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2007 JAN 30 PM 3:14

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File No. 26260.00000

January 26, 2007

VIA OVERNIGHT MAIL

Victoria A. Whitney
Chief, Division of Water Rights
State Water Resources Control Board
1001 "T" Street
Sacramento, CA 95812

Re: Environmental Impact Report for Consideration of Modifications to the U.S. Bureau of Reclamation's Water Rights Permits 11308 and 11310 (Application 11331 and 11332) to Protect Public Trust Values and Downstream Water Rights on the Santa Ynez River Below Bradbury Dam (Cachuma Reservoir)

Dear Ms. Whitney:

The Cachuma Member Units are in receipt of a January 17, 2007 letter from Ms. Karen Krause, attorney for the Environmental Defense Center. In her letter Ms. Kraus objects to the retention by URS Corporation of Stetson Engineers and Entrix, Inc., and more particularly, to Mr. Ali Shahroody and Ms. Jean Baldrige as consultants hired by URS to work on an environmental impact report being prepared for the State Board water right hearings regarding the Cachuma Project. As Ms. Kraus relates:

[T]he SWRCB has directed the U.S. Bureau of Reclamation to draft the EIR. The U.S. Bureau of Reclamation has, in turn, contracted with the URS Corporation to draft the EIR. URS has, in turn, retained Stetson Engineers and Entrix, Inc. to draft portions of the EIR."

Krause Letter, page 2

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Victoria Whitney
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Page 2

Notwithstanding the attenuated nature of the retention of Stetson Engineers and Entrix, Inc., Ms. Kraus asserts: "Stetson's and Entrix's preparation of the EIR may . . . provide the Member Units with advance information regarding the contents of the EIR and the SWRCB's deliberative process." Krause Letter, page 3. According to Ms. Krause, this purported disclosure of information "places the other parties to the proceedings at an unfair disadvantage . . ." Id. Further, she asserts, the retention of Stetson Engineers and Entrix, Inc. is prohibited since the Supplemental Statement of Responsibilities ("SSOR") for preparation of the Environmental Impact Report prevents the Bureau of Reclamation from employing any person to assist in the preparation of the EIR "who has a financial interest in the outcome of the SWRCB's action on Reclamation's permits." Id.

We are fairly certain the State Board will respond to Ms. Kraus' letter and, frankly, we would encourage the Board to do so. Among other things, it is our understanding that Stetson Engineers was hired by URS Corporation to assist in the preparation of the EIR for the simple reason that Mr. Shahroody is the most knowledgeable engineer / hydrologist working on the Santa Ynez River; that neither Reclamation, URS nor the State Board – and certainly not the Environmental Defense Center or its client California Trout – employs anyone with his knowledge or experience of river hydrology and Cachuma Project operations; and that, without his input, the environmental document would be less reliable. Similarly, it is our understanding that Ms. Baldrige was retained because she has worked extensively on Santa Ynez River fishery issues for nearly two decades and there is simply no biologist employed with Reclamation, URS or the State Board who can bring her knowledge and experience to the EIR.

I want to address more directly, however, the not-so-subtle suggestions of Ms. Kraus that the retention of Mr. Shahroody and Ms. Baldrige may have put other participants at an unfair advantage through the provision of information to the Cachuma Member Units regarding the contents of the EIR or the SWRCB's deliberative process. I also want to address the suggestion that Mr. Shahroody and Ms. Baldrige have a financial interest in the outcome of the State Board's action on Reclamation's permits. Finally, I want to address the timing of the EDC letter to you.

My clients take the State Board's hearing process seriously and have done so since the outset, in 1990, of the proceedings leading to the 2003 hearing. When the State Board first informed the parties to the hearing, in September 2004, that consultants would be retained to work on the State Board's EIR, they were also informed that the work of the consultants would be confidential. Supplemental Statement of Responsibilities, ¶6. More specifically, the parties were told that:

[T]he consultants shall not communicate with Reclamation or any other interested person regarding the analytical or other substantive work performed by the consultants pursuant to this Supplemental Statement of Responsibilities until the SWRCB has issued a Final EIR.

