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NOLAND, HAMERLY, ETIENNE & HOSS
ATTORNEYS AT LAW
SALINAS, CALIFORNIA

BEFORE THE STATE WATER
RESOURCES CONTROL BOARD

In the Matter of the State Water Resources
Control Board (State Water Board), Order
No. 2008-00XX-DWR: Hearing to
Determine Whether to Adopt a Draft Cease
and Desist Order Against California
American Water from the Carmel River in
Monterey County Under Order WR 95-10

Hearing Date: July 23, 2008
Carmel River in Monterey County

TESTIMONY OF MARK BASTIS

General Manager

Hyatt Regency Monterey Resort in Monterey, California

1 My name is Mark Bastis. I am the General Manager of the Hyatt Regency Monterey
2 Resort located at One Old Golf Course Road, Monterey, California. I have had 26 years of
3 experience in the management and operation of hotels and am currently the President Elect of the
4 Monterey County Hospitality Association. Attached as **Exhibit 1** is a resume of my experience.

5
6 I present the following testimony in opposition to the "Cease and Desist Order" as
7 presently articulated by the State Water Resources Control Board in its application to the Service
8 Area of the California American Water Company (Cal Am):

9 The Hospitality industry on the Monterey Peninsula area is extremely event-driven, and
10 although we have an annual occupancy rate of approximately 65% per year, it's a combination of
11 very busy periods or very slow periods that combine for that annual occupancy rate. The website
12 of the Monterey County Visitors and Convention Bureau (<http://www.montereyinfo.org/>) lists
13 events going on each weekend throughout the year. If it is not a music festival - jazz festival,
14 blues festival, reggae festival, motorcycle race, car race, car show, it's the wine festival, the Bach
15 festival or whatever. The fact is that tourist enterprise in the Monterey area is a very event-driven
16 destination. This includes Carmel, Seaside and the other cities located in the area with facilities
17 which could be comparable to ours and having water service from California American Water
18 Company.
19

20
21 To take our enterprise as an example, the Hyatt has 550 rooms. There are 365 days per
22 year. If we run 70% occupancy for the year, that's 140,525 room nights; and at 60%, it's almost
23 86,625 room nights per year. That is just for our hotel alone. Group business is the economic
24 driver for all service hotels. I believe it entirely reasonable to state under penalty of perjury that
25 the other major hotels in the area have substantially similar percentages. I include in the group
26 the Marriott, the Portola Plaza, the Monterey Plaza, Embassy Suites, Pebble Beach, Carmel
27 Valley Ranch, etc. As members of the Monterey County Hospitality Association, we have all
28

1 worked hard to promote conservation of water.

2 All of us have adopted policies designed to conserve water. That consists of low flow
3 showerheads, faucets, toilets, urinals – all designed to conserve water. As examples, we have
4 automatic sensor shutoff water faucets in the common area restrooms, automatic sensor flush with
5 low-volume urinals in common area restrooms, low flow toilets in guest rooms (Hyatt and Carmel
6 Valley Ranch have also begun putting in new no-flow toilets), low flow showerheads in
7 guestrooms, low flow faucets in guestrooms, tent card in restrooms asking the occupants to
8 conserve water by not changing bedding on a daily basis, etc. Some operators have food scrapers
9 that recycle water before going to a reverse flow dishwashing machine that recycles rinse water to
10 prewash. In addition we have designed our exterior to provide low impact landscaping. We only
11 supply water in our restaurant facilities upon request of the individual guests.

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13
14 Implementation of the Cease and Desist Order as it is presently phrased would cause an
15 immediate lowering and tremendous lessening of the occupancy of not only our hotel, but all of
16 the hotels in the Cal Am service area. Without water, we can house no guests. It would have an
17 industry-wide impact. For example, if our water got shut off after we used 50% of what we use
18 today, we would have to shut 50% of our rooms. That would mean that we would have to reduce
19 our employees by 50%. It further means that what guests spend out in the community is also cut
20 50%. We have 400 employees at this hotel alone. In addition to the foregoing, the tenancy
21 occupancy tax generated to fund operations for the County would be seriously and significantly
22 reduced. Attached hereto is **Exhibit 2** showing the TOT collections for the years 2005, 2006 and
23 2007. The TOT is generated strictly off room occupancy. It does not include taxes collected
24 from restaurants, etc.

25
26 Monterey County Hospitality Association members include not only full service hotels,
27 but also limited service hotels, restaurants, transportation companies and so forth. Consequently,
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SAN JOSE, CALIFORNIA

1 the implementation of the Cease and Desist Order would not only cause a huge loss of jobs as far
2 as hotels are concerned, but also related entities that are functional in the hospitality industry.

3 We have approximately 260 member organizations and member companies, belonging to
4 the Hospitality Association. 62.6%, or over half of the membership, are businesses that are not
5 directly associated with the hospitality industry. For example, Harley dealers, dermatologists,
6 doctors are a few of a number of member companies that fund their operations through the
7 hospitality business. Further examples of such businesses in addition to the above referenced
8 would be gas stations, car washes, and dry cleaning establishments. The businesses that supply
9 goods and services, either consumed or necessary to the operation of the hospitality industry,
10 comprise a substantial proportion of jobs on the Monterey Peninsula. Moreover, since the
11 Monterey Peninsula contains many of the hotel and other residential facilities used a base for
12 tourism to other areas of Monterey County, the imposition of the Order would create havoc
13 throughout Monterey County.
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16 Just as an example to underscore the situation, by implementation of the Cease and Desist
17 Order, we have 400 employees at the Hyatt Regency. Pebble Beach has approximately 1000,
18 Monterey Plaza a couple hundred. All of the individuals employed by our organizations need
19 services such as medical and dental, clothing and grocery shopping, phone and/or cell phone
20 services, child care services and items on ad infinitum.
21


