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

Joint Application of California-American
Water Company (U-210-W) and Warring
Water Service, Inc. (U-321-W) for an Order
Authorizing Warring Water Service, Inc. to
Sell and California-American Water to
Purchase the Water Utility Assets of
Warring Water Service, Inc.

Application No. 20-_____

**JOINT APPLICATION FOR ORDER AUTHORIZING SALE AND PURCHASE
OF UTILITY ASSETS**

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Dated: April 27, 2020

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

Joint Application of California-American Water Company (U-210-W) and Warring Water Service, Inc. (U-321-W) for an Order Authorizing Warring Water Service, Inc. to Sell and California-American Water to Purchase the Water Utility Assets of Warring Water Service, Inc.

Application No. 20-_____

**JOINT APPLICATION FOR ORDER AUTHORIZING SALE AND PURCHASE
OF UTILITY ASSETS**

Pursuant to Sections 851-854 and 2718-2720 of the California Public Utilities Code, Decision (“D.”) 99-10-064, Article 2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), and Rule 3.6, Warring Water Service, Inc. (U-321-W) (“Warring” or “Seller”) joins with California-American Water Company (U-210-W) (“California American Water,” the “Company,” or “Buyer”) (together, the “Applicants”) in this Application requesting the Commission authorize the sale of Warring’s assets, and California American Water’s purchase of those assets. The Application also requests the Commission authorize certain other actions related to the sale.

I. INTRODUCTION

Provided the Commission approves this Application, California American Water’s acquisition of Warring’s utility assets will occur pursuant to the asset purchase agreement dated April 16, 2019, between the Seller and California American Water (the “Asset Purchase Agreement”). A copy of the Asset Purchase Agreement is included as Confidential Attachment 1 to the Direct Testimony of Garry Hofer.

This Application asks the Commission to approve the Asset Purchase Agreement, the transaction contemplated in that Agreement, and certain related matters. Specifically, Applicants

1 request Commission authority that:

- 2 i. Approves the terms and conditions of the Asset Purchase Agreement,
3 including the offer of employment to an operations employee as set forth
4 in Section 6.13 of the Asset Purchase Agreement.
- 5 ii. Expands California American Water’s Certificate of Public Convenience
6 and Necessity (“CPCN”) so the company may assume all public utility
7 responsibilities for the operation and ownership of the water utility
8 operations in Warring’s current service area.
- 9 iii. Establishes the rate base of the acquired system, at the time of approval of
10 a decision in this application, to be the full purchase price paid by
11 California American Water for the Warring system’s assets covered by the
12 Asset Purchase Agreement.¹
- 13 iv. Allows California American Water immediate consolidation of the
14 Warring Water system into California American Water’s Ventura County
15 District for operational purposes. California American Water will maintain
16 existing Commission approved rates and charges in effect at the time the
17 acquisition closes.
- 18 v. Approves California American Water’s request to file standard CPI-U rate
19 increases for Warring as allowed for Class D utilities until Warring is
20 consolidated into California American Water’s Los Angeles County
21 District in 2024.
- 22 vi. Allows California American Water to integrate the Warring system into
23 the Los Angeles County District (and Corporate Office) for ratemaking
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27 ¹ Original acquired rate base may be subsequently adjusted to include transactional costs associated with
28 the acquisition, depending on the resolution of recovery of such costs in a subsequent California
American Water GRC.

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purposes as of January 1, 2024.² The rates for Warring customers from January 1, 2024 forward would be determined in the 2022 GRC to be filed on July 1, 2022.

vii. Approves California American Water’s request to create a Warring Acquisition Contingency Memorandum Account (“WACMA”). This account would capture the differences between revenues billed at current Warring rates and revenues that would have been billed under the final rates effective January 1, 2021, if the Warring system were integrated for ratemaking following the decision in California American Water’s 2019 general rate case (“GRC”), Application 19-07-004. The associated revenue requirement will consist of items including, but not limited to, return on investment, ad valorem tax, depreciation, general office costs, other taxes and fees, and incremental operating expenses, if any.

viii. Establishes a Warring Transaction Cost Memorandum account, pursuant to Commission Standard Practice U-27-W, to track all transaction related costs with rate treatment determined in California American Water’s subsequent GRC.

ix. Approves California American Water’s request to allow tracking of costs of addressing any required environmental improvements and compliance issues in the already established memorandum account related to the same issues for the Dunnigan, Geyserville, Meadowbrook, Rio Plaza, and Fruitridge Vista acquisitions.

Applicants will also provide direct testimony by Garry Hofer and Stephen Wesley Owens, both employees of California American Water; Michael Wademan, from the engineering

² Please see Section IV below for an explanation of the allocation of rate base between the Los Angeles District and the Corporate Office of California American Water for ratemaking purposes.

1 firm of Brown and Caldwell; Kevin Zanni, from the appraisal firm of Willamette Management
2 Associates; and Glen Pace and Frank Brommenschenkel on behalf of Warring.