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ATTORNEYS AT LAW

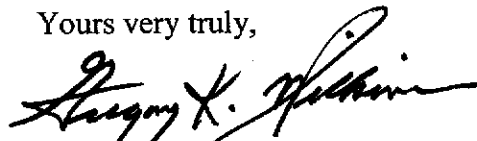
Victoria Whitney
January 26, 2007
Page 3

The Cachuma Member Units have honored that directive to the letter and continue to do so. Simply put, no information has been requested of or provided by Stetson, Entrix, Mr. Shahroody or Ms. Baldrige to the Member Units in connection with the EIR – something Ms. Kraus could have easily learned if she had had the courtesy to ask before making her unsupported assertions to you.

Similarly, if Ms. Kraus had asked, we could have told her that neither Mr. Shahroody nor Ms. Baldrige or their employers have any financial interest in the outcome of the State Board's action on Reclamation's permits. Mr. Shahroody and Ms. Baldrige are both employed by Cachuma Member Units on an hourly basis for their work in connection with the Cachuma Project hearings and have already been compensated for their work on behalf of the Member Units in that regard. Neither of them has an agreement that makes their compensation dependent upon the outcome of the State Board's hearings on Reclamation's permits.

Finally, you will forgive us if we are more than a little suspicious of the timing of Ms. Kraus' letter. Ms. Kraus was informed of the Supplemental Statement of Responsibilities by the State Board on October 21, 2004. See e-mail of 10/21/04 from Ernie Mona to KKraus re "Cachuma Project Hearing", attached hereto. The SSOR attached to that notification repeatedly disclosed to Ms. Kraus that "consultants" would be employed to assist in the "preparation of the environmental documentation required by the California Environmental Quality Act (CEQA) in connection with the SWRCB's consideration of modifications to the water rights permits held by Reclamation for the Cachuma Project...in order to protect down stream water rights and public trust resources." SSOR, p. 1. Subsequently, more than two years of effort have been expended to prepare the State Board's revised draft EIR and it is our understanding from State Board staff that it will be completed within a matter of weeks. For the Environmental Defense Center to *now* raise the issue of Mr. Shahroody's and Ms. Baldrige's involvement with the document at this late date defies reasoned belief. Frankly, it strikes us as a good deal less related to concern about the reliability of the EIR or the communication of confidential information than it is to the manufacture of a future litigation position. We trust you will give Ms. Kraus' letter all the consideration it is due and summarily reject the assertions it makes.

Yours very truly,



Gregory K. Wilkinson
of BEST BEST & KRIEGER LLP
Attorneys for Cachuma Member Units

GKW:lcp
Enclosures
cc: see attached Cachuma Hearing Service List

**CACHUMA HEARING
PHASE 2
SERVICE LIST**

2007 JAN 30 PM 3:15

<p>Cachuma Conservation Release Board Mr. Gregory K. Wilkinson Best Best & Krieger LLP 3750 University Avenue, Suite 400 Riverside, CA 92501 (909) 686-1450 (909) 686-3083 fax GKWilkinson@BBKlaw.com</p>	<p>City of Solvang Mr. Christopher L. Campbell Baker, Manock & Jensen 5260 N. Palm Avenue, Suite 421 Fresno, CA 93704 (559) 432-5400 CLC@BMJ-law.com</p>	<p>U.S. Bureau of Reclamation Mr. Stephen Palmer Office of the Regional Solicitor 2800 Cottage Way, Room E-1712 Sacramento, CA 95825 (916) 978-5683 (916) 978-5694 fax</p>
<p>Department of Water Resources Mr. David Sandino 1416 Ninth Street, Room 1118 Sacramento, CA 94236-0001 (916) 653-5129 (916) 653-0952 fax</p>	<p>Santa Ynez River Water Conservation District, Improvement District No. 1 Mr. Gregory K. Wilkinson Best Best & Krieger LLP 3750 University Avenue, Suite 400 Riverside, CA 92501 (909) 686-1450 (909) 686-3083 fax GKWilkinson@BBKlaw.com</p>	<p>California Sportfishing Protection Alliance Mr. Jim Crenshaw 1248 E. Oak Avenue Woodland, CA 95695</p>
<p>City of Lompoc Ms. Sandra K. Dunn Somach, Simmons & Dunn 813 Sixth Street, Third Floor Sacramento, CA 95814-2403 (916) 446-7979 (916) 446-8199 fax SDunn@lawssd.com</p>	<p>California Trout, Inc. c/o Ms. Karen Kraus Environmental Defense Center 906 Garden Street Santa Barbara, CA 93101 KKraus@EDCnet.org</p>	<p>Santa Barbara County Parks Ms. Terri Maus-Nisich Director of Parks 610 Mission Canyon Road Santa Barbara, CA 93105</p>
<p>Santa Ynez River Water Conservation District Mr. Ernest A. Conant Law Offices of Young Wooldridge 1800 – 30th Street, Fourth Floor Bakersfield, CA 93301 (661) 327-9661 (661) 327-0720 fax EConant@YoungWooldridge.com</p>	<p>Department of Fish and Game Office of the General Counsel Mr. Harlee Branch 1416 Ninth Street, 12th Floor Sacramento, CA 95814 (916) 654-3821 (916) 654-3805 fax</p>	<p>Mr. Christopher Keifer NOAA Office of General Counsel Southwest Region 501 W. Ocean Blvd., Suite 4470 Long Beach, CA 90802-4213 (562) 980-4001 (562) 980-4018 fax</p>
<p>CPH Dos Pueblos Associates, LLC Mr. Richard W. Hollis 211 Cannon Perdido Street Santa Barbara, CA 93101</p>		

