

DRAFT

EXHIBIT 7-A

**2023 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 3rd day of August 2023, 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 1000 feet above mean sea level, or 378 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 emigration 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 3, 2023 as follows: Cal-Am shall maintain 11.0 cubic foot/second (cfs) as measured at the District's Below Los Padres Gage until the reservoir fills and spills. Small adjustments may be made as real-time data becomes available towards the end of summer.

4. In the event 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.

5. 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 A** hereto). Cal-Am shall notify the District and the Department of its maintenance pumping schedule in advance.

6. 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.

7. Cal-Am shall notify the District and the Department when the water elevation reaches 1005 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.

8. 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

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

ALL PARTIES

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

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

EFFECTIVE DATE AND TERM OF AGREEMENT

12. This Agreement is effective August 3, 2023 and shall remain in force until January 31, 2024. 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

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.

