April 7, 2022

California Fish and Game Commission
PO Box 944209
Sacramento, CA 94244-2090
Via email: fgc@fgc.ca.gov

SENT VIA ELECTRONIC MAIL

Subject: Comment Letter for Casitas Municipal Water District Related to the Petition to List Southern California Steelhead under the California Endangered Species Act

Introduction

Casitas Municipal Water District (Casitas) appreciates the opportunity to comment on the petition by California Trout (CalTrout) to list southern California steelhead (*Oncorhynchus mykiss,* steelhead) as endangered under the California Endangered Species Act (CESA). This petition was submitted to the California Fish and Game Commission (Commission) on June 7, 2021.

Casitas, as well as the United States Bureau of Reclamation (Bureau), have been active participants in the recovery of steelhead in the Ventura River since the federal listing in 1997, through the design, construction, and operation of a state-of-the-art fish passage facility and fish passage lifecycle monitoring station. Casitas has developed meaningful instream flows for steelhead in coordination with the National Marine Fisheries Service (NMFS) and CDFW. Casitas is concerned that having an additional listing under CESA may impede this type of collaborative approach in the future and create conflicts in implementing conservation measures and recovery actions. Casitas agrees that recovery actions are paramount to the viability and success of steelhead. However, after a thorough review of the petition and subsequent petition evaluations, Casitas has some concerns and comments to share with the Commission.

On August 20, 2021, Casitas submitted a comment letter to CDFW, which outlined initial concerns regarding the CalTrout petition (Appendix A). Casitas also submitted a letter to the Commission on December 9, 2021 (Appendix B), regarding CDFW Petition Evaluation Report (Evaluation Report) that was made available to the public in November 2021. In this letter to the Commission, Casitas outlined concerns that the comments and issues raised in the initial comment letter to CDFW were not addressed in the Evaluation Report.

Following a thorough review of the Evaluation Report, CDFW Petition Evaluation Presentation (Evaluation Presentation) made on February 17, 2022, and other recent presentations and comments regarding the petition, Casitas has identified multiple concerns regarding the basis and implementation of a CESA listing for steelhead. This comment letter will address the following concerns:

- Insufficient data on resident *O. mykiss* population abundance and trends
- Effects of drought on recovery
- Incidental take provision during the candidacy period
- Other State actions that are supporting recovery outside of CESA

Insufficient Data on Resident *O. mykiss* Population Abundance and Trends

CalTrout referenced documentation of the large historical population in the Santa Ynez River, Ventura River, Santa Clara River, and Malibu Creek watersheds during the 1940s; however, these documents can all trace their origin to a single CDFW field correspondence by Clanton and Jarvis (1946) recounting a one-day field trip through the Ventura Watershed (Appendix C). This document was subsequently used by several authors to extrapolate the Clanton and Jarvis speculation on the number of adult steelhead spawning in the Ventura River, to other watersheds in southern California. The dubious use of this field correspondence by historic authors to extrapolate speculations, and failure of current authors to verify the scientific validity of their cited sources, has resulted in a distorted and exaggerated historic adult steelhead population that CalTrout has used.

Both Caltrout and CDFW narrowly focus on the history of anadromous steelhead and do not include information regarding resident *O. mykiss*. The CalTrout petition and CDFW evaluation disregarded other historical documents that address the extensive *O. mykiss* planting program implemented by CDFW from the 1890s through 1930s (Bowers 2008). During the 1910s, there were approximately 3 million trout per year transplanted from northern California hatcheries, such as the Sisson Hatchery in Mount Shasta, into the southern California watersheds, including the Santa Clara and Ventura rivers. The fish transplanted were predominately steelhead and a mix of resident and anadromous forms. Population data collected in southern California watersheds during this time were therefore heavily influenced by the millions of *O. mykiss* being transplanted from northern hatcheries.

The lack of data concerning the resident life history of *O. mykiss* in southern California should be addressed prior to a CESA listing decision for all life forms of the species. The only current population abundance and trend data utilized in the CalTrout petition and Evaluation Report relate to the anadromous form of *O. mykiss*. CDFW clarified in the Evaluation Report that the CalTrout petition defined southern California steelhead "as all *Oncorhynchus mykiss*, including anadromous and resident life histories, below manmade and natural complete barriers to anadromy from the Santa Maria River, San Luis Obispo County (inclusive) to the U.S-Mexico Border with the understanding that anadromous (adult southern steelhead) arise from anadromous and resident naturally spawning adults" (CDFW 2021), consistent with the southern California Distinct Population Segment (DPS) definition. More scientific surveys of resident *O. mykiss* population abundance in southern and central California watersheds are needed to determine if the listing is justified for resident *O. mykiss*. In the Evaluation Report, CDFW brings attention to this sole focus on the anadromous form of *O. mykiss* population abundance and trend and acknowledges the limited information available on resident *O. mykiss*. Throughout the Evaluation Report, CDFW repeatedly states that "internal data on resident *O. mykiss* observations in various southern California streams was collected by [CDFW] and the Santa Monica Mountains Resource Conservation District (RCD) for the years 2004-2021" (CDFW 2021). However, these critical data are not made public within the Evaluation Report. If both resident and anadromous forms of *O. mykiss* in southern California are being considered for CESA listing, then data on resident *O. mykiss* should be collected and made publicly available.

