

EXHIBIT 5-A

2019 MEMORANDUM OF AGREEMENT AMONG THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, CALIFORNIA AMERICAN WATER, AND MONTEREY PENINSULA WATER MANAGEMENT DISTRICT TO RELEASE WATER INTO THE CARMEL RIVER FROM LOS PADRES RESERVOIR

THIS AGREEMENT is made this 11th day of July, 2019, among the California Department of Fish and Wildlife, ("Department"), California American Water, ("Cal-Am"), and the Monterey Peninsula Water Management District, (the "District"), with respect to the following.

RECITALS

A. The Department is required to conserve and protect the fish and wildlife resources of this state, and it is the Department's objective to maximize surface flows in the Carmel River below Los Padres Dam;

B. Cal-Am supplies water to the citizens of the communities of the Monterey Peninsula, Monterey County in accordance with SWRCB Order No. 95-10, as amended.

C. The District, through its rules and regulations, establishes a quarterly water supply strategy and budget for the Monterey Peninsula.

NOW THEREFORE, IT IS HEREBY AGREED:

DEFINITIONS

1. "Minimum pool at Los Padres Reservoir" means a surface water elevation of 980 feet above mean sea level, or 89 acre feet of storage.

2. "Water Release by Cal-Am at Los Padres Dam" into the Carmel River may occur from seepage through the dam, direct release from any discharge port, spillage over the crest of the dam, releases through the fish ladder or smolt migration facility, releases from the lowest outlet at 980 feet NGVD, or any combination thereof.

DESIGNATION OF RESPONSIBILITIES

3. Cal-Am shall make water releases into the Carmel River channel below Los Padres Reservoir beginning August 2019 as follows and summarized in **Attachment A**: Cal-Am shall maintain 13.0 cubic feet per second (cfs) for August and September, and then 11.5 cfs for October and November 2019 below Los Padres Reservoir, as measured at the District's Below Los Padres Gage, relying on the natural recovery of river base flows from above the reservoir to sustain flows thereafter.

4. The Russell Wells shall be limited to a combined total instantaneous diversion rate of not more than 0.5 cfs during low-flow periods as set forth in ordering Paragraph No. 4 of SWRCB Order WRO-2002-0002 (**Attachment B** hereto).

5. In the event that a significant change in projected runoff occurs in the basin during the duration of this Agreement, the parties will meet to discuss modifications to the scheduled reservoir releases and diversion.

6. Cal-Am shall limit operation of its wells in the Carmel Valley above the Narrows during low-flow periods as set forth in ordering Paragraph No. 2 of SWRCB Order WRO 2002-0002 (**Attachment B** hereto). Cal-Am shall notify the District and the Department of its maintenance pumping schedule in advance.

7. Cal-Am shall make reasonable efforts to operate the Lower Carmel Valley production wells in the sequence from the most downstream well and progress upstream as wells are needed and available for production. Cal-Am shall notify the District and the Department before operating its Scarlett No. 8 Well.

8. Cal-Am shall notify the District and the Department when the water elevation reaches 990 feet NGVD at Los Padres Reservoir, and Cal-Am shall not draw Los Padres Reservoir below minimum-pool elevation without obtaining specific written approval from the Department.

9. In the event that Cal-Am has not exceeded its annual production limit from both the Coastal Subareas of the Seaside Groundwater Basin and Carmel River sources, Cal-Am shall make every reasonable effort to produce water from the Coastal Subareas of the Seaside Basin before producing water from its Carmel River sources to preserve streamflow and instream habitat in the Carmel River for listed species, consistent with the production amounts specified in the Quarterly Water Supply Strategy and Budget for Cal-Am's main distribution system.

DISTRICT

10. The District shall take direct measurements of inflow to Los Padres Reservoir on a monthly basis through the duration of this Agreement.

ALL PARTIES

11. This Agreement is revocable upon ten days' written notice to all parties signatory to this Agreement.

12. This Agreement is entered into without prejudice to the rights and remedies of any party to the Agreement.

EFFECTIVE DATE AND TERM OF AGREEMENT

13. This Agreement is effective August 1, 2019 and shall remain in force until December 31, 2019. This Agreement may be modified or extended by mutual consent of all the parties.

