EXHIBIT 5-B

MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

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June 21, 2000

Dr. Roy Thomas
Carmel River Steelhead Association
P. O. Box 1183
Monterey, CA 93940

Subject: Rearing Juvenile Steelhead Rescued from Carmel River Tributaries

Dear Dr. Thomas,

This is in response to your letter to Director Molly Erickson, dated May 19, 2000, in which you requested that the District accept and rear juvenile steelhead that are rescued in tributaries of the Carmel River by the Carmel River Steelhead Association (**Enclosure 1**). As you are aware, the District is responsible for conducting rescues in the mainstem of the Carmel River where pumping from the alluvium by California-American Water Company (Cal-Am) and others reduces or eliminates flow-dependent habitats that would otherwise hold juvenile steelhead throughout the summer months. The funds needed to rescue and rear the mainstem fish are derived from a user fee that is added to the Cal-Am water bill and paid by all of the Cal-Am customers who are provided water from the Carmel River and Seaside Coastal Basins. In most cases, the fish rescued in tributaries may be at risk due to naturally receding streamflow and subsurface pumping in tributary basins, although the District is not aware of conclusive evidence showing the linkage between groundwater pumping and surface flows in the tributaries.

Notwithstanding the issues of funding and whether or not drying of tributary streams may be due to anthropogenic effects, the District agrees that it would be beneficial in some cases to rear the fish rescued from streams that are tributaries to the Carmel River. Specifically, the District is supportive and willing to accept fish from tributaries, with the following considerations:

1) Sleepy Hollow Steelhead Rearing Facility must be in operations mode. Currently, the facility is shutdown for construction of a cooling tower, which should be operational by mid-August 2000. In some years, the facility may be operating at the time fish are rescued from tributaries, but in other years the facility may not be commissioned for operation because rescues in the mainstem have not started. Because of this, fish from the tributaries could only be transported to the facility after it is commissioned for the current year. Beginning June 19, 2000, and continuing until the cooling tower is operational, the facility will be operating on an experimental basis for testing purposes (please see the enclosed memorandum for a discussion of this issue, **Enclosure 2**).

2) Fish must be delivered during work hours of the normal workday week. Normally, the District conducts rescues in the mainstem during the Monday through Friday time-frame and staff is at the facility during these days to receive fish between 9:00 A.M. and 3:00 P.M. Occasionally, staff is onsite outside of normal working hours and on weekends, but this is in response to emergency situations where fish will be lost unless rescues are conducted. District staff has found that rest days are extremely important in preventing injuries, maintaining morale, and ensuring that rescues are efficient and complete. District staff must be at the facility to receive fish from the tributaries.

3) Approval by the California Department of Fish and Game and the National Marine Fisheries Service. The District relies on these agencies for guidance as to where rescued fish are transported, reared, and subsequently transplanted. Before any fish are accepted from tributaries, a plan for rearing these fish would need to be developed, reviewed and approved by the CDFG and the NMFS. This may mean that only fish from tributaries where the Carmel River confluence drys up will be reared at the facility.

4) Adequate space must be available in the Facility. The tanks and rearing channel at the facility were designed to hold and rear a maximum of 64,000 young-of-the-year steelhead to an average size of 13 grams. Currently, District staff agrees that excess capacity is available at the facility, but this could change in the future. For example, a multi-year drought would require that fish be held at the facility through a dry winter period, when additional fish rescues would be needed at the beginning of the next dry season. Under these circumstances, it may not be possible to rear additional fish from the tributaries.

5) All facility operations are to be done by District staff.

6) The CRSA must provide notification before fish are brought to the facility. The District must be notified before any fish are delivered to ensure there is available space and quarantine tanks are ready for the fish and that someone will be at the facility to receive the fish. Cal-Am must be notified regarding any applicable access restrictions.

Assuming the fish are delivered as outlined above, District staff believes the costs to rear additional fish from the tributaries will be minimal and can be absorbed into the District's existing mitigation program. If you are interested in starting a program to bring tributary fish to the facility, the District suggests that a meeting be scheduled between CRSA, the District, CDFG, NMFS, and Cal-Am to discuss the program and begin developing an agreement.

Lastly, this matter will need to be authorized by the District Board, as this activity would be outside the District's responsibility under the Water Allocation Mitigation Program. Following your review of this letter, please call me at (831) 658-5651 to arrange a meeting with the Board's Ad Hoc Environmental Committee. If you have any questions of a technical nature regarding this matter, please call the District's Senior Fisheries Biologist, Dave Dettman, at (831) 658-5643.

