

CACHUMA CONSERVATION RELEASE BOARD

**629 State Street, Suite 244
Santa Barbara, California 93101**

-AND-

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

**P.O. Box 719 – 3669 Sagunto Street, Suite 108
Santa Ynez, California 93460**

-AND-

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

**P.O. Box 157 – 3622 Sagunto Street
Santa Ynez, California 93460**

January 13, 2012

VIA U.S. MAIL & EMAIL

Jane Farwell, Environmental Scientist
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
jfarwell@waterboards.ca.gov

Re: CalTrout and Department of Fish and Game Letters and Objections -
Cachuma Project Final Environmental Impact Report

Dear Ms. Farwell:

The Cachuma Conservation Release Board (“CCRB”), Santa Ynez River Water Conservation District (“SYRWCD”) and Santa Ynez River Water Conservation District, Improvement District No. 1 (“I.D. No. 1”) (hereinafter, collectively, the “Water Users”) are in receipt of comment letters provided to the State Water Resources Control Board regarding its December 2011 Final Environmental Impact Report on the Cachuma Project (“FEIR”) by the Environmental Defense Center (“EDC”), on behalf of California Trout, Inc. (“CalTrout”), and the Department of Fish and Game (“DFG”), both dated January 9, 2012. By this letter, the Water Users address certain issues raised in the EDC and DFG comments.

EDC/CalTrout and DFG assert that they should be permitted to address the FEIR through the evidentiary process provided in California Government Code Section 11513. Section 11513 does provide for evidentiary proceedings, including cross-examination of adverse witnesses and

the presentation of rebuttal evidence. However, such proceedings are also statutorily constrained by the requirement that such evidence must be both “reasonable” and “relevant”. These limitations provide important boundaries on any proceeding provided pursuant to Section 11513.

First, should the State Water Resources Control Board (“State Board”) permit the cross-examination of adverse witnesses, the result should not be a re-opening of the already concluded 2003 water rights hearing. Instead, the cross-examination should be limited to the preparers of the FEIR, including EIR consultants retained by the State Board. Any attempt by EDC/CalTrout and DFG to cross-examine individuals other than the actual preparers of the FEIR should be denied. Allowing either EDC/CalTrout or DFG to expand its requested cross-examination beyond the preparers of the FEIR would have the effect of reopening the already concluded 2003 water rights proceedings, including testimony already received on the 2003 Draft EIR, would be duplicative and time-consuming and, thus, unreasonable. If EDC/CalTrout and DFG are permitted to cross-examine in accordance with Government Code Section 11513, their examinations should be limited to the actual preparers of the FEIR. Based upon the obvious completeness of the FEIR itself, it is apparent that these individuals are well qualified to address the concerns of EDC/CalTrout and DFG regarding the factual statements and conclusions contained in the FEIR. Any attempt by EDC/Cal Trout or DFG to expand their cross-examination beyond the actual preparers of the FEIR will be met with our evidentiary objection.

Second, while Government Code Section 11513 permits the presentation of rebuttal evidence, its purpose is to permit the presentation of evidence rebutting assertions made in the documents *presently* under scrutiny. It does not permit and should not be construed to permit EDC/CalTrout or DFG to present evidence, offered under the rubric of “rebuttal evidence” that could have been presented in the 2003 water rights hearing. Moreover, if EDC/CalTrout or DFG propose to present rebuttal evidence, they should be held to the same standards that were imposed in connection with the State Board’s 2003 water rights hearing. Specifically, they should be required to provide a complete list of their witnesses, a summary of each witness’ proposed testimony and copies of all documentary or other written or physical evidence they intend to offer, at least 30 days in advance of any proceeding conducted by the State Board in response to their comment letters.

Finally, in its January 9th letter EDC/CalTrout requests that all parties be allowed to submit additional “closing briefs”. This request should be firmly rejected. Closing briefs were already submitted by all of the Parties to the 2003 water rights hearing, including EDC/CalTrout and DFG. Further, EDC/CalTrout was permitted to comment—and did comment extensively—throughout the State Board’s CEQA review process, including on the State Board’s 2003 Draft EIR, 2007 Revised Draft EIR and 2011 Second Revised Draft EIR. The request to file another “closing brief” is simply more evidence of EDC/CalTrout’s apparent intent to use an opportunity to provide rebuttal evidence regarding the FEIR into another water right hearing, and it should be denied.

We appreciate your consideration of these additional comments.

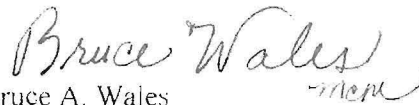
Sincerely,

CACHUMA CONSERVATION RELEASE BOARD



Kate Rees
General Manager

*SANTA YNEZ RIVER WATER
CONSERVATION DISTRICT*



Bruce A. Wales
General Manager

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



Chris Dahlstrom
General Manager

cc: Cachuma Project Hearing, Phase-2 Hearing Final Service List
United States Bureau of Reclamation
CCRB, Board of Directors
City of Solvang
City of Buellton
City of Lompoc
SYRWCD, Board of Directors
SYRWCD I.D. No. 1, Board of Trustees
Ernest A. Conant, District Counsel to SYRWCD
Gregory K. Wilkinson, Special Water Rights Counsel to I.D. No. 1
Kevin M. O'Brien, General Counsel to CCRB