

**STATE WATER RESOURCES CONTROL BOARD
BOARD HEARING SESSION - DIVISION OF WATER RIGHTS
APRIL 1, 2008**

ITEM 8

SUBJECT

ACCEPTANCE OF POLICY STATEMENTS TO DETERMINE WHETHER TO ADOPT A DRAFT CEASE AND DESIST ORDER AGAINST CALIFORNIA AMERICAN WATER.

DISCUSSION

Immediately following the Board Meeting, the Board will convene a hearing to receive public policy statements concerning whether to adopt a Draft Cease and Desist Order (CDO) against California American Water (CAW) for illegal diversion of water from the Carmel River in Monterey County. The evidentiary portion of the hearing is scheduled for June 19 and 20 in Sacramento. Dr. Gary Wolff and Mr. Arthur Baggett are serving as the hearing officers.

A pre-hearing conference with the parties was held on March 19, 2008. As a result of comments and concerns expressed at the conference, the parties are preparing pre-hearing briefs that are due April 9, 2008. The briefs will primarily address concerns over expanding the scope of the hearing. Rebuttal briefs are due April 23, 2008

BACKGROUND

On July 6, 1995, the State Water Board adopted [Order WR 95-10](#) regarding four complaints filed against CAW. The order required CAW to terminate unlawful diversions from the Carmel River and to comply with specified conditions. The State Water Board found that CAW's rights to divert 3,376 afa from the Carmel River consist of 1,137 afa under pre-1914 appropriative rights, 60 afa under riparian rights, and 2,179 afa under License 11866 (Application 11674A). In [Order WR 95-10](#), the State Water Board found that CAW's diversions were having an adverse effect on: (a) the riparian corridor of the river; (b) wildlife dependent upon instream flows and riparian habitat; and (c) steelhead which spawn in the river.

On January 15, 2008, the Division issued a draft CDO requiring CAW to cease and desist from diverting water from the Carmel River in excess of its legal rights by reducing its unlawful diversions pursuant to a schedule set forth in the CDO. The draft CDO alleges that since 2000, CAW has illegally diverted at least 7,164 afa from the Carmel River and that CAW's unauthorized diversions continue to have adverse effects on the public trust resources on the river.