

State of California

STATE WATER RESOURCES
CONTROL BOARD

Before the State Water Resources Control Board

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In the Matter to Consider Monterey Peninsula Water Management District's RIGHTS
Petition to Change Permit 7130B and 20808

SACRAMENTO

Testimony of Robert Zampatti

I was born and raised on the Monterey Peninsula and attended local elementary and high school. I am 74 years of age and except for 15 years for college, military service* and employment in Silicon Valley, I have lived on the Monterey Peninsula, the last 40 years in Carmel Valley. I graduated from San Jose State University with a B.A. degree in Business Administration. Before retirement I was the Assistant Superintendent for Business for the Pacific Grove Unified School District.

I became interested in fish and fishing at my father's side on the Carmel River in the 1940's. Fish and fishing have been important part of my life since. I have been a member of the Carmel River Steelhead Association (CRSA) since the mid 80's and served as Secretary and newsletter editor for 25 years. I have attended numerous meetings of the Salmonid Restoration Federation. I have studied research documents and papers on the topic of steelhead and believe I am well versed in the habitat requirements of Carmel River steelhead. I have hands on experience having participated in countless steelhead rescues. I was project manager for the construction of a new fish trap and ladder for the Los Padres Dam. Along with 6 other CRSA members I participated in the CRSA captive wild steelhead brood stock program by feeding fish, recording data, and cleaning fish tanks every day for 4 years. I personally built the smolt traps and tended them to capture 90% of the wild steelhead smolts used for the original brood stock. In March 2000 I received a Conservation Achievement Award for the American Fisheries Society for my activities.

I am familiar with the ASR Project proposed by the Monterey Peninsula Water Management District. I support the concept of ASR but believe that the project as proposed is fatally flawed.

Flaw 1. The proposed schedules and guidelines for diversions from the Carmel River seem to be based on minimum flows established by a NOAA document entitled, "Instream Flow needs for Steelhead on the Carmel River". The ASR proposal authors have apparently made a leap of reason and science that any flow above minimum flow is somehow defined to be "surplus" flow. Steelhead of the Carmel River is listed as threatened under the Endangered Species Act. Their overall habitat and rearing needs are more than a bare minimum flow for seasonal migration. Steelhead need habitat all year, not only in the adult migration phase. To achieve recovery of this species there must be sufficient and optimum flow. Minimum flow cannot be defined as sufficient, adequate or optimum flow, much less be casually defined as "surplus" by a water agency simply because it facilitates a permit to divert more water.

To date NOAA recovery plans for Carmel River Steelhead, a federally listed species, CRSA restoration efforts and MPWMD mitigation programs have not resulted in increased returns of adult steelhead. This is undeniably clear from fish ladder counts at San Clemente and Los Padres Dams over the last 12 years. This is despite a long series of wet to very wet years that just ended this year. If the steelhead populations and recovery efforts are not succeeding during wet years they are very likely to further decline in critically dry years such as we are experiencing. Additional water diversions should not be approved by the SWRCB, as further jeopardy of the species is likely to occur. Only diversion of truly "surplus" water could be justified under the extremely difficult recovery conditions of Carmel River steelhead.

The bare minimum habitat for an endangered species is very unlikely to create the proper conditions for recovery, as required by Federal Law. Plainly, minimum habitat values will hinder recovery, and likely further cause unlawful take of a protected species. I believe any agency granting a permit for activities that result in take of protected species is themselves liable for take violations under the Endangered Species Act.

Flaw 2. The diversion of water for ASR is based on water rights associated with the New Los Padres Reservoir Project. This project was never built. Using a water right created by a new dam when no dam was built seems contrary to logic. Diverting water from an instream reservoir is vastly different from diverting water from wells located downstream of the reservoir as proposed by the ASR project. Water from a new reservoir would have remained in the Cal-Am system. Other water users can use ASR water pumped into the Seaside aquifer.

Flaw 3. According to a MPWMD document entitled, "PROJECT TITLE: Seaside Groundwater Basin Aquifer Storage and Recovery (ASR) phase1'. Dated 7/14 2005", the water right to be used for ASR is for 7300 AF, annually whereas the project would divert up to 2426 AF annually. That leaves 4874 AF of water right available and vulnerable, easily transferable without public scrutiny.

For the reasons stated I urge the SWRCB to amend Water Right Permits 7130B and 20808 to include conditions, which will protect all life stages of Carmel River Steelhead.

Robert Zampatti, Director
Carmel River Steelhead Association