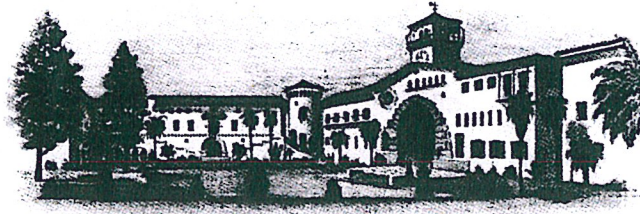
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**COUNTY OF SANTA BARBARA**

September 17, 2019

Honorable Michael J. Carrozzo  
Presiding Judge  
Santa Barbara Superior Court  
County Courthouse  
1100 Anacapa Street  
Santa Barbara CA 93101

Reference: Response to Santa Barbara Civil Grand Jury report titled, "The Cachuma Project Contract and Management. Whiskey Is For Drinking - But MUST We Fight Over Water?" published June 26, 2019.

Judge Carrozzo:

Please find attached the combined Santa Barbara County Board of Supervisors (Board) and Santa Barbara County Water Agency (Agency) response to the above referenced Civil Grand Jury Report. As directed by the Grand Jury, all responses are provided in accordance with Section 933.05 of the California Penal Code.

Please note that the Report states we are required to respond to Recommendations 8a and 8b, but there are no Recommendations with those numbers, only Recommendation 8.

The Board appreciates the work conducted by the Public Works and County Water Agency staff for their assistance in responding to this matter.

Sincerely,

Steve Lavagnino, Chair  
Santa Barbara County Board of Supervisors

CC: Santa Barbara County Grand Jury

**Santa Barbara County's Board of Supervisors  
and  
Santa Barbara County Water Agency's Board of Directors  
Response to the Santa Barbara County Grand Jury 2018-2019 Report  
THE CACHUMA PROJECT CONTRACT AND MANAGEMENT  
Whiskey Is For Drinking - But MUST We Fight Over Water?**

**Finding 1**

**The current Contract does not fully address future water management problems such as will arise from climate and other rapid environmental changes.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

**Recommendation 1**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, pursue the upcoming 2020 contract negotiations as an opportunity to create a completely new contract.**

Recommendation 1 has already been implemented.

On May 2, 2017, the Board of Directors of the Santa Barbara County Water Agency (SBCWA), after an open noticed public hearing, issued a letter to the United States Bureau of Reclamation (USBR) requesting to renew the Cachuma Contract, as required by Article 2(a) of the current Agreement. The terms "renew" vs "new" can be interpreted differently. While renewing a water service contract with USBR is necessary, USBR has indicated that this contract will indeed be a 'new' contract instead of simply an extension or renewing the current contract.

**Finding 2**

**Public understanding and effective operation of the Cachuma Project would be enhanced if key terms in the Contract were defined and used more precisely.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

**Recommendation 2**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, require that key terms in the new Contract are defined clearly and used in a consistent manner.**

Recommendation 2 requires further analysis and will be raised by SBCWA during formal contract negotiations with USBR which are anticipated to begin within the next six months.

The formal contract negotiations have not yet been initiated by USBR. As a part of the Contract negotiation process with USBR, such changes may or may not be acceptable to USBR but will be pursued by SBCWA to the extent possible.

### **Finding 3**

**The roles and responsibilities of SBCWA and the Member Units are not clearly defined in the current Contract.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency disagrees partially with the finding.

While the current contract is silent to some of the issues of responsibility, it must be pointed out that the current contract is between the SBCWA and USBR and there are separate agreements between each of the Member Units (MUs) and SBCWA. In addition to explicit contract language, the parties' roles and responsibilities have been shaped by the legislative acts creating the parties along with the many decades of history of operating the Project. The SBCWA has provided technical support and leadership for the Project for over seventy years. The SBCWA recognizes the benefits of the Project to the County as a whole and maintaining this resource as a stable long-term water supply through the critical drought period of record remains a priority.