EXECUTION

IN WITNESS WHEREOF, each party hereto has caused this Memorandum of Agreement to be executed by an authorized official on the day and year set forth opposite their signature.

California American Water

By: _____
511 Forest Lodge Road
Pacific Grove, CA 93950

Date

Monterey Peninsula Water Management
District

By: _____
P.O. Box 85
Monterey, CA 93942-0085

Date

California Department of Fish and
Wildlife

By: _____
1234 East Shaw Avenue
Fresno, CA 93710

Date

ATTACHMENT A

Table 1 [Version 4a] - 07/11/19 Original

2018 Low Flow Memorandum of Agreement & Quarterly Water Budget

Los Padres Reservoir: Release Schedule (All Values in Acre-Feet, except Cubic-Feet-per-Second as indicated)

Estimating July-October Flows as Median for a Wet WYT, then declining to Flows for a Median Normal WYT in November - December, and Drawdown No Lower Than 1000' Elevation = 378 AF (New 2017 Tables)

Month Represents Water Year Type of:	Norm	Norm	ExtWet	Wet	ExtWet	ExtWet	AboveNorm	Wet	Wet	Wet	Wet	Wet	Wet	Normal	Normal	
	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	WY 2018
Los Padres Reservoir																
Estimated Inflow	284	792	1,868	15,583	39,943	21,311	5,832	3,615	2,060	935	374	306	571	573	1,859	92,903
Evaporation	18	16	11	30	19	13	28	33	50	63	49	28	20	8	2	358
Outflow as @ BLP Gage																
Spillage	0	0	651	14,938	39,309	20,683	5,189	2,967	1,395	257	0	0	0	0	0	85,389
Combined Release (Ladder/Trap/980')	429	475	615	615	615	615	615	615	615	615	800	773	709	683	1086	7,397
Actual Mean Daily in CFS @ BLP Gage	7.0	8.0	20.6	252.9	718.9	346.4	97.5	58.3	33.8	14.2	13.0	13.0	11.5	11.5	17.7	
Targeted Min. Mean Daily Flow in CFS	8.5	8.5	11	n/a	n/a	n/a	n/a	n/a	n/a	n/a	13.0	13.0	11.5	11.5	11.5	
Total Storage																
Beginning of Month	940	777	1,078	1,669	1,669	1,669	1,669	1,669	1,669	1,669	1,669	1,194	699	541	423	
End of Month	777	1,078	1,669	1,669	1,669	1,669	1,669	1,669	1,669	1,669	1,194	699	541	423	1,194	
Between Reservoirs																
Net Inflow from Tributaries	0	165	480	7,855	27,319	10,604	2,747	2,073	1,070	234	42	16	30	64	465	52,605
All Estimated Losses (Div. + E.T.)	17	0	0	0	0	0	0	0	0	68	58	53	37	21	16	196
Sleepy Hollow Weir																
Total Estimated Release	412	639	1,746	23,408	67,243	31,902	8,551	5,655	3,080	1,038	784	736	702	726	1,535	145,194
Estimated Mean Daily Flow in CFS	6.7	10.7	28.4	380.7	1210.8	518.8	143.7	92.0	51.8	16.9	12.8	12.4	11.4	12.2	25.0	

Notes:

- The minimum pool requirement at Los Padres Reservoir is 105 acre-feet at elevation 980 ft.
- Projected inflows for the July - October are based on the median inflows for a Wet WYT, whereas the November- December 2019 period are based the median inflows for a Normal WYT.
- Estimated inflows are apportioned Above and Below LPD, as 80/20% in June - July, 90/10% August, 95/5% in September - October, 90/10% in November, and 80/20% in December.
- Estimated evaporation from LPR in July - December are actual measured values from 2017.
- Releases and diversions are consistent with terms of the 2001 and 2006 Conservation Agreements between the NMFS and Cal-Am and with the conditions in SWRCB Order Nos. 95-10, 98-04, 2002-0002, and 2016-0016.
- Numbers in **Bold** type are final reported numbers, and those in *Italics* are future estimates.
- LPR storage values based on preliminary results from the 2017 Bathymetric Survey of LPR, beginning July 1, 2017; max capacity @ 1039.78' = 1,669 AF.

ATTACHMENT B

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.