Effects of Drought on Recovery

As discussed in the first comment letter (Appendix A), extended drought conditions over the past decade have significantly affected steelhead recovery in southern California. In 2022, southern California recorded one of its driest January and February on record, and little to no precipitation has occurred thus far in March (NOAA 2022). The 2021/2022 water year appears to be following a similar trend of low precipitation as previous years, which will likely further exacerbate drought conditions. The lack of rainfall in southern California watersheds during the past decade must be considered when evaluating the effectiveness of current recovery actions. Should wet conditions return to the region, steelhead numbers would likely increase because of recovery actions already undertaken in recent years. Should drought conditions persist, as expected with climate change, then a CESA listing is not likely to result in an increase in steelhead abundance in southern California. Not only do persistent drought conditions negate any clear benefits of steelhead recovery actions, Casitas would be burdened with additional regulatory compliance, which would directly hinder operations.

Incidental Take Provision during the Candidacy Period

If the Commission proceeds with listing southern California steelhead as endangered under CESA, Casitas requests that the Commission authorize interim incidental take in accordance with California Fish and Game Code Section 2084 for operations, maintenance, and repair of existing water system facilities. For water agencies to continue meeting the needs of the public during the candidacy period, it is critical that a Section 2084 regulation ensure that CDFW can authorize incidental take expeditiously and avoid lengthy delays for ongoing diversion, storage, and discharge operations. This regulation could be modeled after the 2084 rule that was adopted for coho salmon in the early 2000s (14 CCR § 749.1).

Other State Actions Supporting Recovery Outside of CESA

Numerous small- and large-scale recovery actions are occurring in the DPS (see Appendix A). Many of these actions are in the advanced planning stages and could be implemented within the next ten years, while others are already completed and operational. These actions are anticipated to result in a measurable increase in steelhead numbers in the DPS over a reasonable timeframe (i.e., decades) as described in the NMFS Recovery Plan for the DPS.

As previously mentioned, Casitas has been an active participant in the recovery of southern California steelhead. Casitas completed an $8 million dollar steelhead fish passage improvement project to the Robles Diversion Facility (Robles) on the Ventura River in 2005. The Robles Fish Passage Facility Project was completed in part with CDFW grants. Casitas worked with CDFW, NMFS, and others to design this state-of-the art fish passage facility, which is now operated under a NMFS Biological Opinion (2003). This passage facility, as well as meaningful instream flows for steelhead, provides access to historic spawning and rearing habitat upstream of the facility. As of 2020, a total of 1,341 *O. mykiss* individuals have been documented passing upstream or downstream through the fish passage lifecycle monitoring station at the facility. This facility is just one of many improvement projects undertaken that will aid in the recovery of steelhead within the DPS. Casitas is concerned that a separate and redundant regulatory process under CESA will create conflicts with how Robles is operated and will burden Casitas with additional permitting requirements not made transparent to the Commission or the public as to the benefits to the species beyond those already provided by the federal listing.

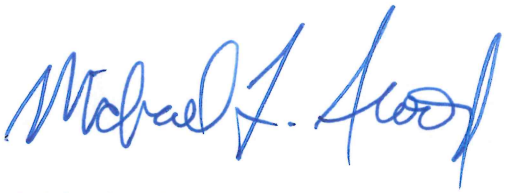
Conclusion

The message of the CalTrout petition is that the current federal recovery process is not resulting in an increase in steelhead numbers in the DPS and that a CESA listing will provide additional and unique actions fostering an increase in steelhead numbers. Never is it demonstrated, nor is any evidence presented, as to how a CESA listing is expected to increase steelhead numbers. Recovery actions are complex and take considerable time and funding to plan, design, permit, build, and study outcomes. It is our opinion and experience that adding an additional regulatory obligation under CESA will not help move projects forward in a reasonable manner but will more likely cause substantial delays. As stated above, CDFW is already a regulatory partner with NMFS on federal consultations and recovery efforts. Continuing collaboration between local and state agencies and water districts will be required to manage steelhead habitat while still providing safe and affordable drinking water to southern California residents. Casitas believes that there is no need to list this species under CESA, as the current recovery plan is already being managed and implemented with CDFW working as a partner to NMFS. Maintaining this current collaborative process would avoid conflicts in conservation and recovery programs that might arise if an additional CESA listing were put into effect.

