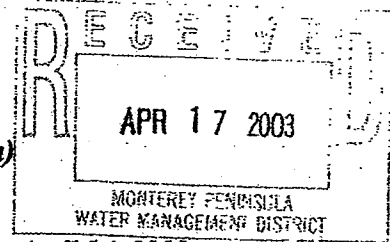


EXHIBIT 20-A

CARMEL VALLEY ASSOCIATION
(formerly Carmel Valley Property Owners' Association)
P.O.Box 157 Carmel Valley CA 93924



April 14, 2003

MPWMD
Attn: Henrietta Stern
P.O.Box 85
Monterey CA 93942

Carmel River Flow Threshold Study

Dear Ms. Stern:

Thank you for the opportunity to comment on the March draft for the Threshold Study.

As a general comment, this report fails to convince us of the need for the study. On p. ES-1 there are the statements:

"to provide information to determine significance of impacts on biologic resources as a result of Water Supply Projects" (see also IV-1) and "not intended to prescribe flow requirements that must be met by water management efforts on the Carmel River"

However, since threshold flows are based on the existing substandard conditions for endangered species (see p. II-6), and any acceptable WSP would have to provide flows adequate to ameliorate these conditions, why go to the trouble and expense of determining the lower thresholds?

More specific comments are:

1. (p.3) In critically dry years "significant impacts can be avoided...by attraction flows... whenever flows to Los Padres Reservoir... meet the attraction criteria during migration season"
Based on the Appendix A definition of attraction flows, it seems that such flows are unlikely to occur in critically dry years. What happens then?
2. In Table ES-1 under "Rearing capacity - stranding" we read "1-5 cfs following first storm event over 20 cfs at the Narrows". What if no such storm event occurs?
3. In Figure III-1 "Seaward Mitigation" should read "Migration"?


Robert Greenwood



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404

In response, refer to:
April 18, 2003 151422SWR02SR6435:WH

APR 30 2003

Mr. Ernesto A. Avila, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, California 93942

Dear Mr. Avila:

We have reviewed the Draft Carmel River Flow Threshold Study, March 2003, prepared by Jones & Stokes for the Monterey Peninsula Water Management District (MPWMD). That report states that its purpose is to provide information that will be used to evaluate and determine the significance of impacts on Carmel River biological resources that may occur as a result of operating alternative water supply projects. Addressing the definition of Flow Thresholds, the report states:

The analysis of steelhead, riparian vegetation, and red-legged frog assumes a no-effect threshold. This threshold is defined as what river flows are required to ensure that no adverse effect would occur to the species studied relative to the existing condition of these species. Existing condition, for purposes of California Environmental Quality Act (CEQA) analysis, is set at the time the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) is released. The NOP for MPWMD's Water Supply Project was issued in June of 2002. At that time, both the steelhead and red-legged frog populations were considered threatened under the Federal Endangered Species Act. ... The report is not a determination of the significance of a change in conditions, but at what flow(s) these resources would be adversely affected relative to existing conditions. The thresholds were developed to assist in the evaluation of environmental impact pursuant to CEQA and may not represent the flows or actions necessary to meet future desired increases in fish or frog populations, or flows that may be required for "recovery" or improvement of the biological resources evaluated.

In its information packet distributed for the February 27 meeting of the MPWMD's Board, Board staff acknowledged the intent of the report is to develop "thresholds of significance" and to ensure no adverse effect would occur to the species studied relative to the existing (June 2002) condition of the species. Acknowledging differences between the Jones & Stokes flow thresholds and the National Marine Fisheries Service's (NOAA Fisheries) instream flow



recommendations, Board staff state "it is assumed that NOAA project operations goals would be greater than the flow thresholds, whenever possible, because the context for NOAA Fisheries is species recovery and improvement in the future." Yet the Board staff also observed that the proposed thresholds unaccountably represent, in nearly all cases, improvements over the existing situation. The proposed thresholds apparently are better than existing conditions, but not designed for species recovery or "improvement of the biological resources evaluated."

