



March 27, 2012

Ms. Trish Chapman
California State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, CA 94612

Ms. Joyce Ambrosius
National Marine Fisheries Service
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404

Mr. John Kilpatrick
California American Water
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

Subject: California American Water (Cal-Am) Land Transfer to the U. S. Bureau of Land Management (BLM), Which Includes the Sleepy Hollow Steelhead Rearing Facility (SHSRF)

Ladies and Gentleman:

Thank you for meeting with the District on Friday, February 10, 2012. We appreciated the opportunity to hear of your current plans and to hear your conceptual plans for assuring the continued operation of the Sleepy Hollow Steelhead Rearing Facility (SHSRF), as long as it continues to be a legally mandated form of mitigation. Below, we outline our understandings from that meeting,

The planned land transfer from Cal-Am to the BLM does not yet include any specific language to ensure the uninterrupted operation of the SHSRF. Operations remain a legal mandate of the District required by the 1990 Allocation EIR, and State Water Resources Control Board (SWRCB) Orders No. 95-10 and 2009-0060. Your team appears to have rejected the concept of subdividing the parcel to be transferred, that would have accomplished either a) retaining Cal-Am ownership of the parcel containing the SHSRF, thereby ensuring Cal-Am can sustain its existing long term lease with the District, or b) transferring the parcel to the District with appropriate deed restrictions, so that when it is no longer legally necessary to operate the SHSRF, the lands would transfer to BLM. Instead, you have suggested BLM will retain ownership and designate "control" to the National Marine Fisheries Service (NMFS). We are concerned that unless MPWMD can acquire a specific long term lease to operate the Facility as part of the land transfer, on terms that are consistent with current practice, potential future federal restrictions on the use of the inholding could jeopardize operations of the SHSRF.

NMFS expressed the concept of eventually taking over operation of the SHSRF, if it is no longer needed to mitigate for Carmel River diversions. The District notes that SHSRF operations are necessary to mitigate for the impacts of all public and private diversions along the Carmel River between Los Padres Dam and the mouth, not just Cal-Am's diversions. Even after a water supply is acquired to replace Cal-Am's unpermitted diversions, it may take several years in order to conclusively decide the fate of the SHSRF. Only time will tell whether the District needs to continue operating the SHSRF, or whether it becomes an intermittently operated facility for dryer Water Years. However, for the foreseeable future, the District needs to be assured of its access to and unrestrained use of the SHSRF in order to meet several legal mandates. If NMFS did take over eventual operation of the facility for other purposes, the District would need NMFS to assume liability for the decommissioning of the SHSRF site, for which the District is currently responsible under its lease with Cal-Am.

NMFS suggested that, if operation of the SHSRF ceases in the future, other ways could be found to mitigate for the impact of Carmel River diversions that will occur after Cal-Am acquires a new water source. It is important to note the costs already incurred by ratepayers to build, maintain and upgrade this facility. If new replacement mitigations are proposed in lieu of the operation of the SHSRF, and those new mitigations have considerable additional cost, not

fully offset by the closure of the SHSRF, then their substitution for the operation of the SHSRF may incur new and increased ongoing expenses for Cal-Am's customers and non-Cal-Am users.

The NMFS also proposed that they would investigate entering into a lease with the BLM for the property containing the SHSRF, and then subletting it to the District as a way of ensuring District access to and control of the site as long as necessary. The District had no initial concerns with this proposal, but it does not necessarily allay the concerns that Federal, versus the existing private, ownership of the land may add unforeseen regulatory controls that impede the timely repair or upgrade of the SHSRF.

MPWMD believes that it is in the best interests of all the parties involved to determine and confirm:

- 1) What specific event(s) in the timeline of the San Clemente Dam Re-Route/Removal Project would trigger a property transfer containing the SHSRF?
- 2) Which party will take ownership, and become the landlord for a new lease, if/when the property is transferred?
- 3) Whether there would be any issues with continuing to grant access from Carmel Valley Road through the Sleepy Hollow subdivision?
- 4) Whether there would be any restrictions on the use of the SHSRF site, as a result of the land transfer?
- 5) Under what sustained condition of the Carmel River steelhead population and riverine habitat the operation of the SHSRF could be deemed no longer necessary, and the SHSRF could be transferred to NMFS or decommissioned?

At the conclusion of the February meeting, all three of parties agreed to provide the District a) with a sample inholding lease agreement from the BLM, which would be representative of a current industrial/commercial property lease that they have in place, and b) a copy of the Cal-Am easement through the Sleepy Hollow subdivision, along with a legal interpretation of whether it would still apply for access to the SHSRF, after the land is transferred to BLM. The District noted that it is rumored that the Sleepy Hollow Homeowner's Association may believe that all access through their property will cease once the San Clemente Dam Re-Route/Removal Project is complete. All three parties also promised to keep the District better informed in a timely manner about any land-transfer issues which could affect SHSRF operations.

Thank you for meeting with us on these issues. We look forward to continuing the dialogue.

Sincerely,



David J. Stoldt
General Manager

Cc: Kevan Urquhart
Larry Hampson
Joe Oliver
Beverly Chaney