Casitas continues to urge the Commission to deny the petition to list southern California steelhead as endangered under CESA. If the Commission determines that a listing may be warranted, Casitas requests that ongoing coordination occur with Casitas and other southern California water districts during the process of crafting regulations to ensure that steelhead protection and recovery does not conflict with the ability to provide safe drinking water to southern California residents.

Casitas will continue to collaborate with local, state, and federal agencies in the effort towards steelhead recovery. We appreciate your review of this comment letter and please feel free to contact me with any questions or correspondence.

Sincerely,



Michael L. Flood, General Manager
Casitas Municipal Water District
1055 North Ventura Avenue
Oak View, CA 93022
Via email: mflood@casitaswater.com

Literature Cited

Bowers, K., History of Steelhead and Rainbow Trout in Ventura County: Newsprint from 1872 to 1954, Volume I, United Water Conservation District, July 10, 2008.

California Trout (CalTrout). 2021. Notice of Petition: Southern California Steelhead (*Oncorhynchus mykiss*). Submitted to the California Fish and Wildlife Commission. June 7, 2021.

California Department of Fish and Wildlife (CDFW). 2021. Evaluation of the Petition from California Trout to list Southern California Steelhead (*Oncorhynchus mykiss*) as Endangered under the California Endangered Species Act. November 2021.

California Code of Regulations (CCR). 2002. 14 CCR § 749.1: Special Order Relating to Incidental Take of Coho Salmon (*Oncorhynchus kisutch*) During Candidacy Period.

Dagit, R., M. Booth, M. Gomez, T. Hovey, T., S. Howard, S. D. Lewis, S. Jacobson, M. Larson, D. Mccanne, and T. Robinson. 2020. Occurrences of Steelhead Trout (*Oncorhynchus mykiss*) in southern California, 1994-2018. 106. 39-58.

National Marine Fisheries Service (NMFS). 2012. Southern California Steelhead Recovery Plan. Southwest Region, Protected Resources Division, Long Beach, California.

National Marine Fisheries Service (NMFS). 2016. 5-Year Review: Summary and Evaluation of Southern California Coast Steelhead Distinct Population Segment. National Marine Fisheries Service. West Coast Region. California Coastal Office. Long Beach, California.

National Oceanic Atmospheric Administration (NOAA). 2022. National Integrated Drought Information System (NIDIS) of Current Drought Monitor Conditions of California.

Appendix A

Casitas Comment Letter dated August 20, 2021

SENT VIA ELECTRONIC MAIL

August 20, 2021

Vanessa Gusman
California Department of Fish and Wildlife
Fisheries Branch
PO Box 944209
Sacramento, CA 94244-2090
via email: Vanessa.Gusman@wildlife.ca.gov

Subject: Comment Letter for Casitas Municipal Water District Related to the Petition to List Southern California Steelhead Under the California Endangered Species Act

Introduction

The Casitas Municipal Water District (Casitas) appreciates the opportunity to comment on the petition by California Trout (CalTrout) to list southern California steelhead (steelhead) Distinct Population Segment (DPS) as endangered under the California Endangered Species Act (CESA). This petition was submitted to the California Fish and Game Commission (Commission) on June 7, 2021.

Casitas as well as the United States Bureau of Reclamation (Bureau) have been active participants in the recovery of steelhead in the Ventura River since the federal listing in 1997 by designing and operating a diversion with a state-of-the-art fish passage facility and fish passage lifecycle monitoring station. Additionally, Casitas developed meaningful instream flows for steelhead in coordination with the National Marine Fisheries Service (NMFS) and the California Department of Fish and Wildlife (CDFW). Casitas agrees that recovery actions are paramount to the viability and success of this species. However, after a thorough review of the petition, Casitas has some concerns and comments to share with CDFW and the Commission. This letter will address concerns Casitas has in that adding an additional permitting process will most likely delay projects, including recovery actions that are already in place or are in the advanced planning stages, as well as additional concerns regarding elements of recovery that CalTrout did not provide in their petition letter. Additionally, CDFW is already involved in steelhead recovery by partnering with NMFS on Section 7 and Section 10 federal ESA consultations and by conducting monitoring and research on the steelhead DPS. The federal and state governments are already dictating and requiring recovery actions through the NMFS recovery plan for southern California steelhead. Adding steelhead to the list of those species covered under the CESA will most likely duplicate recovery efforts already occurring resulting in unnecessary redundancies and delays. CalTrout is expecting recovery to occur in a timeframe that is not reasonable or realistic. Many recovery actions have been implemented and many large scale actions are in the advanced planning phases. The unprecedented drought that has occurred since 2007 has had a significant adverse effect on the recovery of the species resulting in no change in the steelhead numbers in the region. Would adding this species to the list of those species covered under the CESA change that or provide additional, meaningful recovery actions not already included in the federal recovery plan? Lastly, we are concerned that CalTrout is requesting