### **Recommendation 3**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, ensure their roles and responsibilities are clearly defined in the new Contract.**

Recommendation 3 has not yet been implemented, but will be implemented during the upcoming contract negotiations anticipated to start this year.

When the formal contract negotiation process begins, there will be new draft contracts to review. That opportunity will allow clarification of roles and responsibilities, as well as address issues such as calling a 5-year yield review meeting, conducting yield studies, and revisions to ensure reservoir deliveries and imported water supplies can be realized through the critical drought period. In addition, contracts with each MU and SBCWA can also provide this information.

### **Finding 4**

**The current Water Year, October 1 to September 30, makes diversion recommendations and decisions difficult because it comes just before the rainy season, when the quantity of water in Cachuma for the next few months is highly unpredictable.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

### **Recommendation 4**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, strongly urge in negotiations for the new Cachuma Project Contract that the Water Year should run from May 1 to April 30, or a similar period, to allow diversion requests to be made soon after the usual winter rain period.**

Recommendation 4 requires further analysis, as discussed below.

Establishing the Water Year will be analyzed and defined during contract negotiations which are anticipated to begin within the next six months. While there are many

compelling reasons to move the water year to May 1<sup>st</sup>, including accounting for carryover water, the Member Units (MUs) and USBR may have compelling reasons to not do so.

**Finding 5**

**Provisions in the 2020 Contract will need more frequent updating than those in previous Contracts due to rapid climate change altering the natural conditions affecting water supply.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

**Recommendation 5**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, propose to the Bureau of Reclamation that the new Cachuma Project Contract require a meeting between them and the Bureau every five years, with a public agenda, to consider changes to Contract provisions which have become outdated.**

Recommendation 5 requires further analysis, as discussed below.

Cachuma is a vital water supply to portions of Southern and Central Santa Barbara County. It is regarded as the most reliable supply in that if managed as intended, there will be available supply through the critical drought period of record. The past contract had no provisions to make changes in allocation unless agreed by all. Since that contract was executed, water from the reservoir has been used for downstream fish releases as required by National Marine Fisheries Service's biological opinion issued in 2000, and downstream water rights as required by the State Water Resources Control Board. These uses may not have been fully captured in old modelling work. New pressures may include new water release schedules set by the State or Federal Resource Agencies, loss of storage due to sedimentation over time, increases in evaporation, or other unforeseen factors.

A five year cycle of recalculating the yield curves will mitigate the severe shortages that resulted in no allocation of water in Water Year 2016 and reduced allocations for Water Years 2015 (45%), 2017 (40% mid-year) and 2018 (40%). These shortages combined with concurrent low allocations of state water forced the per capita water use reductions referenced in the Grand Jury's report (page 8). Management of supplies that accounts for drought periods will reduce the need to make significant reductions in demand and in doing so will reduce the "borrowing" of water (exchanges through the State Water Project) that happened in this most recent drought. SBCWA plans to raise this matter at the formal contract negotiations with USBR which are anticipated to begin within the next six months.

**Finding 6**

**Under the 1995 Contract, Article 9(g), the required five-year meetings cannot result in increased water diversion to Member Units.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

Water allocations were established by Article 3(c) of the Agreement, and Article 9(g)

states that any modifications to project operations cannot “reduce the Available Supply in any Water Year”.

### **Recommendation 6**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, propose to the Bureau of Reclamation that the required five-year meetings allow changes to the operations of the new Contract, including increased diversions, provided they are consistent with Federal law, State law, and Project Water Rights, and do not negatively affect the environment or the groundwater quality downstream of Bradbury Dam.**

Recommendation 6 requires further analysis as discussed below.

