

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 1/29/04
Department Name: Parks
Department No.: 052
Agenda Date: 2/10/04
Placement: Departmental
Estimate Time: 30 minutes
Continued Item: YES
If Yes, date from: 1/27/04

TO: Board of Supervisors

FROM: Terri Maus-Nisich
Director of Parks

Phillip M. Demery
Director of Public Works

STAFF Coleen Lund
CONTACT: x2470

Rob Almy
x3542

SUBJECT: Execution of a Memorandum of Understanding (MOU) Regarding the Surcharge of Lake Cachuma and the Protection of Recreational Resources at the Lake, Third Supervisorial District

Recommendation(s):

That the Board of Supervisors and Santa Barbara County Water Agency Board of Directors execute a Memorandum of Understanding between the County of Santa Barbara, the Santa Barbara County Water Agency, the Cachuma Conservation Release Board (CCRB) and the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1) regarding the surcharge of Lake Cachuma and the protection of recreational resources at the Lake.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 5.A High Quality of Life for All Residents and with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit.

Executive Summary and Discussion:

Background

As discussed at previous Board hearings, Santa Barbara County Parks and Water Agency staff, with assistance from County Counsel, have been representing the County in the State Water Resources Control Board Water Rights hearing process regarding modifications in the Bureau of Reclamation's current water right permits to protect public trust values and downstream water rights on the Santa Ynez River below Bradbury Dam. State and Federal agencies have regulatory authority over the allocation and diversion of water, including water for fish, and the operation of the reservoir, including surcharge. The Bureau must also manage the operation of the reservoir and downstream flow under a Biological Opinion (BO) and incidental take permit for steelhead trout. The BO identifies surcharge of the lake as an expected measure to provide additional downstream flows for steelhead. The State Water Board, will address whether the Bureau's permits should be modified to protect public trust resources. Although the focus of the hearing process is the extent to which the permits should be modified to provide resources for the endangered steelhead trout, the State Board has indicated that impacts on recreational park resources at the lake are also public trust resources that should be considered.

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Your Board authorized staff to appear at the State Board proceedings to request that any modification of the Bureau's water permits to protect steelhead should condition surcharge of the lake to allow County Parks time to relocate boat launching facilities and health and safety facilities (e.g. water treatment plant) in a timely fashion. Staff presented these issues in a manner that reflected Board direction to balance the three major public policy goals supported by the Board: 1) ensuring a reliable water supply; 2) protecting endangered species; and 3) protecting public recreation and related public trust resources at the lake and river downstream of Bradbury Dam. The County's testimony at these hearing also stated that local solutions, developed within broad state and federal policy direction, would be most effective in achieving resolution. Consistent with these positions, the County, CCRB and ID No. 1 developed a Statement of Agreement to address phased surcharge, and of which provided for a MOU to identify how phasing would be accomplished. The MOU provides certainty that if surcharge occurs, Parks will have time to relocate essential facilities. The MOU also provides additional benefits in that the water agencies will participate in funding interim boat launch modifications and support the County in lease renegotiations with the Bureau for the continued operation of the Cachuma Recreation Area.

The January 27 hearing on the proposed MOU between the County, County Water Agency, CCRB and ID No. 1 was continued to February 10, so staff could address two questions: (1) the timing of the MOU; and (2) whether park facility relocation is required by the MOU in the event no surcharge occurs.

MOU Timing

The MOU implements a Statement of Agreement previously authorized by your Board, and submitted into evidence at the State Water Board hearings held during the late fall 2003. The evidentiary phase of the proceeding is closed, and final briefs are due February 17. The State Water Board Hearing Officer has left the record open until that date for submittal of the MOU. If no MOU is submitted, then the County will lose its ability to determine with the water agencies the features of facility relocation if surcharge is to occur and more particularly the agreement to phase surcharge to allow the time required to relocate the water treatment plant.

MOU Effect If No Surcharge Required

Paragraph 4 of the MOU sets forth the actions to be undertaken by the County to obtain funding and approvals for relocation of the water treatment plant and an agreement to negotiate with ID No. 1 if funding and approvals for that project is not forthcoming. The MOU does not commit the County to any project. The MOU provides that the County must first agree to any proposal from ID No.1. We have discussed these issues with CCRB and ID No1 staff and their attorney, who has indicated a willingness to add a provision to paragraph 4 of the MOU to remove any doubt that in the event surcharge does not occur for any reason, the MOU provisions relating to relocation of park facilities shall be null and void.

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To provide assurance to your Board that essential park facility relocation will not be required if no surcharge occurs staff has added the following sentence to the end of Paragraph 4 of the MOU:

"If, for any reason, Reclamation determines that Bradbury Dam will be operated in such a way that as a matter of ordinary water supply operations the level of Lake Cachuma will not exceed elevation 751.8 feet, then the provisions of this paragraph shall have no force and effect."

The sentence within Paragraph 4, which provides that neither party will delay surcharge, relates to the operation of Bradbury Dam, beyond the County's control, and not to the relocation of the water treatment plant.

Other provisions within the MOU include a statement that all parties shall work collaborative to secure funding from all available resources specifically state and federal governments for construction of the water treatment plant and that the parties will establish an oversight committee to promote compatibility of future operations of Lake Cachuma Recreation area.

