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FILE No. 26260.00000

June 7, 2006

VIA OVERNIGHT MAIL

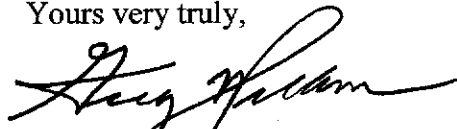
Victoria Whitney, Division Chief  
State Water Resources Control Board  
Division of Water Rights  
1001 "I" Street  
Sacramento, CA 95814

Re: Hearing to Review the United States Bureau of Reclamation Water Right Permits 11308 and 11310 (Applications 11331 and 11332) to Determine Whether any Modifications In Permit Terms and Conditions are Necessary to Protect Public Trust Values and Downstream Water Rights on the Santa Ynez River Below Bradbury Dam (Cachuma Reservoir)

Dear Ms. Whitney:

Enclosed please find an original and one copy of the *Motion to Disqualify; Memorandum of Points and Authorities; Affidavit of Gregory K. Wilkinson* submitted on behalf of the Santa Ynez River Water Conservation District, Improvement District No. 1 and the Cachuma Conservation Release Board in the above-referenced matter.

Yours very truly,



Gregory K. Wilkinson  
of BEST BEST & KRIEGER LLP

GKW:lcp

Enclosures

cc: Ernest Mona (w/ enc.)  
Dana Heinrich (w/ enc.)

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Attorneys for Santa Ynez River Water  
Conservation District, Improvement District No. 1  
and Cachuma Conservation Release Board

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of:  
Hearing to Review the United States  
Bureau of Reclamation Water Right  
Permits 11308 and 11310 (Applications  
11331 and 11332) to Determine Whether  
Any Modifications in Permit Terms and  
Conditions Are Necessary to Protect Public  
Trust Values and Downstream Water  
Rights on the Santa Ynez River Below  
Bradbury Dam (Cachuma Reservoir)

MOTION TO DISQUALIFY;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; AFFIDAVIT OF  
GREGORY K. WILKINSON

MOTION

Pursuant to Government Code Sections 11425.30 and 11425.40, the Cachuma Conservation Release Board (comprised of the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District and Santa Ynez River Water Conservation District) and Improvement District No. 1 (collectively, the "Cachuma Member Units") hereby move to disqualify Gary Wolff, Ph.D. from serving as a presiding officer in the present proceeding. The motion is based upon the accompanying Memorandum of Points and Authorities and Affidavit of Gregory K. Wilkinson.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. Introduction

3 On May 23, 2006, Governor Schwarzenegger announced the appointment of Gary Wolff,  
4 P.E. and Ph.D. of Castro Valley, California to the State Water Resources Control Board ("State  
5 Board"). In his announcement the Governor noted that, "since 2001 [Dr. Wolff] has served as  
6 principal economist and engineer for the Pacific Institute for Studies in Environment,  
7 Development and Security." Dr. Wolff's employment with the Pacific Institute during the period  
8 2001-2006 and, in particular, his prior involvement with the "Key Issues" previously identified by  
9 the State Board for the Cachuma Project Hearing necessitate his disqualification as a presiding  
10 officer from this pending matter.

11 In its September 25, 2000 Notice of Public Hearing in the Cachuma Project proceedings,  
12 the State Board identified what it believed were the "Key Issues" to be addressed by the parties.  
13 Key Issue 3 related to the subject of public trust resources. After asking about the flow  
14 requirements and other measures needed for public trust resources and the effect of public trust  
15 measures on entities that have water supply contracts with the operator of the Cachuma Project  
16 (the United States Bureau of Reclamation), Key Issue 3 enquired:

17 "What water conservation measures could be implemented in order  
18 to minimize water supply impacts?"