The five year cycle of re-evaluation of reservoir conditions should allow the change of the allocation schedule both up or down depending on the change in conditions so that the reservoir remains a stable water supply source for the public. For example, if technical evaluations show the reservoir is being over allocated, then the yield and allocation schedule should be reduced to provide a stable supply. If conditions such as downstream releases for fish or environmental purposes are reduced, then a new yield analysis can be done to support increased allocations that still provide a reliable supply. SBCWA plans to raise this matter at the formal contract negotiations with USBR which are anticipated to begin within the next six months.

### **Finding 7**

**Member Units and SBCWA have expressed support for formal, quantitative methods of decision-making under uncertainty which can identify sources of disagreement, and thus facilitate compromise solutions.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

### **Recommendation 7**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, establish a format for quantitative decision-making under uncertainty; and seek to narrow their differences on such components as probabilities of future rainfall patterns and criteria for desirable outcomes.**

Recommendation 7 has not yet been implemented, but will be implemented during the upcoming contract negotiations anticipated to start this year.

The SBCWA recognized the need to better understand the yield capability of Cachuma back in 2014 when a draft yield analysis was undertaken. The work was put on hold as at that time the length and depth of the then current drought was not known. In addition, changes to releases for protected species and the State Water Resources Control Board order were, and are, still pending. All of these factors should be known to be able to do a technically based quantitative yield study. As such this work will be re-initiated and how to implement this into the new contract will be negotiated.

### **Finding 8**

**SBCWA and the Member Units agree that meetings of their technical staffs are valuable but disagree over the organizational concerns of past meetings, such as claims of infrequency, non-attendance, non-response and cancellation without notice.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

SBCWA agrees that meetings of technical staff have been and are valuable to review and resolve issues, especially issues related to the most current drought, and to enhance communication and information sharing. Over the last two years these meetings have been less frequent for several reasons, including the need to respond to emergency situations, the end of the drought, etc.

### **Recommendation 8**

**That each year the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, determine a schedule of multiple meetings of key technical staff to discuss Cachuma Project operations, including upcoming diversions, and to report major points of potential agreement or disagreement to their Boards.**

Recommendation 8 will not be implemented because it is not warranted for the reasons discussed below.

Since February 2014, the SBCWA staff initiated scheduling and hosting of monthly SBCWA/MU manager meetings to improve communication and coordination between MUs and SBCWA. Following the January 9, 2018 debris flows, some meetings hosted by the SBCWA were canceled given the emergency conditions that also impacted some of the MUs. Of 58 meetings scheduled by SBCWA, 10 were cancelled, two with prior agreement and the balance with 5 days to 2 week notice. No meetings were cancelled without notice. Starting in December of 2018, the MUs assumed scheduling and hosting of these monthly manager meetings. Of 8 meetings scheduled by the MUs to date, 5 have been canceled.

SBCWA agrees that holding regular meetings is valuable, however scheduling should remain at the discretion of staff as having the Directors do so would be overly cumbersome. Staff has the authority, and has used that authority, to convene or adjust the time and frequency of these meetings based on emerging issues and reservoir conditions. In addition, staff already reports updates to the Directors as appropriate and any policy direction given by the Directors is carried to the meetings.

### **Finding 9**

**The websites of the Member Units and SBCWA lack clarity and detail on the Cachuma Project.**

The Board of Supervisors and the Board of Directors of the Santa Barbara County Water Agency agree with the finding.

### **Recommendation 9**

**That the Directors of the Member Units and the Santa Barbara County Board of Supervisors, acting as Directors of the SBCWA, set up and maintain a specific website for detailed information on the Cachuma Project's history, structure, governance, and**

**operations, with links to additional historical documents and records.**

Recommendation 9 has not yet been implemented, but will be implemented when upcoming contract negotiations are scheduled which is anticipated to start this year.

A dedicated webpage, hosted by the SBCWA at <http://www.countyofsb.org/pwd/cachuma.sbc> will be created when the Contract Negotiations begin to provide information of the Project history and links to technical information. This in turn can be linked to by MU websites.