3 The relief requested in this Application should not be controversial. The proposed
4 acquisition furthers important Legislative and Commission policies and goals. The acquisition
5 also benefits Warring customers. This proceeding, therefore, should move along quickly and be
6 placed on the Commission's agenda in accordance with the timeline established in D.99-10-064.³

7 8 **II. THE PROPOSED TRANSACTION**

9 **A. Parties**

10 **1. Warring**

11 Warring is a privately owned, commission-regulated class D water utility. Warring owns
12 and operates a water production, storage and distribution system consisting of three groundwater
13 wells, a 1.1 million-gallon storage tank, distribution pipelines, fire hydrants, isolation valves and
14 air release valves, three groundwater wells and other facilities and properties necessary and
15 useful for the utility's operations. The system serves approximately 518 customers in and near
16 Piru, Ventura County, California.⁴ In addition, there are 343 planned residential units at various
17 stages of near-term development in the Warring service area.⁵ Warring's service area is
18 approximately 32 miles from California American Water's Ventura County service area.

19 Warring was incorporated on May 20, 1966. It is currently owned by DeLores Pace and
20 Gill Giddings. Ms. Pace inherited her 50% interest in Warring on her husband's death in 2006.
21 Ms. Giddings inherited her 50% interest in Warring on her husband's death in 2002. Glen Pace,
22

23 ³ See D.99-10-064, *Order Instituting Rulemaking on the Commission's Own Motion to Set Rules and to*
24 *Provide Guidelines for the Acquisition and Mergers of Water Companies*, dated October 21, 1999 ("D.99-
25 10-064"), Appendix D at Section 2.03 ("Processing. The Parties agree that applications should be
26 processed according to the schedules attached to this Settlement"), and at p. 5, which sets forth the
schedules for a Class D utility.

27 ⁴ Given the system's growth, it will file its next annual report as a Class C water utility.

28 ⁵ The Direct Testimony of Glen Pace discusses the growth planned for this service area. As noted in the
Direct Testimony of Frank Brommenschenkel, construction is currently ongoing during the COVID-19
public health emergency.

1 Ms. Pace’s son, is President and Manager of Warring. As is noted in the Direct Testimony of
2 Frank Brommenschenkel, Ms. Pace and Ms. Giddings seek to sell the system’s assets to
3 California American Water because they have only remotely been involved with the water
4 system and have reached a time in their lives when it makes little sense for them to hold onto an
5 asset that involves continual capital investment, but little financial reward.

6 **2. California American Water**

7 California American Water, a California corporation, is a Class A public utility water and
8 wastewater company regulated by the Commission. The company provides regulated water
9 and/or wastewater utility services in parts of San Diego, Los Angeles, Ventura, Monterey,
10 Sonoma, Yolo, Sacramento, Merced, and Placer counties, serving approximately 680,000 people
11 in 50 communities.

12 California American Water is an experienced water and wastewater system operator,
13 including in Ventura County, where the Company has extensive operations, including a service
14 area within approximately 32 miles of Warring’s service area. California American Water has
15 also recently received Commission approval to acquire a Class B water utility, a Class D
16 water/wastewater utility, a Class D water utility, a Class C water utility, and a mutual water
17 company.⁶ California American Water is a subsidiary of American Water Works Company, Inc.
18 (“American Water”), the largest publicly traded water and wastewater utility in the United
19 States, with operations serving approximately 16 million people across North America. A
20 description of California American Water’s plant, water systems, and property is on file with the
21 Commission in California American Water’s most recent Annual Report to the Commission.

22
23 ⁶ See D.15-11-012, *Decision Authorizing California-American Water Company to Purchase the Public*
24 *Utility Assets of Dunnigan Water Works*, dated Nov. 10, 2015; Resolution W-5042, *Order Approving*
25 *California American Water Company’s Request to Acquire Ox Bow Mutual Water Company*, dated June
26 11, 2015; D.16-11-014, *Decision Authorizing the Sale and Adopting Settlement Agreement* (Geyserville
27 acquisition), dated Nov. 17, 2016; D.16-12-014, *Decision Adopting Settlement Agreement and Approving*
28 *Joint Application of California-American Water Company to Purchase and Meadowbrook Water*
Company of Merced, Inc., to Sell the Meadowbrook Water System, dated Dec. 6, 2017; D.19-04-015,
Decision Authorizing Sale and Transfer, dated May 2, 2019 (“D.19-04-015”); D.19-12-038, *Decision*
Authorizing the Purchase of Water Utility Assets by California-American Water Company, dated
December 19, 2019.

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B. The Asset Purchase Agreement

Under the Asset Purchase Agreement, California American Water will acquire certain assets associated with Warring. For those assets, California American Water will pay to Warring the Cash Purchase Price of \$4.6 million, in addition to an Adjustment Amount, if applicable.⁷ The Adjustment Amount will be determined based on the methodology set forth in Exhibit 3 to the Asset Purchase Agreement.