19 Key Issue 3(d).

20 During the course of the Cachuma Project Hearing, the potential for water conservation to  
21 reduce or eliminate the effects of enhanced flow releases from Lake Cachuma for public trust  
22 purposes became a contested issue. Divergent testimony was introduced on the subject by several  
23 parties including the Cachuma Member Units and California Trout ("Cal Trout"). Testimony  
24 regarding water conservation potential within the service area of the Cachuma Project was  
25 presented on behalf of the Cachuma Member units by Ms. Kate Rees, General Manager of  
26 Cachuma Conservation Release Board and Ms. Mary Ann Dickenson, Director of the California  
27 Urban Water Conservation Council. Testimony on the subject for Cal Trout was provided in the  
28 form of expert testimony presented by the Pacific Institute for Studies in Environment,

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1 Development and Security—Dr. Wolff’s then current employer. Cal Trout Exhibits 50, 51, 52  
2 and 63. More particularly, the Cal Trout testimony was grounded upon Cal Trout Exhibit 63,  
3 entitled “Waste Not, Want Not: The Potential for Urban Water Conservation in California.  
4 Among the principal authors of Cal Trout Exhibit 63, was Gary Wolff, Ph.D. Cal Trout Exh. 63,  
5 p. 6.

6 Dr. Wolff’s “Waste Not, Want Not” report is cited repeatedly in Cal Trout’s Closing Brief  
7 to the State Board under the heading “Water Conservation Measures Could Be Implemented to  
8 Minimize Any Potential Water Supply Impacts.” Cal Trout Closing Br., pp. 21, 24, 25. Indeed,  
9 Cal Trout’s Closing Brief states the following regarding the testimony (both written and oral)  
10 offered by the Pacific Institute employees who appeared as expert witnesses on behalf of Cal  
11 Trout during the 2003 hearing:

12 Many of the conclusions in their written testimony are based on the  
13 methodology developed for the Pacific Institute’s report on  
14 statewide urban water conservation potential. Ex. CT. 63. . . .  
15 Waste Not, Want Not . . . .”

16 Because Dr. Wolff’s report is the basis for the testimony offered by one of the contending  
17 parties on a key issue in the pending proceeding – indeed, Dr. Wolff’s colleagues at the Pacific  
18 Institute relied upon his report for “many of their conclusions,” the law requires that Dr. Wolff be  
19 disqualified from now serving as a presiding officer in the Cachuma Project proceedings.

## 20 II. Argument

21 Government Code Section 11425.30 provides:

22 (a) A Person may not serve as presiding officer in an adjudicative  
23 proceeding in any of the following circumstances:

24 (1) The person also served as investigator, prosecutor, or advocate  
25 in the proceeding or its preadjudicative stage.

26 (2) The person is subject to the authority, direction, or discretion of  
27 a person who has served as investigator, prosecutor, or advocate in  
28 the proceeding or its preajudicative stage.

Further, Government Code Section 11425.40 provides:

1 (a) The presiding officer is subject to disqualification for bias,  
2 prejudice, or interest in the proceeding.

3 These provisions, enacted in 1995, codify existing case law. That law holds that due  
4 process requires a controversy to be presented before a “reasonably impartial, noninvolved  
5 reviewer.” *Williams v. County of Los Angeles* (1978) 22 Cal.3d 731, 737; *Mennig v. City Council*  
6 (1978) 86 Cal.App.3d 341, 350-51. Consistently, the case law holds that a decision maker may  
7 be disqualified for bias, prejudice or interest (*Nasha L.L.C. v. City of Los Angeles* (2004) 125  
8 Cal.App.4th 470, 483) since the parties to an administrative proceeding have a right to be heard  
9 by an impartial adjudicator. *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1025;  
10 *Quintero v. City of Santa Ana* (2003) 114 Cal.App.4th 810, 812. Indeed, even in the absence of a  
11 showing of actual bias, “due process in an administrative hearing demands an *appearance* of  
12 fairness and the absence of even a *probability* of outside influence on the adjudication.”  
13 *Quintero v. City of Santa Ana* (2003) 114 Cal.App.4th 810, 814 (citing *Nightlife Partners, Ltd. v.*  
14 *City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90) (emphases in original).