Mandates and Service Levels:

No mandate or impact to service levels with this action. The National Oceanic and Atmospheric Administration (NOAA), previously known as the National Marine Fisheries Service, under the Federal Endangered Species Act, completed a Biological Opinion (BO) for the endangered steelhead trout within the Santa Ynez River below Bradbury Dam. The BO specifically includes measures to increase flows within the Santa River during steelhead spawning and rearing periods, of which include the surcharging of Lake Cachuma.

Fiscal and Facilities Impacts:

The \$75,000 to address the boat ramp modifications is from the Santa Barbara Water Agency Reserve Fund, of which \$50,000 will be replaced from the \$100,000 annual payment to the Cachuma Project (by contract) from the Water Agency contribution within 5 years. Assistance in funding for all impacted facilities, including the water treatment plant, have been subject of formal request to Congressman Elton Gallegly's Office. The search for grants other funding sources and partnerships is a priority work effort for the County Parks Department.

Special Instructions: Clerk of the Board to provide copy of minute order to County Parks, attn.; Coleen Lund.

Concurrence: County Counsel

Attachments: Memorandum of Understanding Regarding the Surcharge of Lake Cachuma and the Protection of Recreational Resources at the Lake

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

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACCEPTED AND AGREED:

Dated: _____

CACHUMA CONSERVATION RELEASE
BOARD

By: _____
Jan Abel, President

Dated: _____

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

By: _____
Harlan Burchardi, President

Dated: _____

SANTA BARBARA COUNTY BOARD
OF SUPERVISORS

By: _____
Chair

Dated: _____

SANTA BARBARA COUNTY WATER
AGENCY

By: _____
Chair

**STATEMENT OF AGREEMENT BETWEEN THE COUNTY, CCRB AND ID#1
FOR PRESENTATION TO THE SWRCB**

The County, CCRB and ID#1 agree that modification of the Cachuma Operations Manual to provide that no surcharge above 751.8' elevation except for winter storm operations shall occur for 5 years or completion of relocation of the water treatment plant and accessory facilities, whichever occurs first, is the appropriate measure to address potential impacts to recreational resources at Lake Cachuma from the proposed surcharge of the Lake. The County, CCRB and ID#1 agree that the Cachuma Operations Manual should be modified to provide that following 5 years or completion of relocation of the water treatment plant and accessory facilities, whichever occurs first, the Cachuma Reservoir may be surcharged up to 753. elevation.

The County, CCRB and ID#1 agree to work with the Bureau to take all actions necessary to modify the Cachuma Operations Manual to provide that no surcharge above 751.8' elevation except for winter storm operations shall occur for 5 years after the execution of the Memorandum of Understanding referenced below or completion of relocation of the water treatment plant and accessory facilities, whichever occurs first.

The County, CCRB and ID#1 immediately will seek the Bureau's agreement in principle that the above-described modification of the Cachuma Operations Manual is the appropriate measure to address potential impacts to recreational resources at Lake Cachuma from the proposed surcharge of the Lake.

The County shall in good faith complete design and pursue necessary permits and funding for the relocation of the water treatment plant and accessory facilities. In order to provide an alternative funding source in the event that County cannot obtain adequate grants or other funds on its own, the Cachuma Project Member Units will negotiate in good faith with the County an alternative proposal for ID#1 to fund in full or part and/or install a water treatment plant acceptable to CCRB, ID#1 and the County, with repayment in full or part by the County as agreed by all parties.

The County, CCRB and ID#1 agree that interim repair and reconstruction of the boat launch ramp to raise it to elevation 751.8' elevation can be accomplished by April 1, 2004, and, therefore, surcharge to 751.8' elevation may occur in the spring of '04' without affecting public recreational opportunities on the lake. The interim Boat Launch Ramp modification project cost is approximately \$75,000. The County Water Agency can advance project funds for the project from its reserve. The Cachuma Project Member Units shall refund \$50,000 to the County Water Agency Reserve Fund at \$10,000 per year over 5 years. The County, CCRB and ID#1 agree that the Cachuma Betterment Fund may be a source of repayment to the County Water Agency because the ramp modifications will be required in order to surcharge the reservoir to 751.8. elevation.

CCRB and ID#1 agree to assist the County in obtaining a long-term land management agreement/lease renewal with the Bureau for the Lake Cachuma recreation area and funding from the state and federal governments for relocation of the water treatment plant and other critical facilities.

The County, CCRB and ID#1 will seek the agreement of the Bureau to modify the Cachuma Operations Manual to provide that no surcharge above 751.8' elevation, except for winter storm operations, shall occur for 5 years after the execution of the Memorandum of Understanding referenced below or completion of relocation of the water treatment plant and accessory facilities, whichever occurs first. The County, CCRB and ID#1 agree that the Cachuma Operations Manual should be modified to provide that following 5 years or completion of relocation of the water treatment plant and accessory facilities, whichever occurs first, the Cachuma Reservoir may be surcharged up to 753. elevation.

The County, CCRB and ID#1 will enter into a Memorandum of Understanding (MOU) memorializing these agreements to be submitted to the State Water Resources Control Board.

ALS/cachuma/Revised proposal for swrcb11-06