Ernest Conant

From: Ernest Conant
Sent: Thursday, October 21, 2004 3:25 PM
To: 'Ali Shahroody'; Bruce Wales
Subject: FW: Cachuma Project Hearing

10/26/04



Cachuma SSOR.pdf
(191 KB)

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

From: Ernie Mona [mailto:EMONA@waterrights.swrcb.ca.gov]
Sent: Thursday, October 21, 2004 2:27 PM
To: gkwilkinson@bbklaw.com; clc@bmj-law.com; tmaus@co.santa-barbara.ca.us;
hbranch@dfg.ca.gov; kkraus@edcnet.org; sdunn@lawssd.com; Christopher.Keifer@noaa.gov;
Ernest Conant
Cc: dbmooney@dcn.davis.ca.us; Nmurray@dfg.ca.gov; tdickerson@dfg.ca.gov; Dana Heinrich
(Differding); ddoporto@mofo.com; jstruebing@mp.usbr.gov; jerry@men@sbcglobal.net;
dsandino@water.ca.gov; Diane Riddle
Subject: Cachuma Project Hearing

The purpose of this email is to provide you with a copy of the executed Supplemental Statement of Responsibilities between the SWRCB's Division of Water Rights and the USBR, for preparation of the environmental impact report for possible modifications of the Cachuma Project water right permits.

Ernest Mona
State Water Resources Control Board
Division of Water Rights
Hearings & Special Projects Section
Ph: (916) 341-5359
Fax: (916) 341-5400
Web: www.waterrights.ca.gov
E-mail: emona@waterrights.swrcb.ca.gov



Terry Tamminen
*Secretary for
Environmental
Protection*

State Water Resources Control Board



Arnold Schwarzenegger
Governor

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

**SUPPLEMENTAL STATEMENT OF RESPONSIBILITIES FOR
PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR
POSSIBLE MODIFICATIONS OF THE CACHUMA PROJECT
WATER RIGHT PERMITS (PERMITS 11308 AND 11310)
TO PROTECT PRIOR RIGHTS
AND PUBLIC TRUST RESOURCES
IN THE SANTA YNEZ RIVER**

A. Parties

1. This Supplemental Statement of Responsibilities is between the State Water Resources Control Board (SWRCB), Division of Water Rights (Division) and the U.S. Bureau of Reclamation (Reclamation).