15 In *Nasha v. City of Los Angeles, supra*, a member of the City’s planning commission  
16 wrote and published a newsletter article which explained his concerns regarding a development  
17 project and advocated a position against the project. Shortly thereafter, the planning commission  
18 voted to overturn the planning director’s approval of the project. The petitioner unsuccessfully  
19 challenged the planning commission’s decision at the trial court, arguing that the commissioner’s  
20 article showed a probability of bias on behalf of at least one planning commission member. The  
21 appellate court agreed with the petitioner, finding that the commissioner’s article was not merely  
22 an informational piece but instead took a position regarding the factual issues presented by the  
23 project. *Nasha, supra*, 125 Cal.App.4th at p. 484. The appellate court held that the  
24 commissioner’s “authorship of the newsletter article, standing alone, [was] sufficient to give rise  
25 to an unacceptable probability of actual bias.” *Ibid.* Accordingly, the petitioner was entitled to a  
26 new hearing. *Id.* at p. 486.

27 Likewise, in the Cachuma Project Hearings, Dr. Wolff’s “Waste Not, Want Not” report  
28 provides analysis of various water conservation techniques and makes recommendations and

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1 conclusions regarding the effectiveness, costs, and other aspects of water conservation. See, e.g.,  
2 Cal Trout Exh. 63, pp. 21-25 (providing conclusions, lessons and recommendations regarding  
3 water conservation), 112 (calculating “numerical scores” for conservation efforts made by various  
4 regions in California), 142 (calculating the cost-effectiveness of water conservation measures).  
5 The conclusions provided by Dr. Wolff combined with Cal Trout’s reliance on the “Waste Not,  
6 Want Not” report in its Closing Brief and the reliance of Cal Trout’s experts on the Wolff report  
7 present a situation in which Dr. Wolff may be called upon to weigh the credibility of his own  
8 report when making determinations regarding State Board’s Key Issue 3. Further, and as in the  
9 *Nasha* case, the conclusions presented in Dr. Wolff’s report suggest that he may be predisposed to  
10 favor a resolution which will harmonize with the findings in the report and support the testimony  
11 of his colleagues at the Pacific Institute for Studies in Environment, Development and Security.  
12 Accordingly, the facts here are “sufficient to give rise to an unacceptable probability of actual  
13 bias,” and Dr. Wolff must be disqualified from presiding over the Cachuma Project Hearings.

14 In *Quintero v. City of Santa Ana* (2003) 114 Cal.App.4th 810, a discharged city police  
15 officer appealed his dismissal to the City’s Personnel Board. After his administrative appeal was  
16 denied, the officer brought an unsuccessful action in the superior court alleging that he was  
17 denied the right to an impartial decision maker. In the appellate court, the officer argued that the  
18 attorney defending the City against the officer’s administrative appeal had provided legal advice  
19 to the Personnel Board in several unrelated past actions and that these past interactions made the  
20 Personnel Board biased and predisposed to agree with that attorney’s arguments. In reversing the  
21 trial court’s holding and awarding the officer a new hearing, the *Quintero* court took care to point  
22 out that the facts did not demonstrate the presence of *actual* bias. *Quintero*, supra, 114  
23 Cal.App.4th at p. 817. Nonetheless, the court found that the attorney had an ongoing relationship  
24 with the Personnel Board which “create[d] a substantial risk that the Board’s judgment in the case  
25 before it w[as] skewed in favor of the prosecution [attorney].” *Ibid*. Although the court  
26 attributed no bad faith to the Personnel Board – the court, in fact, found it “only natural” that the  
27 Board and the attorney should form a trusted working relationship – the chance that the Personnel  
28 Board would show preference towards the attorney “even perhaps unconsciously” was

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1 unacceptable. *Id.* (internal quotations omitted). As such, the officer was entitled to a new hearing  
2 consistent with due process. *Ibid.*