the Commission to only list the federally designated DPS of southern California steelhead, whereas the CESA does not extend beyond the species or subspecies level (i.e., it does not extend to distinct populations segments or evolutionarily significant units). The CESA defines an endangered species as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease" (California Fish and Game Code Section 2062). CalTrout also is requesting the Commission to only consider the anadromous form of *Oncorhynchus mykiss* and to not consider the resident form of the species for CESA listing, which we believe goes against the CESA definition of a species. The remainder of this comment letter includes these topics:

Regulatory and Permit Burdon and Redundancy

Recovery Timeframe

Recovery Actions Implemented and Planned

Effects of Drought on Recovery

The State is Already Involved in Recovery Through Federal Consultations

Other State Actions That are Supporting Recovery Outside of CESA

Regulatory and Permit Burden and Redundancy

If the Commission were to list southern California steelhead as endangered under CESA, Casitas and other entities that have projects potentially affecting steelhead will now have an additional permit process that will cause additional delays and, in our opinion, will only include redundancies that are already included in federal biological opinions and multiple other permits required to implement projects including restoration and recovery projects. A list of recovery projects that will aid in the recovery of the species and have the potential to be delayed due to an additional permit requirement are included below.

CalTrout believes if the Commission determines a listing is warranted, "CDFW will have direct authority to oversee projects proposed within the current limits of anadromy. This will provide CDFW the ability to establish species-specific mitigation measures that must be met for take coverage to be authorized" (CalTrout 2021). The CDFW is already a partner in federal consultation and recovery efforts and have developed site-specific recovery measures in collaboration with NMFS. CDFW scientists have been involved with the federal consultation at the Robles Diversion Facility and are involved with other consultations in the DPS ultimately dictating some of the conservation and recovery measures and actions CalTrout believes would only occur if the species was listed under CESA. Since CDFW is already involved in the federal consultation process, there is no need to add additional regulatory burden on applicants and CDFW staff that are already involved in recovery of the species.

Recovery Timeframe

CalTrout's petition includes concerns about the lack of increased fish numbers since the listing in 1997. The federal recovery plan discusses the complexities in recovery planning and the timeframe required for biologically meaningful and quantifiable recovery based on objective, measurable criteria. This paragraph is included on page 5-1 of the recovery plan (NMFS 2012).

"The West Coast's salmon and steelhead populations have always been sensitive to the variability of the northeast Pacific climate-ocean system . . . So steelhead recovery as a form of human stewardship has to be judged over a broader timeline, with multi-year setbacks in population size considered to be a normal and expected event, and progress judged at the scale of multiple decades and even multiple human generations."

Dr. David A. Boughton, Chair, NOAA Fisheries South-Central/Southern California Steelhead Technical Recovery Team, 2010

Although the most recent NMFS 5-year review (NMFS 2016) determined there has been no appreciable increase in steelhead numbers since the listing, there are numerous large scale recovery and restoration actions in the planning stages with goals to increase steelhead numbers within the southern California DPS and neighboring segments. There are also large scale recovery actions occurring or that have already occurred in the neighboring south-central steelhead DPS (San Clemente Dam decommissioning, Los Padres dam fish passage design, Arroyo Grande Creek and watershed improvement projects) intended to aid in the recovery of the south-central California steelhead DPS, but will also aid in recovery of the southern California steelhead DPS. These recovery actions take time to develop through scientific research, advanced and sometimes unprecedented engineering design, and lengthy consultations with resource agencies. Adding additional consultation under CESA would only introduce redundancies to current requirements and consultations already involving CDFW, with potential consequences of delaying important recovery actions.

Recovery Actions Implemented and Planned

Numerous small- and large-scale recovery actions are occurring in the DPS. Many are in the advanced planning stages and could be implemented within the next ten years and some are already in place. These actions are anticipated to result in a measurable increase in steelhead numbers in the DPS over a reasonable timeframe as described in the NMFS recovery plan. Below is a list of recovery actions that have already occurred or are in the planning process. Note that this is not an exhaustive list and other recovery projects may exist of which we are unaware.

