

784 Camino Cascada
Santa Barbara, CA 93111
October 1, 2003

AK/AJF
STATE WATER RESOURCES CONTROL BOARD
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DIVISION OF WATER RIGHTS
SACRAMENTO

Andy Fecko
State Water Resources Control Board
Division of Water Rights
1001 "I" Street
Sacramento, CA 95812

Dear Mr. Fecko,

I would like to comment on the State Water Resources Control Board's Draft Environmental Impact Report - Proposed Modifications to Bureau of Reclamation's Cachuma Project Water Rights Permits to Protect Public Trust Resources in the Santa Ynez River. My participation in this matter stems from my interest in steelhead natural resource conservation and restoration. In addition, I am involved with the UCSB Rowing Team. We use Cachuma reservoir extensively and I am also concerned about the consequences of surcharging on our lakeshore building.

I support maximum steelhead restoration. However, the DEIR fails to define what it will take to protect steelhead as a public trust resource. Protecting public trust resources includes restoration, not merely maintaining a species as endangered. Southern California steelhead have been listed as endangered under the Federal Endangered Species Act and are therefore entitled to measures to restore their population. The State Water Board should establish population-based success criteria to define and measure protection and restoration of steelhead in the Santa Ynez River. Without measurable criteria to gauge success, it will be impossible to determine if steelhead are being sufficiently protected pursuant to the Public Trust Doctrine and Fish and Game Code Section 5937.

The DEIR's alternatives would only maintain the population as endangered. They would not protect steelhead as a public trust resource and do not provide plans for their restoration. Specifically, measures in the Biological Opinion for the Cachuma Project only prevent further jeopardy of steelhead and do not recover or restore the species so it can be protected as a public trust resource.

The DEIR fails to consider Fish and Game Code Section 5937 and what measures are needed to keep steelhead in below the dam in "good condition". Biological Opinion measures are not sufficient for "good condition" because they fail to protect individual steelhead and to keep the population in the river below Bradbury Dam healthy. More continuous water releases are required to turn the wide, flat lower river below Bradbury Dam into good steelhead habitat. However, even the insufficient flows proposed in the DEIR alternatives are not guaranteed. The Adaptive Management Committee comprised primarily of water agency interests can reduce proposed flows with no guiding criteria for their decisions.

The DEIR does not consider alternatives other than the Biological Opinion to protect steelhead. An EIR is required to analyze a range of alternatives that can fulfill the objectives while minimizing significant environmental impacts. This EIR fails to address a range of alternatives and merely proposes the BO

measures with and without surcharging and with alternative methods for delivering water to downstream users. There are no alternatives with greater flow regimes, fish passage or other measures that may be needed to protect Public Trust Resources. Possible alternatives include: steelhead passage to suitable habitat above Bradbury Dam, greater minimum mandatory flows below the dam, and maximum beneficial use of downstream water rights releases (i.e. continuous flows) for steelhead.

Restoration of a sustainable steelhead population would protect steelhead as required pursuant to Fish and Game Code Section 5937 and the Public Trust Doctrine. This will likely require access to the river's perennial headwaters. Bradbury Dam blocks steelhead migration to spawning areas. The proposed project should aim to protect steelhead throughout the basin including those trapped above and below the dam, or else the project will not protect steelhead as a public trust resource.

Finally, water supply impacts during droughts can be avoided or minimized by water conservation, alternative sources, or maximum beneficial use of downstream releases (i.e. using continuous downstream water rights releases to protect steelhead).

The DEIR is inadequate for failing to analyze a range of alternatives and for failing to analyze any alternatives that can comply with the basic objective of protecting public trust resources.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Homes". The signature is written in a cursive style with a clear first and last name.

Mike Homes