22 To recap, the hospitality industry over the last ten years has worked to reduce water
23 consumption in their guest rooms by low-flow toilets, low-flow showerheads, low-flow faucet
24 aerators, and offering guests laundry reuse of linens and towels. The hospitality industry has also
25 worked to conserve water in their public areas by installing low-flow or no-water use urinals, low
26 water use toilets or whatever I said before, and low-flow faucet aerators. The hospitality industry
27 has also worked to reduce water (usage) in our restaurants by offering water on request to our
28

1 patrons only. The hospitality industry has also worked to conserve water by outsourcing their
2 laundry operations. And finally, the hospitality industry has worked to conserve water by
3 reducing consumption for landscaping needs through many different methods.

4 In short, the imposition of the Order as it is presently articulated would be an economic
5 disaster for this area, and affect the lives of thousands of individuals presently gainfully employed
6 in and outside of the Cal Am service area.

8 I, Mark Bastis, declare under penalty of perjury that I have read the foregoing "Testimony
9 of Mark Bastis" and know its contents. The matters stated in it are true of my knowledge except
10 as to those matters which are stated on information and belief, and as to those matters I believe
11 them to be true.

12 Executed on July 9, 2008 at Monterey, California.

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16 By: Mark Bastis
17 General Manager
18 Hyatt Regency Monterey Resort
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TOT Collections for Years 2005, 2006, 2007

Jurisdiction	2005	2006	2007	2007 increase over 2006 ↓
Monterey County	\$14,420,192	\$15,569,105	\$16,713,639	+7.35%
City of Monterey	\$13,940,920	\$14,628,787	\$15,620,340	+6.78%
Carmel-by-Sea	\$3,940,920	\$4,033,636	\$4,303,673	+8.68%
Pacific Grove	\$3,787,623	\$3,128,194	\$3,276,019	+4.73%
Seaside	\$2,957,857	\$2,143,272	\$2,283,528	+6.54%
Salinas	\$1,922,276	\$1,522,639	\$1,537,492	+0.98%
Marina	\$1,215,872	\$1,349,884	\$1,417,378	+5.00%
King City	\$246,520	\$274,938	\$297,576	+8.23%
Greenfield, Soledad, Gonzales	\$117,365	\$123,329	\$129,496	+4.98%
TOTALS	\$40,232,677	\$42,773,784	\$45,659,141	+5.95%

EXHIBIT 2

1 **PROOF OF SERVICE**
2 (Code Civ. Proc. §§ 1013(a), 2015.5)

3 STATE OF CALIFORNIA)
4 COUNTY OF MONTEREY)

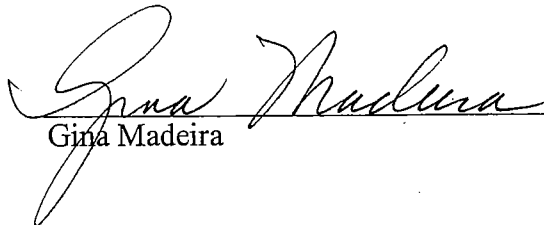
5
6 I am a citizen of the United States and a resident of Monterey County. I am over the age
7 of 18 years and not a party to the within entitled action; my business address is: 333 Salinas
8 Street, Post Office Box 2510, Salinas, CA 93902-2510.

9 On the date below, I served the attached document(s) entitled: **TESTIMONY OF**
10 **MARK BASTIS**, on the following named person(s) in said action at:

11 **SEE ATTACHED SERVICE LIST**

- 12 by personal service on the above-named person(s) at the above stated address(es).
- 13 by placing said copy(ies) in a sealed envelope(s), postage thereon fully prepaid,
14 and placed for collection and processing for mailing following the business's
15 ordinary practice with which I am readily familiar. On the same day
16 correspondence is placed for collection and mailing, it is deposited in the ordinary
17 course of business with the United States Postal Service at Salinas, California,
18 addressed as stated above.
- 19 by electronic mail in PDF format from my electronic mail address of
20 gmadeira@nheh.com, a true and correct copy of the above-named document as
21 follows: eau@cpuc.ca.gov, rbaiocchi@gotsky.com, bobmck@mbay.net,
22 info@mcha.net, christopher.keifer@noaa.gov, dave@laredolaw.net,
23 meurer@ci.monterey.ca.us, hbm@carmellaw.com, jrubin@diepenbrock.com,
24 jminton@pcl.org, larrysilver@earthlink.net, lgwill@dcn.davis.ca.us,
25 mjatty@sbcglobal.net, michael@rri.org, rsato@waterboards.ca.gov,
26 RMcGlothlin@BHFS.com, TJamison@FentonKeller.com, llowrey@nheh.com.
- 27 by causing to be transmitted a true copy thereof to the above-named recipient via
28 the following facsimile transmission telephone number ("Fax"): _____,
and no interruption of transmission was reported.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 9, 2008, at Salinas, California.


Gina Madeira

NOLAND, HAMERLY, ETIENNE & HOSS
ATTORNEYS AT LAW
SALINAS, CALIFORNIA

CALIFORNIA AMERICAN WATER CEASE AND DESIST ORDER

JULY 23, 2008 HEARING

SERVICE LIST

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