Robles Fish Passage Facility

Casitas completed an $8 million dollar steelhead fish passage improvement project to the Robles Diversion Facility on the Ventura River in 2005. This project was completed in part with CDFW grants. Casitas worked with CDFW, NMFS, and others to design this facility, which is now operated under a NMFS Biological Opinion. This passage facility now provides access to historic spawning and rearing habitat upstream of the facility. As of 2020, a total of 1,341 *O. mykiss* have been documented passing upstream or downstream through the facility. This facility is just one of many improvement projects undertaken that will aid in the recovery of steelhead in the DPS.

Matilija Dam Ecosystem Restoration Project

The Matilija Dam Ecosystem Restoration Project has been in the design and planning stages for decades. Delays due to funding, complexities with sediment, etc., are an indication of the diverse complexities that can occur with a large-scale recovery/restoration project. The good news is that upfront projects required before the dam can be removed started this year after years of planning and consultations. This project is similar to the San Clemente Dam decommissioning project that occurred on the Carmel

River in 2015. Monitoring results indicate that steelhead and other anadromous fish (Pacific lamprey) are now utilizing important habitats upstream in the Carmel River. The removal of Matilija Dam will be a big step toward improving steelhead numbers in the Ventura River and the DPS overall. The current projection timeline for dam removal is ten years.

Foster Park Fish Passage Improvement Project

The City of Ventura will be providing fish passage over an exposed subterranean diversion dam and exposed pipeline crossing over the next two years. This project is on the lower Ventura River and will provide unimpeded passage conditions for steelhead to reach high quality spawning and rearing habitats upstream.

Freeman Diversion HCP and Fish Passage Improvements

A draft Habitat Conservation Plan has been submitted to NMFS, the United States Fish and Wildlife Service (USFWS) and CDFW to obtain incidental take coverage for multiple species including steelhead at the Freeman Diversion on the Santa Clara River. This plan includes operations that provide instream flows that mimic the pattern, timing, magnitude and duration of flows for upstream and downstream migrating steelhead. The plan also includes a new fish passage facility at the diversion. This fish passage facility was developed through an alternatives analyses from a fish passage review panel and is designed to provide natural rate of migration past the facility for steelhead. Additional conservation measures including mitigation are included in this document that will assist in the recovery of steelhead in the DPS.

Santa Felica Dam Relicensing Project

The relicensing of the Santa Felicia Dam on Piru Creek, a tributary of the Santa Clara River, through the Federal Energy Regulatory Commission (FERC) included multiple requirements from the FERC, NMFS , the USFWS, the United States Forest Service and CDFW such as instream flows for steelhead migration and rearing, flows to maintain natural geomorphic processes, invasive species management, monitoring and adaptive management, and fish passage over Santa Felicia Dam. Some of these requirements are already in the implementation phase while others and are in the advanced planning phases.

Rindge Dam Decommissioning on Malibu Creek

The Rindge Dam on Malibu Creek is in the planning phase and CalTrout is a partner in moving this project forward. The CalTrout website states "the dam removal project is now poised to proceed into design phase, following recent authorization of the project's feasibility study led by the U.S. Army Corps of Engineers and pending formal approval in Congress. This is a major milestone, but the hard work is now ahead to complete design, put together a successful dam removal team, restore migration of the endangered southern steelhead, and secure funding for the >$200M project."

Quiota Creek Fish Passage Barrier Removals

The Cachuma Operation and Maintenance Board replaced numerous low flow crossings with bridges on Quiota Creek, a tributary to the Santa Ynez River. The original crossing were barriers to steelhead migration. They have all been replaced and passage has been restored to this creek.

Salsipuedes Creek and El Jaro Creek Fish Passage Barrier Structures

Fish passage structures have been constructed on these two tributaries to the Santa Ynez River, providing access to miles of habitat for steelhead.

Arroyo Hondo Creek Fish Passage Project

Fish passage was restored through a 300-foot culvert beneath highway 101 on Arroyo Hondo Creek on the Santa Barbara coast. This is a small coastal stream that provides excellent spawning and rearing habitat for steelhead. The CDFW has monitored fish passage in this creek using Sonar technology.

Solstice Creek Fish Passage Restoration

Passage barriers at road crossings have been removed and a passage design at the Hwy 1 crossing has been reviewed by a fish passage consultant that provided a peer review and passage design alternatives to NMFS and CalTrans. CalTrans is working with NMFS to start implementing the project. Solstice Creek is a small coastal stream located near Malibu in the Santa Monica Mountains.

