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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to increase its Revenues for Water Service by \$4,134,600 or 2.55% in the year 2011, by \$33,105,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92% in the year 2013, and by \$10,874,600 or 5.16% in the year 2014.

A.10-07-007
(Filed July 1, 2010)

**MOTION OF CALIFORNIA-AMERICAN WATER
COMPANY TO REQUEST OFFICIAL NOTICE**

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Dated: April 26, 2011

Attorneys for Applicant
California-American Water Company

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) for Authorization to increase its Revenues for Water Service by \$4,134,600 or 2.55% in the year 2011, by \$33,105,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92% in the year 2013, and by \$10,874,600 or 5.16% in the year 2014.

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**MOTION OF CALIFORNIA-AMERICAN WATER
COMPANY TO REQUEST OFFICIAL NOTICE**

Pursuant to Rules 11.1 and 13.9 of the Rules of Practice and Procedure¹ of the California Public Utilities Commission (“Commission”) and California Evidence Code section 451,² California-American Water Company (“California American Water”) hereby submit this motion requesting that the Commission take official notice of an April 8, 2011 letter from the State Water Resources Control Board (“SWRCB”), which is attached hereto as Attachment 1. California American Water also requests that the Commission take official notice of an April 8, 2011 letter from the United States National Oceanic and Atmospheric Administration National Marine Fisheries Services (“NOAA”), which is attached hereto as Attachment 2.

The April 8, 2011 SWRCB letter explained that Order WR 95-10 determined that California American Water “shall be responsible for implementing all measures in the

¹ Unless otherwise stated, all further reference to the “Rules” refers to the Rules of Practice and Procedure of the California Public Utilities Commission.

² Cal. Evid. Code § 451 (“Judicial notice shall be taken of the following: (c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.”).

ATTACHMENT 1



State Water Resources Control Board



Linda S. Adams
Acting Secretary for
Environmental Protection

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000 ♦ Fax 916.341.5400
♦ www.waterboards.ca.gov/waterrights ♦

Edmund G. Brown Jr.
Governor

APR 08 2011

In Reply Refer to:
JO:Order WR 95-10

Robert MacLean, President
California American Water
P.O. Box 951
Monterey, CA 93940

RECEIVED
APR 11 2011

CAL-AM WATER CO.

Dear Mr. MacLean:

FUTURE COMPLIANCE WITH CONDITION 11 OF ORDER WR 95-10

State Water Resources Control Board (State Water Board) Order WR 95-10 provides that the California American Water (Cal-Am) "shall be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" not implemented by the District after June 30, 1996." (Ordering paragraph 11.) On March 24, 2011, the California Public Utility Commission adopted Decision 11-03-035. Among other matters, the decision did not approve a settlement agreement between Cal-Am and the Monterey Peninsula Water Management District (MPWMD) that would have provided funding, via Cal-Am, to MPWMD to continue implementing the mitigation required of Cal-Am by Condition 11. Within 30 days after the date of this letter, please advise the State Water Board what steps Cal-Am will take to assure the mitigation required by Condition 11 will be implemented in the current year and in the years that follow.

If you have any questions, please telephone me at the above listed number, or John O'Hagan of my staff at (916) 341-5368. Thank you for your cooperation.

Sincerely,

James W. Kassel
Assistant Deputy Director

cc: Craig E. Anthony
Director of Operations-Monterey
California American Water
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

California Environmental Protection Agency

ATTACHMENT 2



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

April 8, 2011

In response, refer to:
SWR/F/SWR3:JEA

Rob MacLean, President
California American Water
1033 B Avenue, Suite 200
Coronado, California 92118

Dear Mr. MacLean:

This letter is in regards to NOAA's National Marine Fisheries Services' (NMFS) concern with respect to a lack of downstream fish passage at California American Water's (CAW) Los Padres Dam, located on the Carmel River, in Monterey County, California.

At present, Los Padres Dam is a documented fish passage barrier for downstream migration of juveniles and kelts (post-spawned adults) of the threatened South-Central California Coast (S-CCC) Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*) (71 FR 834; January 5, 2006). Mortality and injury have been documented relative to downstream migration at Los Padres Dam, and passage is cut off entirely when the reservoir elevation drops below the spillway crest. CAW, which owns and operates Los Padres Dam, is responsible for ensuring downstream fish passage past the dam. By preventing downstream fish passage, CAW may be in violation of the Endangered Species Act (ESA), and subject to possible enforcement action by NMFS. Compliance to the ESA is mandatory. In the event that a violation is determined to have occurred, substantial penalties up to a statutory maximum of \$13,200 per violation could be assessed based upon the amount of unauthorized take of S-CCC steelhead associated with fish passage impedence.

NMFS has provided technical assistance to CAW in the development of the proposed interim fish passage project. The project is supported by NMFS since it would provide substantial benefits to the species. Any significant delay in project implementation could have substantial deleterious effects to the species. The proposed interim fish passage structure would allow safe and efficient downstream fish passage for the S-CCC steelhead DPS, avoid continued delays in implementation of the project and adverse effects to the species.

For the above reasons, it is critical CAW continue to pursue the Los Padres Dam Interim Fish Passage Project. You may refer any questions concerning this letter to Ms. Joyce Ambrosius by telephone at (707) 575-6064, or by e-mail at joyce.ambrosius@noaa.gov.

Sincerely,

Dick Butler
North Central Coast Office Supervisor
Protected Resources Division