3 Similarly, in this matter, the testimony of Cal Trout's experts and substantial portions of  
4 Cal Trout's Closing Brief cite to and rely upon Dr. Wolff's "Waste Not, Want Not" report. See  
5 discussion, *supra*, at pp. 2-3. Indeed, the State Board's Key Issue 3, involving water conservation  
6 measures, may be partly resolved based upon the State Board's determination of the credibility  
7 and content of the "Waste Not, Want Not" report. As in *Quintero*, this situation creates a  
8 circumstance in which there is a substantial risk that Dr. Wolff's judgment as a decision maker,  
9 albeit perhaps unconsciously, could be skewed in favor of the conclusions stated in his own  
10 report, as advanced by the testimony of his colleagues from the Pacific Institute for Studies in  
11 Environment, Development and Security. The *Quintero* court found that "[i]t would only be  
12 natural for the [Personnel] Board members . . . to give more credence to [the attorney's]  
13 arguments when deciding [the officer's] case." *Quintero*, *supra*, 114 Cal.App.4th at p. 816. Here,  
14 the possibility for bias is even more apparent when the decision maker is not merely obtaining an  
15 interpretation of evidence from an advisor but is the actual *author* of the evidence itself. As  
16 provided by case law and by Government Code Section 11425.40, Dr. Wolff is subject to  
17 "disqualification for bias, prejudice, or interest in the proceeding" involving the Cachuma Project  
18 Hearings.

19 The unusual circumstance presented by Dr. Wolff's appointment to the State Board is not  
20 dissimilar to those that existed in *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108  
21 Cal.App.4th 81. There, the City of Beverly Hills denied the petitioners an adult entertainment  
22 permit. The City's attorney for the permit hearing proceeding was then retained as a consultant  
23 by the decision making body during the subsequent administrative appeal. After the  
24 administrative appeal was denied, the petitioners successfully sought an order from the superior  
25 court granting a new hearing. The City appealed, arguing that the petitioners' due process rights  
26 were not violated because the administrative appellate body relied on the City's attorney as an  
27 advisor during the administrative appeal. The appellate court rejected the City's arguments and  
28 affirmed the trial court's judgment. It held that due process in an administrative hearing

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1 “demands an appearance of fairness and the absence of even a *probability* of outside influence on  
2 the adjudication.” *Nightlife Partners*, supra, 108 Cal.App.4th at p. 90 (emphasis in original).  
3 This rule “applies to prevent the participant from being in the position of reviewing his or her  
4 own decision” during an administrative hearing. *Id.* at p. 92. The court held that the petitioners’  
5 due process rights had been violated because “a clear *appearance* of unfairness and bias” was  
6 created when the City’s attorney from the permit hearing served as an advisor to the decision  
7 maker during the administrative appeal. *Id.* at p. 94 (emphasis in original). Accordingly, the  
8 court affirmed the grant of a new hearing.

9 Absent disqualification, Dr. Wolff will also be serving overlapping roles in the Cachuma  
10 Project hearings. Previously, Dr. Wolff and his employer, the Pacific Institute, served as an  
11 expert for Cal Trout. His report, “Waste Not, Want Not” advocates Cal Trout’s interpretation of  
12 the evidence. Further, if Dr. Wolff presides over the Cachuma Project Hearings, he will be  
13 placed in the position of reviewing his own conclusions and interpretations regarding the nature,  
14 need and means of urban water conservation as it relates to the Cachuma Project. Such a  
15 situation presents the appearance of unfairness and bias which *Nightlife Partners* condemned.  
16 Indeed, that court noted that the California Government Code “specifically provides that the  
17 adjudicative function shall be separated from the investigative, prosecutorial and advocacy  
18 functions within the agency as provided in Government Code, section 11425.30.” *Nightlife*  
19 *Partners*, supra, 108 Cal.App.4th at p. 93, fn. 5. In short, the Government Code and the concept  
20 of due process of law require that Dr. Wolff be disqualified from presiding over the Cachuma  
21 Project Hearings.