Trabucco Creek Fish Passage Project

CalTrout is leading an effort to provide fish passage under the interstate 5 bridge in Trabucco Creek in the San Juan Creek watershed, Orange County, California. The project, which is in the 65% design phase will provide access to 15 miles of upstream high quality spawning and rearing habitat for steelhead.

This is not an exhaustive list of recovery efforts occurring in the DPS. The CalTrout petition states that Southern steelhead have seen little demonstrable improvement in population numbers and long-term persistence since the species' federal ESA listing in 1997. It also states that state and federal entities have had decades to address the precipitous and continuing decline in Southern steelhead populations through all manner of guidance, policy, and mandate. This contradicts the results of the NMFS 5-year review that states "while the status of the populations of steelhead within the Southern California Coast Steelhead DPS has not changed appreciably since the last status review, a number of recovery related activities have been undertaken which may result in some reduction in threats to the species, and potentially lead to a future increase in individual populations." The 5-year review highlights NMFS' belief that recovery actions will increase steelhead population numbers in the DPS and it does not conclude there is a "precipitous and continuing decline in Southern steelhead populations in the DPS" as stated in the CalTrout petition.

Although steelhead numbers are low, there are few robust monitoring programs over a meaningful timescale occurring in the DPS. The minimal data that does exist as well as anecdotal information was included in the most recent paper by Dagit et al. (2020), but the authors do acknowledge the lack of data in the DPS. It is too early to use fish numbers to demonstrate progress and population data is lacking in the DPS. The number of recovery actions occurring in the DPS are based on work conducted by project proponents, federal resource agencies, CDFW and project partners and stakeholders. These projects will aid in the recovery of this species and consequently the petition didn't demonstrate how an additional listing through CESA would provide unique conservation or recovery measures that are not already included in the NMFS recovery plan and California state planning documents.

Effects of Drought on Recovery

Southern California has experienced an unprecedented drought since 2007. This has resulted in substantial reductions in migration opportunities for southern steelhead in the DPS. In arid southern

California, steelhead require elevated winter flows to open seasonally closed sandbars in coastal lagoons as well sufficient instream flows in coastal rivers and streams to migrate to high quality spawning habitats. In some instances these sandbars never opened during the driest years of the drought and when they did, instream flows were not of a sufficient magnitude and duration for steelhead to make it to spawning habitat.

Due to the drought conditions that have occurred over more than a decade, it is not reasonable or prudent for CalTrout to postulate that there is a precipitous decline in steelhead numbers and that current recovery actions will not result in an increase in the numbers of steelhead in the DPS. Once wet conditions return to the region and multiple recovery actions are in place throughout this and neighboring DPSs, steelhead will have access to a significant amount of historic habitat, and once established, population numbers should increase.

Other State Actions That are Supporting Recovery Outside of CESA

The CDFW is currently conducting instream flow evaluations in priority drainages in California. One of these priority drainages is the Ventura River. The Ventura River is also one of five priority stream systems selected as part of the California Water Action Plan (WAP) effort. The WAP was developed to move California toward more sustainable water management. As part of the WAP, the CDFW Instream Flow Program is supporting flow enhancement activities and developing flow criteria in priority streams that support critical habitat for threatened and endangered anadromous salmonids. The intention of these evaluations is to aid in steelhead recovery.

The Sustainable Groundwater Management Act (SGMA) of California is recent state legislation enacted to help protect groundwater resources over the long-term. Under SGMA, groundwater agencies must develop groundwater sustainability plans. These plans must include an analysis of groundwater dependent ecosystems including potential impacts to sensitive species from groundwater pumping. Plans are under development in the Ventura River and other priority drainages in the DPS further aiding in the recovery of southern California steelhead.

Conclusions

The overarching theme of the CalTrout petition is that the current federal recovery process is not resulting in an increase in steelhead numbers in the DPS and that a CESA listing will somehow, without any supporting evidence, provide additional and unique actions fostering an increase in steelhead numbers. CalTrout states in their petition that "a number of large, complex fish passage barriers remain in place or not fully functional, even though significant investment over the years has supported advanced engineering design. The state ESA listing is anticipated to help move these projects forward into construction to realize their potential in species recovery" (CalTrout 2021). These complex projects take significant amounts of time and funding to analyze, design, permit, and build. It is our opinion and experience that adding an additional regulatory step through CESA will not help move projects forward, but will most likely cause substantial delays. As stated above, CDFW is already a regulatory partner with NMFS on federal consultations and recovery efforts. Consequently, there is no need to list this species under CESA since the current recovery plan is being managed and implemented with CDFW as a partner to NMFS.