We recognize that current CEQA Guidelines set forth the general rule that environmental baseline is derived from conditions as they exist at the time the NOP is published. However, an analysis with such a baseline would ignore the longstanding history of efforts to mitigate the effects of unauthorized and very excessive water diversions from the Carmel River. The annual run of steelhead in the Carmel River historically sustained a popular fishery that supported over 10,000 angling hours per year, the second largest steelhead fishery south of San Francisco. Steelhead returns to the Carmel River are now greatly reduced from historic levels. Recent adult returns to the San Clemente Dam are estimated to be in the hundreds, whereas, historic returns to the river have been estimated to be as high as 12,000 to 20,000 adult fish. It should be unnecessary to recount to you the numerous important hearings and legal proceedings concerned with efforts to elevate the Carmel River from its currently degraded condition. The MPWMD itself has engaged in the ongoing, challenging efforts to rescue steelhead from the annual dewatering of miles of the lower river.

The Draft Carmel River Flow Threshold Study proposes a temporally variable flow regime that if maintained would allegedly sustain steelhead. The report states that the proposed flow thresholds "are intended to be indicators of how project-related changes in river flows might affect steelhead trout". It states that the thresholds are designed to avoid significant impacts on the steelhead resource resulting from multi-year droughts, and also serve as minimum thresholds for other year types. It does provide for somewhat higher flows for some lifestages during wet and extremely wet years. These purported goals are reasonable, but the application of the proposed thresholds would be very damaging, especially in the context of a new large reservoir that heavily regulates flow in the river.

The flow thresholds are constructed based on the premise that flows do not need to be optimal or excellent for steelhead, but rather some diminishment in habitat quantity and quality is reasonable. The report suggests that some risk of stranding, "fair" levels of rearing habitat (as opposed to excellent, good, or poor levels), or "fair" quality of flows for outmigration are reasonable, and would sustain annual runs of steelhead. Unfortunately such standards have the potential to significantly impact steelhead runs in the Carmel River. In many years, historical flows in the Carmel River have been "excellent" for adult migration, "excellent" for adult transportation, "excellent" for spawning, and "excellent" for smolt outmigration. Risk of adult stranding is often "low" during many winters. Stranding risk for juveniles is usually "zero"

between December and March. Anadromous salmonid populations are naturally variable and high production during favorable water years is important to the sustainability of these species. The flow threshold report suggests that no significant impacts would occur if conditions were reduced to lower ratings for many life stages. It should be obvious that this is not true.

Historic diversions from the Carmel River during the low flow season (generally May through October) have been detrimental to the South-Central California Coast Evolutionarily Significant Unit (ESU) of steelhead. However, winter flows have been historically nearly natural, because winter flows are relatively high and water demand is less at that time. The threshold flows recommended in the Jones & Stokes report would permit a very significant alteration in the winter and spring flow regime, if it were applied to a large onstream reservoir project or a very large aquifer storage project. Those impacts would be detrimental to the existing steelhead population. Furthermore, the threshold flow report does not even address the need for periodic releases for channel maintenance (also known as flushing flows), if an onstream reservoir were evaluated.

We recognize that individuals needing a state permit (or agencies preparing such permits) must comply with state rules. However, if a Federal permit is also needed for the same activity, permit applicants will also have to comply with the stricter standard of the Federal law. Section 6(f) of the Endangered Species Act (ESA) states that any state law or regulation respecting the taking of an endangered or threatened species may be more restrictive than the exemptions or permits provided for by the ESA **but it may not be less restrictive**. Therefore, the standard that the applicant has to follow for the state permit does not exempt him/her from complying with the stricter Federal law - in this case the ESA.