22 It should be understood that the Cachuma Member Units are *not* suggesting it is Dr.  
23 Wolff’s knowledge of California water issues that merits his disqualification from the Cachuma  
24 Project Hearings. Prior knowledge of the factual background which bears upon the decision is  
25 generally not a ground on which to disqualify an administrative officer from acting on a matter.  
26 *Mennig v. City Council* (1978) 86 Cal.App.3d 341, 350; Gov. Code, § 11425.40, subd. (b)(2).  
27 The possession of advanced knowledge, however, “[is] limited by the dictates of procedural due  
28 process.” *Mennig*, supra. Where, as here, a decision maker is serving dual roles in an

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1 administrative proceeding in a manner that creates an appearance of bias or unfairness, then both  
2 due process and statutory requirements mandate that the decision maker be disqualified from the  
3 proceeding. See, e.g., *Quintero v. City of Santa Ana* (2003) 114 Cal.App.4th 810, 814; *Nightlife*  
4 *Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90; Gov. Code, §§ 11425.30,  
5 1425.40.

6 While the foregoing facts are sufficient by themselves to support Dr. Wolff's  
7 disqualification in these proceedings, the unusual circumstances that now exist with respect to the  
8 Cachuma Project hearings underscore the importance of his exclusion as a presiding officer.  
9 Simply put, *none* of the hearing officers who actually heard the testimony of the witnesses during  
10 the Cachuma Hearings in 2003 remain with the State Board. Mr. Pete Silva and Mr. Gary Carlton  
11 were the only members of the State Board to observe any of the witnesses during the hearing and  
12 both left the State Board in 2005. Similarly, few of the State Board staff who were a part of the  
13 hearings remain with the State Board. Thus, unlike the situation where the views of an interested  
14 individual who previously worked as an advocate for one or more of the parties might be  
15 balanced by other presiding officers who actually were present at the hearing and developed their  
16 views after observing witnesses from all of the parties, that possibility does not exist here.  
17 Instead, the passage of time has winnowed the Board and its staff to the point that no presiding  
18 officers remain from the hearings in October and November of 2003. Likewise, the passage of  
19 time has significantly reduced the number of staff members who heard any of the witnesses.

20 In this matter, the record shows: (1) that Dr. Wolff worked for the Pacific Institute when it  
21 was employed by one of the parties to the proceeding to provide expert testimony on their behalf;  
22 (2) that Dr. Wolff undertook work as an engineer and economist for the Pacific Institute on one of  
23 the "Key Issues" involved in the Cachuma Project hearing; (3) that Dr. Wolff's work was  
24 undertaken subject to the authority and direction of Peter Gleick who served as the president and  
25 founder of the Pacific Institute and who also served as one of the expert witnesses providing  
26 testimony on behalf of Cal Trout in the Cachuma proceedings; (4) that Dr. Wolff's report "Waste  
27 Not, Want Not" served as the basis for "many of the conclusions" offered on behalf of Cal Trout  
28 by expert witnesses working for the Pacific Institute; and (5) that Dr. Wolff's report "Waste Not,  
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1 Want Not” is relied upon extensively by Cal Trout in its closing arguments to the State Board.  
2 Accordingly, Dr. Wolff should be disqualified from serving as a presiding officer in the Cachuma  
3 Project Hearings because (1) he “served as investigator, prosecutor, or advocate in the proceeding  
4 or its preadjudicative stage” (Gov. Code Section 11425.30); (2) he was “subject to the authority,  
5 direction, or discretion of a person who has served as investigator, prosecutor or advocate in the  
6 proceeding or its preadjudicative stage” (Gov. Code Section 11425. 30); (3) he “is subject to  
7 disqualification for bias, prejudice, or interest in the proceeding” (Gov. Code Section 11425.40);  
8 and (4) the requirements of due process, as interpreted by the courts, demonstrate a clear  
9 probability of bias.  
10

### 11 III. Conclusion

12 The Cachuma Member Units hold no personal animus against Dr. Wolff and we trust this  
13 Motion to Disqualify will not be interpreted otherwise. Judging by the description of Dr. Wolff’s  
14 qualifications set forth in Cal Trout Exhibit 63, he appears to be well qualified to sit on the State  
15 Board and we look forward to appearing before him in another context. Nonetheless, *because* his  
16 qualifications are also set forth in an exhibit prepared by the experts for one of the parties to this  
17 proceeding and because that exhibit addresses one of the principal issues in the proceeding and is  
18 relied upon to support much of the testimony presented by one of the contending parties, the law  
19 requires that Dr. Wolff be disqualified from participating as a presiding officer in the matter of  
20 the Cachuma Project permits.  
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AFFIDAVIT OF GREGORY K. WILKINSON