We urge CDFW and the Commission to deny the petition to list southern California steelhead as endangered under CESA. We appreciate your review of this comment letter and please feel free to contact me with any questions or correspondence.

Sincerely,

Michael L. Flood, General Manager
Casitas Municipal Water District
1055 North Ventura Avenue
Oak View, California 93022
Via email: mflood@casitaswater.com

Literature Cited

California Trout (CalTrout). 2021. Notice of Petition: Southern California Steelhead (*Oncorhynchus mykiss*). Submitted to the California Fish and Wildlife Commission. June 7, 2021.

Dagit, R., M. Booth, M. Gomez, T. Hovey, T., S. Howard, S. Lewis, S. Jacobson, M. Larson, D. Mccanne, and T. Robinson. 2020. Occurrences of Steelhead Trout (*Oncorhynchus mykiss*) in southern California, 1994-2018. 106. 39-58.

National Marine Fisheries Service (NMFS). 2012. Southern California Steelhead Recovery Plan. Southwest Region, Protected Resources Division, Long Beach, California.

National Marine Fisheries Service (NMFS). 2016. 5-Year Review: Summary and Evaluation of Southern California Coast Steelhead Distinct Population Segment. National Marine Fisheries Service. West Coast Region. California Coastal Office. Long Beach, California.

Appendix B

Casitas Comment Letter dated December 9, 2021

December 9, 2021

California Fish and Game Commission
P.O. Box 944209
Sacramento, California 94244-2090

Sent via email to fgc@fgc.ca.gov

Subject: Comments on CDFW Evaluation Report on Petition to List Southern California Steelhead as Endangered Pursuant to the California Endangered Species Act

Dear California Fish and Game Commission:

We are writing to provide input with respect to the Petition to list the Southern California Steelhead under the California Endangered Species Act (CESA) dated June 7, 2021, and received by the Fish and Game Commission on July 2, 2021. The Commission then referred the petition to the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2073 for preparation of an evaluation report on the petition. On November 30, CDFW released its written evaluation report ("Evaluation Report") to the public.

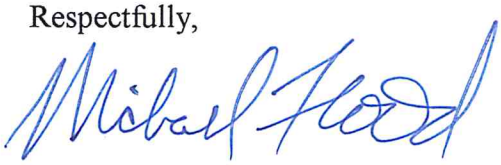
We have reviewed CDFW's Evaluation Report and discovered that it does not contain discussion of the substance of, or otherwise consider, the concerns raised in Casitas Municipal Water District's August 20, 2021 letter, nor does the Evaluation Report contain a discussion of the substance of any of the other timely submitted comment letters.

CDFW is mandated by Fish and Game Code section 2073.5 and Section 670.1 of Title 14 of the California Code of Regulations to consider all relevant information it receives on the petition and to evaluate the petition in light of that information. It does not appear, at least by review of the Evaluation Report, that consideration of all relevant information pertaining to the petition has occurred.

Due to CDFW's failure to include in the Evaluation Report any discussion or analysis of the relevant public comments it received concerning the petition, Casitas respectfully requests that the Commission remand the evaluation report back to CDFW with the direction that it prepare a revised evaluation report that evaluates the scientific information discussed and cited in the petition in relation to the public comments CDFW has received to date. To do otherwise would conflict with Fish and Game Code section 2073.5.[1]

[1] See Fish and Game Code§ 2073.5 ("Within 90 days of receipt of the petition, the department shall evaluate the petition on its face and in relation to other relevant information the department possesses or receives.")

Respectfully,



Michael Flood, General Manager
Casitas Municipal Water District
1055 North Ventura Avenue
Oak View, California 93022
Phone: 805-649-2251 ext. 111
Email: mflood@casitaswater.com

Appendix C

Clanton and Jarvis Field Correspondence dated May 8, 1946

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FISH AND GAME

FIELD CORRESPONDENCE

FROM: D. A. Clanton & J. W. Jarvis

PLACE: Fillmore

TO: BUREAU OF FISH CONSERVATION

DATE: May 8, 1946

SUBJECT: FIELD INSPECTION TRIP TO THE MATILIJA-VENTURA WATERSHED IN RELATION TO THE CONSTRUCTION OF THE PROPOSED MATILIJA DAM.

Our observations were based soley on the problems of steelhead spawning areas, and sport trout-fishing in the district.