B. Purpose

1. The purpose of this Supplemental Statement of Responsibilities is to provide for the preparation of the environmental documentation required by the California Environmental Quality Act (CEQA) in connection with the SWRCB's consideration of modifications to the water right permits held by Reclamation for the Cachuma Project (Permits 11308 and 11310, issued pursuant to Applications 11331 and 11332) in order to protect down stream water rights and public trust resources. SWRCB Order WR 94-5 required Reclamation to prepare any environmental documentation that the Chief of the Division determined was necessary to comply with CEQA in connection with consideration of modifications to Reclamation's permits. The Division Chief determined that preparation of an Environmental Impact Report (EIR) was required.
2. On May 12, 1999, the SWRCB and Reclamation entered into a Statement of Responsibilities concerning the preparation of an EIR. Subsequently, Reclamation submitted an administrative Draft EIR to the SWRCB. In August 2003, the SWRCB issued a Draft EIR for public review and comment.
3. This Supplemental Statement of Responsibilities covers the preparation of the remaining documentation required by CEQA, culminating in the preparation of a Final EIR. This Supplemental Statement of Responsibilities supersedes the previous Statement of Responsibilities to the extent that they conflict.

C. Responsibilities of the Parties

1. Reclamation shall enter into the necessary agreements to provide for consulting services that are consistent with the terms of this Supplemental Statement of Responsibilities.

2. The consultants shall assist the Division in preparing the following documents to the satisfaction of the Division: (1) responses to comments on the Draft EIR; (2) if necessary, a revised Draft EIR; and (3) a Final EIR.
3. The consultants shall attend and provide expert witness testimony at any public hearings that may be necessary to allow the SWRCB to consider modification of Reclamation's permits.
4. The SWRCB is the lead agency responsible for the preparation and adequacy of the environmental documentation required by CEQA and shall have final authority over scope and content, including determination of the significance of environmental impacts. Until the SWRCB issues a Final EIR, the SWRCB alone shall direct consultants' preparation of the environmental documentation described above. Until the SWRCB issues a Final EIR, consultants shall report directly to the designated SWRCB representative, identified below.
5. The consultants shall not employ any person to assist in the preparation of the environmental documentation described above who has a financial interest in the outcome of the SWRCB's action on Reclamation's permits.
6. If necessary, the consultants may request information from Reclamation or any other interested person. Reclamation may discuss with the consultants issues pertaining to the scope of work, schedule of completion, or reasonableness of costs. Otherwise, the consultants shall not communicate with Reclamation or any other interested person regarding the analytical or other substantive work performed by the consultants pursuant to this Supplemental Statement of Responsibilities until the SWRCB has issued a Final EIR.
7. Reclamation shall provide for payment of all costs associated with the consultants' assistance to the SWRCB in preparing the environmental documentation described above, and any costs incurred by the consultants in preparing for and participating in any SWRCB public hearings regarding the environmental documents. In addition, Reclamation shall provide for payment of the costs of printing enough copies of any revised draft EIR and the Final EIR to meet the SWRCB's distribution requirements. The SWRCB shall not be obligated in any manner to pay for the services rendered by the consultants.
8. The Division shall inform Reclamation of all work that will be requested of the consultants prior to such requests. Reclamation may take appropriate measures to determine whether the work requested or the costs being charged for work performed by the consultants are reasonable and necessary. The consultants and the SWRCB recognize that Reclamation will not pay the consultants directly and that the consultants are obligated to comply with any and all other contractual agreements associated with

the compensation of the work performed by the consultants, provided that the work is consistent with the terms of this Supplemental Statement of Responsibilities.

9. Nothing in this Supplemental Statement of Responsibilities, including Reclamation's obligation to provide for payment of all costs under paragraph 7, shall be interpreted as creating an obligation of Reclamation to make any expenditures or advance any money. In the unlikely event that the consultants are not paid under current agreements, this Supplemental Statement of Responsibilities shall be amended.
10. The SWRCB shall circulate the environmental documents and file the documents and the requisite notices with the State Clearinghouse.

Schedule and Performance of Work

1. Following execution of this Supplemental Statement of Responsibilities, the designated SWRCB representative and appropriate SWRCB staff will meet with Reclamation and the consultants and develop a work plan and schedule for completion of the environmental documentation described above.

Conflict Resolution

1. In the event of any dispute between SWRCB staff and Reclamation staff regarding any aspect of the preparation of the EIR, the two staffs shall without delay elevate the dispute to the next higher level of management within the SWRCB and Reclamation, and if such managers are unable to resolve the dispute, such managers shall again elevate it until it reaches the Executive Director of the SWRCB and the Regional Director of Reclamation. If the dispute is not resolved, either or both parties may pursue their remedies at law. In attempting to resolve any dispute, the parties shall keep in mind the respective obligations of each party, both under this agreement and in law.