I, Gregory K. Wilkinson, declare as follows:

1. I am a partner with the law firm of Best Best & Krieger, LLP and am the lead attorney for the Cachuma Member Units in the matter of: Hearing to Review the United States Bureau of Reclamation Water Right Permits 11308 and 11310 (Applications 11331 and 11332) to Determine Whether Any Modifications in Permit Terms and Conditions are Necessary to Project Public Trust Values and Downstream Water Rights on the Santa Ynez River Below Bradbury Dam (Cachuma Reservoir).

2. In its Notice of Public Hearing issued September 25, 2000, the State Board identified certain "Key Issues" upon which it desired to receive testimony during the Cachuma Project hearing. Under the heading "Public Trust Resources," the Notice of Public Hearing asked as part of Key Issue 3:

"d. What water conservation measures could be implemented in order to minimize any water supply impacts?"

3. In response to the question raised by Key Issue 3(d), the Cachuma Member Units (consisting of the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District and the Santa Ynez River Water Conservation District, Improvement District No. 1) presented the testimony of Ms. Kate Rees, General Manager of the Cachuma Conservation Release Board and Ms. Mary Ann Dickensen, Executive Director of the California Urban Water Conservation Council. Conflicting testimony regarding Key Issue 3(d) was offered by California Trout.

4. The testimony provided by Cal Trout on Key Issue 3(d) was provided by the Pacific Institute for Studies in Environment, Development and Security. The Pacific Institute

1 testimony was provided in both oral and written form. Among the written documents relied upon  
2 by Cal Trout to support their contentions was a report from the Pacific Institute entitled: "Waste  
3 Not, Want Not: The Potential for Urban Water Conservation in California." The Waste Not,  
4 Want Not" report is approximately 180 pages in length and was offered to the State Board and  
5 admitted into evidence as Cal Trout Exhibit 63. Among the authors of the report is Gary Wolff,  
6 P.E., Ph.D. who is described as "Principal Economist and Engineer."

7  
8 5. During the course of the hearing involving the Cachuma Project permits, written  
9 briefs were provided by the parties to the proceedings. The Closing Brief offered by Cal Trout  
10 relies upon and repeatedly cites the "Waste Not, Want Not" report authored by Dr. Wolff as a  
11 Pacific Institute employee. Describing the testimony presented by Dr. Wolff's Pacific Institute  
12 colleagues, Cal Trout's Closing Brief states:

13  
14 "Many of the conclusions in the written testimony are based on the  
15 methodology developed for the Pacific Institute's report on  
16 statewide urban water conservation potential. Ex. 63 . . . *Waste  
17 Not, Want Not . . .*" CT Ex. 63, p. 25.

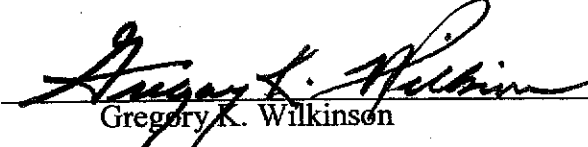
18 6. Dr. Wolff's work on the "Waste Not, Want Not" report appears to have been  
19 performed under the authority and direction of Peter Gleick, a co-author of "Waste Not, Want  
20 Not." Dr. Gleick is described in Cal Trout Exh. 63 as a "co-founder and President of the Pacific  
21 Institute for Studies in Development, Environment and Security in Oakland, California." Dr.  
22 Gleick appeared in the Cachuma Project as an advocate for the position regarding urban water  
23 conservation potential offered to the State Board by Cal Trout.

24 7. The Cachuma Project Hearing, Phase 2, occurred in October and November 2003.  
25 The hearing officers who presided over the hearing were Mr. Pete Silva, Board Vice-Chair and  
26 Mr. Gary Carleton, Board Member. Neither Mr. Silva nor Mr. Carleton remain on the Board.  
27 Instead, both finished their terms in 2005. None of the current Board members heard any of the  
28 testimony when it was presented in October and November of 2003 nor observed any of the

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witnesses involved in the Cachuma Project hearing. In addition, several of the State Board staff members who were involved in the Cachuma Project Hearing have since left the Board.

