In the Matter of Draft Cease and Desist Order No. 2008-00XX-DWR Against California American Water Company

DECLARATION OF JON D. RUBIN IN SUPPORT OF MOTION TO STRIKE PRE-HEARING BRIEFS, MOTION TO ENSURE DUE PROCESS, AND OPPOSITION TO PRE-HEARING BRIEFS

I, JON D. RUBIN, hereby declare:

1. I am an attorney licensed to practice before all the courts of the State of California. I am a partner at Diepenbrock Harrison, attorneys of record for California American Water Company ("CAW") in this hearing. If called as a witness, I would and could competently testify to the following facts that are within my personal knowledge.

2. Attached hereto and introduced by CAW as Exhibit CAW-020 is a true and correct copy of an email I received, on or about April 3, 2008, from Charles L. Lindsay.

3. Attached hereto and introduced by CAW as Exhibit CAW-021 is a true and correct copy of correspondence dated June 7, 2006, signed by Mr. James W. Kassel and obtained by Diepenbrock Harrison from the files of the State Water Resources Control Board.

4. Attached hereto and introduced by CAW as Exhibit CAW-022 is a true and correct copy of the pre-hearing brief I received from the California Salmon and Steelhead Association, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of
the brief, including the attachments thereto, CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-022 are set forth in the Motion to Strike. Exhibit CAW-022 is being introduced for identification purposes only, in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-022.

5. Attached hereto and introduced by CAW as Exhibit CAW-023 is a true and correct copy of the pre-hearing brief I received from the Carmel River Steelhead Association and the California Sportfishing Protection Alliance, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-023 are set forth in the Motion to Strike. Exhibit CAW-023 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-023.

6. Attached hereto and introduced by CAW as Exhibit CAW-024 is a true and correct copy of the pre-hearing brief I received from the Public Trust Alliance, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-024 are set forth in the Motion to Strike. Exhibit CAW-024 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-024.

7. Attached hereto and introduced by CAW as Exhibit CAW-025 is a true and correct copy of the pre-hearing brief I received from the Division of Ratepayer Advocates, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-025 are set forth in the Motion to Strike. Exhibit CAW-025 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-025.
8. Attached hereto and introduced by CAW as Exhibit CAW-026 is a true and correct copy of the pre-hearing brief I received from the Sierra Club, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief, including the attachments thereto, CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-026 are set forth in the Motion to Strike. Exhibit CAW-026 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-026.

9. Attached hereto and introduced by CAW as Exhibit CAW-027 is a true and correct copy of the pre-hearing brief I received from the National Marine Fisheries Service, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-027 are set forth in the Motion to Strike. Exhibit CAW-027 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-027.

10. Attached hereto and introduced by CAW as Exhibit CAW-028 is a true and correct copy of the pre-hearing brief I received from the Monterey Peninsula Water Management District, with highlights made by Diepenbrock Harrison. The orange-colored highlights identify those portions of the brief CAW proposes to be stricken in its Motion to Strike, filed concurrently herewith. The reasons CAW believes the State Water Board should strike the highlighted text in Exhibit CAW-028 are set forth in the Motion to Strike. Exhibit CAW-028 is being introduced for identification purposes only in connection with CAW’s Motion to Strike. CAW is not requesting the State Water Board accept into evidence Exhibit CAW-028.
PROOF OF SERVICE

I declare as follows:

I am over 18 years of age and not a party to the within action; my business address is 400 Capitol Mall, Suite 1800, Sacramento, California, I am employed in Sacramento County, California.

On April 23, 2008, I served a copy of the foregoing document following document entitled

DECLARATION OF JON D. RUBIN IN SUPPORT OF MOTION TO STRIKE PRE-HEARING BRIEFS, MOTION TO ENSURE DUE PROCESS, AND OPPOSITION TO PRE-HEARING BRIEFS

on the following interested parties in the above-referenced case number to the following:

See Attached Service List of Participants

[X]  
BY MAIL
By following ordinary business practice, placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first-class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business as indicated in the attached Service List of Participants and noted as “Service by Mail.”

[X]  
ELECTRONIC MAIL
I caused a true and correct scanned image (.PDF file) copy to be transmitted via the electronic mail transfer system in place at Diepenbrock Harrison, originating from the undersigned at 400 Capitol Mall, Suite 1800, Sacramento, California, to the e-mail address(es) indicated in the attached Service List of Participants and noted by “Service by Electronic Mail.”

[ ]  
BY FAXSIMILE at ______ a.m./p.m. to the fax number(s) listed above. The facsimile machine I used complied with California Rules of Court, rule 2003 and no error was reported by the machine. Pursuant to California Rules of Court, rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

[ ]  
A true and correct copy was also forwarded by regular U.S. Mail by following ordinary business practice, placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first-class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business.

[ ]  
BY OVERNIGHT DELIVERY
[ ] Federal Express [ ] Golden State Overnight
Depositing copies of the above documents in a box or other facility regularly maintained by Federal Express, or Golden State Overnight, in an envelope or package designated by Federal Express or Golden State Overnight with delivery fees paid or provided for.

[ ]  
PERSONAL SERVICE
[ ] via process server
[ ] via hand by

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 23, 2008, at Sacramento, California.

Jolanthe V. Onishi
CALIFORNIA AMERICAN WATER CEASE AND DESIST ORDER
JUNE 19, 2008 HEARING
SERVICE LIST OF PARTICIPANTS

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