Sincerely,

Darby W. Fuerst
General Manager

Enclosure

cc: MPWMD Board
Pat Coulston, CDFG
Joyce Ambrosius & Roy Torres, NMFS
Judy Almond, Cal-Am
Martin Canning, Beverly Chaney, Dave Dettman, & Joe Oliver, MPWMD

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Enclosure 1

CARMEL RIVER STEELHEAD ASSOCIATION

P O Box 1183
Monterey, CA 93940

May 19, 2000

Director Molly Erickson
Monterey Peninsula Water Management District
P O Box 85
Monterey, CA 93942-0085

Dear Ms. Erickson,

The Carmel River Steelhead Association (CRSA) formally requests that the MPWMD accept and rear juvenile Carmel River Steelhead rescued by CRSA. We are aware that the District did not promise to care for steelhead other than those rescued from the main stem. Most of the steelhead CRSA rescues are from the tributaries to the Carmel River. Although these fish are not part of your formal mitigation plan we hope that in the sprite of Carmel River restoration, your rearing facility at Sleepy Hollow can find room for these fish. Sleepy Hollow is designed for more fish than are usually rescued from the main stem. It takes a little more work and expense to care for the increased number of fish we might provide. The help you provide may mitigate for some of the programs you have promised by not yet provided to steelhead recovery. If you need help defray the additional expense we of the CRSA would gladly raise the necessary funds.

Please place this matter on your agenda for discussion.

Sincerely,

Roy L. Thomas, President.

cc. Mr. Darby Fuerst MPWMD

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MEMORANDUM

To: **Joe Oliver, Water Resources Manager**
From: **Dave Dettman, Senior Fisheries Biologist**
Date: **June 19, 2000**

Subject: **Stocking of Rescued Fish – Summer 2000**

Following our meeting on Thursday, June 8, 2000, I called Pat Coulston at the California Department of Fish and Game (CDFG) to: (1) update him on the status of the cooling tower project at the Sleepy Hollow Steelhead Rearing Facilityn (facility), (2) discuss operation of the facility prior to completion of the cooling tower, and (3) receive direction on transplant locations for juvenile steelhead rescued from the lower river.

Status of Sleepy Hollow – I described how construction has been delayed due to questions about the linkage of the standby and backup generators at the facility. Pat indicated that this is unfortunate, but that given the situation, we need to proceed with a plan to handle the rescued steelhead.

Operation of Facility without Cooling Tower – We discussed whether to use the facility given the lack of a cooling tower and the recent hot weather. I explained, in light of the prognosis for continued warm temperatures and our experience in 1997, when water temperatures warmed early and mortalities were high, that District staff was very concerned about stocking fish in the facility. We discussed the benefits of continuing to test the facility, despite high water temperatures and agreed to hold a limited number of steelhead in the facility prior to completion of the cooling tower. We discussed how many fish to hold and where to place them in the channel. Following a subsequent discussion with Beverly, we decided to place approximately 1,000 fish in the upper 225 feet of the channel by placing a block net at the foot bridge. The resulting lineal density will be about 2.25 fish per foot, which is equivalent to the maximum density we've measured in the river, but much lower than the designed maximum density of 80 fish per foot. This will allow us to test the effect of rearing fish at high temperatures, but will not place large numbers of fish at risk, prior to startup of the cooling tower. After completion of the cooling tower, which is now expected in mid-August, all of the rescued fish will be held at the facility.

Transplant Locations for Rescued Steelhead – We discussed locations in the river for transplanting rescued steelhead and decided to restrict transplants to a 5.5-mile long reach between Klondike Canyon (upper end of Camp Stephani) and Robinson Canyon Road Bridge, discounting the 1.5-

mile long reach between the upper end of the DeDampierre Ball Park and Boronda Road Bridge. Stocking fish outside of the 1.5-mile long reach will minimize the possibility of subjecting the rescued fish to another rescue, in case the DeDampierre reach dries up in the late summer. The habitat in the remaining 5.5 mile reach above and below DeDampierre has been nearly flushed of sand that deposited in the reach following the 1995 and 1998 floods. This, coupled with the good cover, overhanging vegetation and cooler water temperatures, should provide suitable habitats for the rescued fish without overcrowding the existing fish in the reach. Pat asked that we coordinate our transplant locations with Geoff Malloway to avoid the areas he used for planting fish rescued from the tributaries.

I asked Pat to provide us with a memo or letter outlining CDFG's concurrence with this plan. Following your review and approval, I will send this memorandum to Pat for his review, comment, modification and approval. In addition, I will circulate this memorandum to the National Marine Fisheries Service to inform them of our planned activities.

cc: Joyce Ambrosius, NMFS
Martin Canning, MPMWD
Beverly Chaney, MPWMD
Darby Fuerst, MPWMD
Roy Torres, NMFS

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