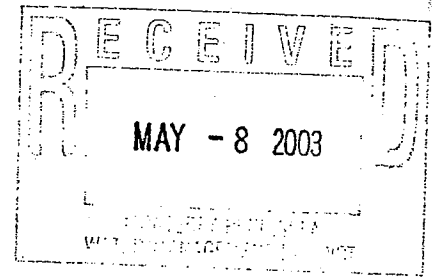
We question the reasonableness of pursuing an analysis under CEQA using the proposed flow threshold criteria, given: 1) the long history of local, state, Federal, and private initiatives to alleviate impacts of substantial, egregious, unauthorized diversions, 2) the potential significant impacts that would occur if winter and spring flows were regulated consistent with the recommended flow thresholds, and 3) the more protective standards that would be applied during federal environmental regulatory review of the project. CEQA analysis of large water projects should not be done in isolation and without regard to other regulatory permitting efforts. The use of the Jones & Stokes recommended flow thresholds may expend considerable time and expense for MPWMD, and its use could be counterproductive and of little value in resolving water resource issues related to the Carmel River.

Thank you for giving us this opportunity to provide comments on the Carmel River Flow Threshold Report. If you have questions concerning this letter, please contact Dr. William Hearn at 707-575-6062.

Sincerely,

Miles M. Croom
Northern California Supervisor
Habitat Conservation Division

cc: R. Floerke, DFG (Yountville)
K. Urquhart, DFG (Monterey)
R. Thomas, Carmel River Steelhead Association
P. Rutten, NOAA Fisheries



CARMEL RIVER STEELHEAD ASSOCIATION
P O BOX 1183
MONTEREY, CA 93940

May 5, 2003

Ms. Fran Farina, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93942

Dear Ms. Farina,

The Threshold Study, March 2003, prepared by Jones & Stokes is remarkable only in its failure to be to any real value the the MPWMD. The study ignores the more stringent requirements of Federal law thus giving the false impression that lower flows than that recommended by NOAA are acceptable. The study also ignores the significant efforts of the MPWMD and others to mitigate the effects of illegal water diversions of the Carmel River. Jones & Stokes should have applied a large measure of common sense in the preparation of their study. It is though they tried for inexplicable reasons to come up with the lowest flows possible. Perhaps that is why other more reputable firms refer to Jones & Stokes by their nickname, Bones & Jokes.

We urge the MPWMD adopt optimal instream flow regimes designed to restore the steelhead run and improve habitat.

The Carmel River Steelhead Association concurs with the stance taken by NOAA in its letter of April, 18 2003 signed by Miles M. Croom.

Thank you for the opportunity to comment on this matter. If there are questions concerning this letter, please contact me at 624-7125.

Sincerely,


Robert Zampatti, Secretary

cc: R. Floerke, DFG
K. Urquhart, DFG
P. Rutten, NOAA
M. Croom, NOAA

Henrietta Stern

From: Kevan Urquhart [KUrquhart@dfg.ca.gov]
Sent: Monday, May 19, 2003 5:11 PM
To: Henrietta Stern
Cc: Darby Fuerst; Dave Dettman
Subject: DRAFT Comments on the CARMEL RIVER FLOW THRESHOLD REPORT

The final official version of these comments, reviewed and signed by the Central Coast Region's Manager, Rob Floerke, will be in the mail to your agency later this week. I am providing the following DRAFT comments to meet your requested/preferred agency deadline.

- 1 - We concur with the technical comments already submitted by NOAA-Fisheries staff of their Santa Rosa office.
- 2 - Additionally, we contend that using the ~10,750 acre-feet of currently illegal Carmel River diversions as part of the CEQA baseline conditions for your report's analysis conflicts with the intent of CEQA and is not justified. These diversions were officially declared illegal by the SWRCB's Water Rights Order 95-10 over 8 years ago. A formally identified illegal activity cannot be used for a CEQA base-line analysis and to set the 'current conditions' to be analyzed against future changes. As matter of record, your proposed alternative water projects are legally mandated corrective actions to remediate and facilitate the cessation of the illegal diversions. The original ~14,000 acre-feet of illegal diversions have been curtailed by 20% to ~10,750 acre-feet as an interim measure pending the legally mandated new alternative water project.

Kevan Urquhart
Senior Biologist Supervisor (Fisheries)
Dept. of Fish & Game,
Central Coast Region - Southern Units
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