I declare under penalty of perjury that the foregoing is true and correct and that this Affidavit was executed this 7th day of June, 2006 at Riverside, California.

  
\_\_\_\_\_  
Gregory K. Wilkinson

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1 **PROOF OF SERVICE**

2 I, Linda Peabody, declare:

3 I am a resident of the State of California and over the age of eighteen years, and  
4 not a party to the within action; my business address is Best Best & Krieger LLP, 3750 University  
5 Avenue, Suite 400, Riverside, California 92501. On June 7, 2006, I served the within  
6 document(s):

7 **MOTION TO DISQUALIFY; MEMORANDUM OF POINTS  
8 AND AUTHORITIES; AFFIDAVIT OF GREGORY K.  
9 WILKINSON**

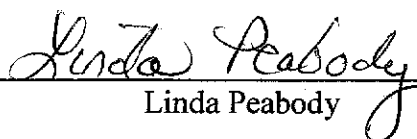
- 10  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
11 forth below on this date before 5:00 p.m.
- 12  by placing the document(s) listed above in a sealed envelope with postage thereon  
13 fully prepaid, in the United States mail at Riverside, California addressed as set  
14 forth below.
- 15  by causing personal delivery by \_\_\_\_\_ of the document(s) listed above to the  
16 person(s) at the address(es) set forth below.
- 17  by personally delivering the document(s) listed above to the person(s) at the  
18 address(es) set forth below.
- 19  I caused such envelope to be delivered via overnight delivery addressed as  
20 indicated on the attached service list. Such envelope was deposited for delivery by  
21 United Parcel Service following the firm's ordinary business practices.

22 **See attached Service List**

23 I am readily familiar with the firm's practice of collection and processing  
24 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
25 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I  
26 am aware that on motion of the party served, service is presumed invalid if postal cancellation  
27 date or postage meter date is more than one day after date of deposit for mailing in affidavit.

28 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.

Executed on June 7, 2006, at Riverside, California.

  
Linda Peabody

**CACHUMA HEARING  
PHASE 2  
SERVICE LIST**

<p>Cachuma Conservation Release Board Mr. Gregory K. Wilkinson Best Best &amp; Krieger LLP 3750 University Avenue, Suite 400 Riverside, CA 92501 (909) 686-1450 (909) 686-3083 fax <a href="mailto:GKWilkinson@BBKlaw.com">GKWilkinson@BBKlaw.com</a></p>	<p>City of Solvang Mr. Christopher L. Campbell Baker, Manock &amp; Jensen 5260 N. Palm Avenue, Suite 421 Fresno, CA 93704 (559) 432-5400 <a href="mailto:CLC@BMJ-law.com">CLC@BMJ-law.com</a></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 &amp; Krieger LLP 3750 University Avenue, Suite 400 Riverside, CA 92501 (909) 686-1450 (909) 686-3083 fax <a href="mailto:GKWilkinson@BBKlaw.com">GKWilkinson@BBKlaw.com</a></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 &amp; Dunn 813 Sixth Street, Third Floor Sacramento, CA 95814-2403 (916) 446-7979 (916) 446-8199 fax <a href="mailto:SDunn@lawssd.com">SDunn@lawssd.com</a></p>	<p>California Trout, Inc. c/o Ms. Karen Kraus Environmental Defense Center 906 Garden Street Santa Barbara, CA 93101 <a href="mailto:KKraus@EDCnet.org">KKraus@EDCnet.org</a></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 – 30<sup>th</sup> Street, Fourth Floor Bakersfield, CA 93301 (661) 327-9661 (661) 327-0720 fax <a href="mailto:EConant@YoungWooldridge.com">EConant@YoungWooldridge.com</a></p>	<p>Department of Fish and Game Office of the General Counsel Mr. Harlee Branch 1416 Ninth Street, 12<sup>th</sup> 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>		