



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** October 19, 2010

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Cachuma Joint Powers Agencies Reorganization

### RECOMMENDATION:

That Council approve in concept, subject to further clarification, the Conceptual Form and Structure for the Organization of the Cachuma Conservation Release Board (CCRB) and Cachuma Operation and Maintenance Board (COMB), and authorize the City's Water Resources Manager and the City Attorney to negotiate the appropriate agreement amendments for approval by Council.

### DISCUSSION:

The City is a member of two joint powers agencies related to the Cachuma Project, the City's primary water supply. The CCRB represents the Cachuma Project water rights of the four South Coast members and currently implements fishery projects identified in the Cachuma Project Biological Opinion and the Lower Santa Ynez River Fish Management Plan. CCRB coordinates with and shares some project costs with Improvement District No. 1 (ID #1) of the Santa Ynez River Water Conservation District.

COMB administers the contractual obligation between the five Cachuma Project members and the U.S. Bureau of Reclamation (Reclamation) and is responsible for operating and maintaining the Cachuma Project facilities that convey water from Lake Cachuma to the South Coast. These include Tecolote Tunnel, the South Coast Conduit (the pipeline running from the south end of Tecolote Tunnel to Carpinteria), and several smaller reservoirs along the conduit. Councilmember Das Williams is the City's appointed board member for both CCRB and COMB, and Councilmember Dale Francisco serves as an alternate.

The two joint powers agencies have, for the most part, cooperated to address issues related to the Cachuma Project and the Santa Ynez River. However, differences in the individual members' unique water rights, water supply portfolios, and financial situations have sometimes led to conflicts. For some time, reorganization of one or both agencies has been discussed in an attempt to have them align more closely with the rights and interests held by each member agency. Reorganization discussions became

particularly active as fishery issues became more prominent and as the Cachuma Project water rights hearing process before the State Water Resources Control Board (SWRCB) has unfolded. Most recently, both the Carpinteria Valley Water District and the Montecito Water District have given notice of intent to withdraw from CCRB at the end of 2010, citing concerns about the cost effectiveness of activities undertaken by CCRB.

Recent attempts to address reorganization have resulted in a conceptual reorganization plan (attached), which is recommended for approval, in concept and subject to further clarification of certain issues, along with authorization to negotiate the necessary amendments to the applicable Joint Powers Agency Agreements.

The main features of the plan are:

1. Amend the COMB Joint Powers Agreement (JPA) to provide that obligations, liability, and financial responsibility related to the facilities that convey water to the South Coast would be borne only by the four South Coast members, with no involvement by ID #1.
2. Maintain the current requirement for unanimous COMB member approval prior to COMB seeking to acquire the Bradbury Dam facility or other Cachuma Project facilities north of the Tecolote Tunnel inlet.
3. Amend the COMB JPA to provide for specified fishery activities to be implemented on behalf of Reclamation by COMB (instead of by CCRB), subject to certain conditions.
4. CCRB would continue to exist at least through the current SWRCB hearing process.
5. The South Coast members of the Cachuma Project (which may choose to act through CCRB) and ID #1 may enter into a Joint Defense and Cooperation Agreement related to the current Federal Biological Opinion related to steelhead in the lower Santa Ynez River, the anticipated Federal re-consultation regarding fishery issues in the lower Santa Ynez River, and the Cachuma Project permits currently pending before the SWRCB.
6. COMB staff would not be employed by any individual Cachuma Project member or combination of members, unless approved unanimously by the COMB Board of Directors.
7. CCRB and ID #1 will affirm the assignment to COMB of certain responsibilities under the 2001 Memorandum of Understanding regarding implementation of the Federal Biological Opinion on steelhead in the lower Santa Ynez River.

The conceptual plan is being considered by all five participating agencies in preparation for the October 25, 2010 meetings of COMB and CCRB. Staff has been actively involved in the development of the conceptual plan and supports approval, in concept and subject to further clarification, of the document at this time as the basis for moving forward with preparing formal documents for approval by each of the member agencies.