Termination and Modifications

1. This Supplemental Statement of Responsibilities remains in effect until the SWRCB files a Notice of Determination with the State Clearinghouse.
2. The parties may modify this Supplemental Statement of Responsibilities at any time by written agreement.

Designation of Representatives

1. The parties designate the following representatives for purposes of fulfilling their responsibilities under this Statement of Responsibilities. Any party may change its designated representative upon written notice to the other parties.

Reclamation's representative shall be:

Michael Jackson
Deputy Area Manager
South Central California Area Office

The Division's representative shall be:

Victoria A. Whitney, Chief
Division of Water Rights

Dated: September 23rd, 2004

By: *Michael Jackson*

Title: Deputy Area Manager, South Central California
U.S. Bureau of Reclamation
Area Office

Dated: 10/21/04

By: *Victoria A. Whitney*

Title: Chief, Division of Water Rights.
SWRCB, Division of Water Rights



August 25, 2004

State Water Resources Control Board
Division of Water Rights
1001 "T" Street
P.O. Box 100
Sacramento, CA 95812

Attention: Victoria A. Whitney, P.E.
Chief, Division of Water Rights

Re: Finalize Draft EIR for Consideration of Modifications to the USBR Water Right Permits 11308 and 11310 Applications 11331 and 11332 to Protect Public Trust Values and Downstream Water Rights on the Santa Ynez River below Bradbury Dam (Cachuma Reservoir) (Cachuma Project EIR)

Dear Ms. Whitney:

I understand that URS Corporation (URS) executed an agreement in July 1999 with the Bureau of Reclamation (Reclamation) and Cachuma Operation and Maintenance Board (COMB) authorizing URS to prepare the Environmental Impact Report (EIR) for the Cachuma Water Rights Hearing before the State Water Resources Control Board (State Board) under the direction of Reclamation, and to the satisfaction of the State Board staff. At this time, the Project Manager under the agreement will be Susan Hootkins. Ms. Hootkins will be responsible for ensuring completion of the project with strict attention to your confidentiality requirements.

This letter provides you with URS' statement of confidentiality for the Cachuma Project EIR, consistent with our understanding of the Supplemental Statement of Responsibilities agreement between the State Board and Reclamation. A copy of this agreement is attached.

All of URS' communications with the State Board shall be kept confidential, unless State Board staff direct Ms. Hootkins that a specific communication is not confidential. Such communications shall include oral discussions and written notes from meetings and telephone consultations, emails and attachments, faxes, and other draft materials for the EIR and related public hearings. These communications will be marked confidential. Furthermore, we agree to comply with Item C.6 of the Supplemental Statement:

URS Corporation
1333 Broadway, Suite 800
Oakland, CA 94612
Tel: 2510.874.3600
Fax: 510.874.3268
www.urscorp.com

Confidentiality_8-25-04.doc

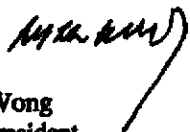
If necessary, the consultants may request information from Reclamation or any other interested person. Reclamation may discuss with the consultants issues pertaining to the scope of work, schedule of completion, or reasonableness of costs. Otherwise, the consultants shall not communicate with Reclamation or any other interested person regarding the analytical or other substantive work performed by the consultants pursuant to this Supplemental Statement of Responsibilities until the SWRCB has issued a Final EIR.

Ms. Hootkins is to ensure that all URS staff and subconsultants working on the project understand the confidentiality requirement.

We look forward to assisting you and your staff in completing the Cachuma Project EIR. Ms. Hootkins needs to establish a date for meeting with you and Reclamation to initiate completion of the Cachuma Project EIR. You may call her directly at (510) 874-3223 or contact her by email at susan_hootkins@urscorp.com. Also, feel free to contact me if you have any questions: (510) 874-3112.

Sincerely,

URS CORPORATION



Noel Wong
Vice President
Manager, Water Resources

Cc: Andrew Fecko, SWRCB
Dana Differding, SWRCB
Michael Jackson, Reclamation
David Young, Reclamation
Jo Ann Struebing, Reclamation
Sheryl Carter, Reclamation
Kate Rees, COMB
Susan Hootkins, URS
John T. Gray, URS