

Excerpt: Condition No. 1

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WRO 2002 – 0002

In the Matter of Reconsideration of WR Order 2001-04-DWR
Implementing Condition 6 of Order WR 95-10 as Modified by
Order WR 98-04 Regarding Diversions by
California-American Water Company

SOURCE: Carmel River

COUNTY: Monterey

ORDER RECONSIDERING WR ORDER 2001-04-DWR

IT IS FURTHER ORDERED that Cal-Am shall comply with Condition 6 of Order WR 95-10, as modified by Order WR 98-04 as follows:

1. Cal-Am shall immediately upon issuance of this order cease withdrawal of water from the San Clemente Dam during low flow periods except during an emergency. "Emergency" means a system failure such as a pump failure, main breaks or fires, that jeopardizes the public health and safety. Hot weather demand alone shall not *per se* be an "emergency," but it is recognized that after taking appropriate conservation measures, if levels in the Clear Well fall below nine feet from the bottom of the tank, an emergency may exist and diversions at San Clemente or the utilization of other facilities may be necessary. Nine feet from the bottom of the tank is a minimum requirement established by California Department of Health Services regulations. In all cases, diversions at San Clemente Dam or the utilization of other facilities shall be undertaken in a manner that is least damaging to the fishery resources, and these emergency operations shall be for the shortest practicable time. Cal-Am shall notify and consult with NMFS, FWS, DFG, and the District prior to implementation of emergency operations. If there is no time for consultation, Cal-Am shall notify NMFS, FWS, DFG, and the District of its emergency operation as early as practicable within eight (8) hours after Cal-Am first becomes aware of the emergency. Cal-Am shall notify, by telephone or telefax, the Chief of the Division of Water Rights within 24 hours of the emergency or by noon of the first business day following the incident. For the purpose of this Order, "low flow periods" are defined as times when stream flow in the Carmel River at the Don Juan Bridge (RM 10.8) gage is less than 20 cfs for five consecutive days. Pursuant to its continuing authority over the public trust, the SWRCB may amend this order to modify the definition of "low flow periods" or to add additional flow requirements to protect steelhead in the Carmel River. The Chief of the Division of Water Rights (Chief) is delegated the authority to modify the definition of "low flow periods" and the authority to add flow requirements based on new information, after finding that any proposed change to the order would better protect steelhead in the Carmel River. The Chief is also delegated the authority to modify the flow requirements of this order, in response to any changes in the requirements imposed under the Endangered Species Act, as necessary to prevent this order from being in violation of the Endangered Species Act or unreasonably interfering with efforts to comply with the Endangered Species Act. Prior to making the finding and prior to making any change to the order, the Chief shall provide notice to the parties to this hearing and give them an opportunity to comment on the proposed change.