**ATTACHMENT:** Conceptual Form and Structure for Organization of CCRB and COMB

**PREPARED BY:** Rebecca Bjork, Water Resources Manger/BF/mh

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office

**CONCEPTUAL FORM AND STRUCTURE  
FOR ORGANIZATION OF CCRB AND COMB**

**DRAFT 9/13/10**

The Cachuma Member Unit Managers have reviewed an option for “friendly” amendment to the COMB JPA in order to maintain a better organizational structure for all five Cachuma Member Units to “jointly” implement obligations under the Cachuma Master Contract, including the approved Fishery/Management Plan (FMP) and the 2000 Biological Opinion including any amended or new Biological Opinion (collectively BO) Projects, without requiring ID #1 participation in South Coast activities. The conceptual considerations for reorganization are summarized as follows:

1. The COMB JPA would be amended to provide that for COMB projects, operations and maintenance activities and facilities acquisition from the Tecolote intake tower south through the South Coast Conduit, all obligations, liability and financial responsibility would be born by the four South Coast Member Units, which would include a blanket indemnification for ID #1. For such projects, operations and maintenance and facilities acquisition, only South Coast Member Unit approval would be involved, and COMB agendas would be structured so ID #1 attendance would not be required for those items.

2. Confirm that the COMB JPA requires unanimous approval of all Member Units before COMB would seek to or acquire the operations, transfer or ownership of facilities north of the Tecolote intake tower, including but not limited to, the Bradbury Dam facility, the outlet works, control house, Hilton Creek watering system or other appurtenances used for impounding or releasing of water stored within the Cachuma Project.

3. The COMB JPA would also be amended to provide “Fishery Activities,” including the FMP, projects under the BO and activities included in 5 year plans developed pursuant to Master Contract Article 27 (MCA27), would be implemented through COMB, on behalf of Reclamation, subject to the following:

a. COMB would maintain an operations committee structure made up of all Member Unit Managers to provide early and ongoing review and recommendations for projects and activities to the COMB Board. For projects from the Tecolote intake tower south, only South Coast manager review will be involved and the Operations Committee agenda would be structured so ID #1 attendance would not be required for those items.

b. Funding for FMP, BO and MCA27 projects and activities would be through grants, MCA27 funds and County Water Agency funding, consistent with the 2001 MOU. Member Unit funding in excess of such amounts will require majority approval, except that a project over \$1 million will still require unanimous approval.

c. Subject to funding availability, COMB may implement (1) any project or activity in the FMP; (2) any mandatory project under the BO; (3) any project or activity for

which NMFS provides written confirmation that it qualifies as a credited replacement project or activity for any mandatory project or activity under the BO; (4) any project or activity in an unanimously approved MCA27 5 year plan; and (5) any other project or activity unanimously approved by COMB.

d. MCA27 plans will be formally developed and updated on a 5 year basis as called for by the Cachuma Master Contract. Initial approval and any update will require unanimous approval.

e. The addition or modification of any projects to or activities in the FMP implementation, including adaptive management type projects or activities, regulatory compliance and COMB implementation of a new, revised or amended Biological Opinion, shall require unanimous approval.

f. Unless unanimously approved, COMB will provide only administrative support<sup>1</sup> to the Member Units, individually or collectively with respect to the BO, reconsultation, and the Cachuma Permits pending before the SWRCB, including information on the status of project implementation, with advocacy for such matters being the responsibility of the Member Units, either individually or through partnership.

4. CCRB would remain in place, at least through the current SWRCB hearing process, including for responsibilities related to the 2002 Settlement Agreement.

5. The South Coast Member Units (which may choose to act through CCRB) and ID #1 may execute a Joint Defense and Cooperation Agreement(s) for advocacy of their common interests related to the BO, reconsultation, and the Cachuma Permits pending before the SWRCB, with each agency free to advocate their individual and unaligned interests.

6. Unless unanimously approved, COMB staff shall not be employed by or provide services to any other, or combination of, Cachuma Member Units.

7. The CCRB Board and ID #1 will affirm the responsibilities of CCRB and ID #1 under Section 4, Financial Arrangements, and Section 5, Administrative and Monitoring Support of the 2001 MOU are being assigned to and will be fulfilled by COMB.

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<sup>1</sup> "Administrative support" requires further definition. Chris Dahlstrom to provide mark-up based on current Joint Advocacy Agreement.