The proposed dam is to be located one-half mile above the mouth of the Matilija at its junction with the Ventura River, and just above Matilija Hot spring Resort. This area comprises one of the best spawning grounds of the entire river system, and the distance above the dam represents approximately twelve miles of spawning area or one-half of the entire stream area of the Matilija-Ventura section. In the check today, we found that the Ventura City water intake, which is located at Foster Park, is approximately ten miles below the proposed dam site. This same area constitutes the best spawning grounds of the Ventura River at this time.

In questioning members of the Ventura City Water Plant, we found t that due to incomplete specifications, no one knows the exact plans concerning the piping or transporting of the water from the dam to the present intake at Foster Park.

The present system of water pickup, utilizes an underground retaining wall which extends from the surface of the stream bed vertically to sixty feet below. This is the intake mentioned as being at Foster Park, located at Casitas Springs, ten miles below the proposed dam site.

Spawning areas below the Ventura City water intake are very poor, the distance to the ocean being approximately five miles.

Several water diversions are located between Matilija Dam Site, and the Ventura water intake. One large diversion is drawn out at the Matilija Ranch(Old Rice Ranch). This is located four miles below the proposed dam. In the past and during dry years, water is removed to the extent that the river bed goes completely dry, and it becomes necessary to do a small amount of rescue work in the Ojai Oaks area. This Steelhead Rescue covers a distance of four miles over loose gravel.

The North Fork of the Matilija represents a very small portion of the available spawning area of the Ventura System due to the fact that water conditions are poor. Until two years ago it was almost impossible for fish to get over a falls, which was located one-quarter mile inside the mouth of the stream. This rock ledge has now been blown out, and fish can get upstream a distance of about four miles. A small flow of water, and poor spawning conditions indicate that perhaps less than 2 percent of the fish in the river use this area for spawning.

Personal observations covering many years, as well as interviews with residents who have been in the area for over twenty years leads us to believe that at least 5o percent of the fish entering the Ventura

River eventually enter the main Matilija to spawn. In normal years this represents a minimum of between 2000 & 2500 adult spawning steelhead in the 12 mile area.

Most of the hatchery-fish planting is done in this area due to better water conditions, and cooler temperatures. Fishing catch records have shown that most of the hatchery fish are taken in this portion of the stream as well as the yearling steelhead, of which several hundred were seen today. These steelhead averaged between four and six inches in length. It is our belief that 48 percent of the adult steelhead spawn in the ten miles below the Matilija dam site as this stream bed constitutes a fair spawning ground, and in past years many beds have been seen there.

Coyote Creek is a tributary to the Ventrua River, entering at Foster Park. This is a steelhead spawning stream, and some rescue work has been done on the lower section of the stream in dry years. This tributary is also embodied in the proposed plan, and calls for a large water-retaining reservoir which will impound all the run-off from this stream.

Conclusions

Fishing streams in Ventura County are very limited, and an average of 70,000 to 100,000 fish have been planted yearly for the past years. Every consideration should be given so that all suitable waters for fish are utilized.

Permission to construct a dam in one of the few favorable fishing locations in the county should only be given with the understanding that every effort will be made to use the impounded waters as an improvement to the fishing conditions of the county. The present fishing asset amounts to at least $100,000.00 annually. Census checks made of winter steelhead fishing have shown 259 fishermen on the opening day in the five-mile area that is open to fishing from Foster Park to the ocean. This winter-Steelhead fishing has continued to improve in recent years. Summer fishing represents most of the angling in the area to be taken up by the construction of the Mitilija, and the waters above. Between 11:00 AM and 2:00 PM of the opening day of fishing season this year, 328 fishermen were checked by the wardens along a five-mile stretch of the area in question. Our observations today showed that there were 25 persons fishing druing the one-hour that we were in upper canyon.

It is impracticable to believe that a suitable fish ladder can be constructed over the 152 foot dam under present construction methods, and in lieu of this; every effort should be made to assure that enough water is released below the dam to adequately maintain fish life at all times.

The spillway on this dam should be an inclined apron with a deep hole at the bottom instead of a direct fall. By utilizing this type of spillway both adult and fingerling steelhead could pass over the dam without loss on their downward migration. Provisions could

easily be made for trapping adult steelhead at the base of the dam for transplanting above to spawn naturally. In the spring of the year, water should be released over the spillway for as long as is possible.

Fishing should be permitted in the impounded water, under the supervision of the water district, during the entire fishing season. Effort should be made to keep the impounded water, and the water above the dam proper well stocked in order to maintain maximum fishing in a county whose fresh-water fishing is very limited.

D. A. CLANTON
Asst. Supervisor of fish hatcheries

Willard Jarvis
Sr. Fisheries biologist