Section 6.13 of the Asset Purchase Agreement further provides that “[o]n or before the date that is ten (10) days after the issuance of a proposed decision by the CPUC granting the regulatory approvals for the Contemplated Transaction, Buyer will extend an offer of full-time employment (“Offer”) to the operations employee set forth on Schedule 6.13(a) (“Operations Employee”).” This position will be available for both routine and emergency response and will provide additional operational flexibility.⁸

C. Warring’s Approved Commission Rate Base

Warring filed its most recent rate general rate case (“GRC”) through an advice letter in 2009. In that GRC, based on increased operating expenses and new plant, Warring sought to increase its gross revenues by \$110,200, or 24.6%, for Test Year (“TY”) 2009. In Resolution W-4796, for TY 2009, the Commission granted Warring an increase in gross annual revenues of \$52,756, or 11.8%, which was estimated to provide gross annual revenues of \$500,797 based on a Rate of Return (“ROR”) of 13.75%. Warring has not filed another general rate case since 2009. Instead, it files requests for Consumer Price Index increases pursuant to paragraph No.1 of Res. W-4540. The most recent adjustment of \$11,503 or 1.9% occurring in 2019 via AL-64W brought the total authorized revenue amount up to \$615,489.

Warring’s authorized rate base for TY 2009 was \$745,864. The authorized rate base components were: (1) plant in service of \$1,745,572, (2) materials and supplies of \$735, (3)

⁷ Asset Purchase Agreement, at Section 2.

⁸ The benefits of hiring an additional full time operations employee is discussed further in the Direct Testimony of Garry Hofer.

1 working cash of \$25,138, (4) accumulated depreciation of (\$449,786), and (5) contributions in
2 aid of construction of (\$575,792).

3
4 **III. CUSTOMER BENEFITS AND PUBLIC INTEREST**

5 The Commission reviews water utility ownership changes, such as the one proposed in
6 this Application, under Sections 851-854 of the Public Utilities Code, which prohibit the sale or
7 transfer of control of a public utility absent prior Commission approval. The “ratepayer
8 indifference” test for the sale of water utilities is met when an applicant “demonstrates some
9 benefit, in keeping with the legislative scheme as cited in D.99-10-064... and as found in Pub.
10 Util. Code §§ 2719-2720.”⁹ As shown in this application and supporting documents, the
11 purchase meets this test and is in the public interest because it helps address issues identified by
12 the California Legislature, the State Water Resources Control Board (“SWRCB”) and the
13 Commission, while benefitting Warring and California American Water customers.

14 **A. Legislative Declarations and Other Resolutions Support the Acquisition**

15 In Public Utilities Code Section 2719, the Legislature found and declared (1) public water
16 systems face the need to replace or upgrade infrastructure to meet increasingly stringent state and
17 federal laws and regulations, (2) increasing amounts of capital are required to finance the
18 necessary investment in that infrastructure, (3) scale economies are achievable in the operation of
19 public water systems, and (4) providing water corporations with an incentive to achieve these
20 scale economies provides benefits to ratepayers.¹⁰ Similarly, SWRCB Resolution No. 2008-
21 0048 states: small water systems (1) often cannot provide the economies of scale necessary to
22 build and maintain adequate water and wastewater systems; (2) lack resources and in-house
23 expertise, including those necessary to best manage long-term operations; and (3) need financial

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26 ⁹ D.19-04-015, *Application of California-American Water Company, Rio Plaza Water Company, Inc.,*
27 *and John Chris Nickel, Sr., Trustee for the John C. Nickel Trust for an Order Authorizing the Sale of all*
28 *Shares of Rio Plaza Water Company, Inc. to California-American Water Company and Approval of*
Related Matters, Decision Authorizing Sale and Transfer, p. 18, fn. 22.

¹⁰ Pub. Util. Code § 2719.

1 and technical assistance to ensure compliance.

2 California American Water serves a population of approximately 680,000 throughout
3 California. It is one of the largest investor-owned water utilities in the State. Its parent
4 company, American Water, is the largest publicly traded water and wastewater utility in the
5 United States, with operations serving approximately 16 million people across North America.
6 As is discussed in further detail below, California American Water’s size, experience, and
7 resources give it a distinct advantage in being able to replace or upgrade systems effectively and
8 efficiently to meet increasingly stringent state and federal mandates and provide improved access
9 to the capital needed to finance such infrastructure investments. California American Water’s
10 acquisition of Warring will also achieve efficiencies and economies of scale that would
11 otherwise not be available.

12 **1. Improved Access to Capital Supports Granting the Application**

13 As the expense of meeting increasingly stringent regulations climbs, greater amounts of
14 capital will be required to fund infrastructure projects. California American Water has better
15 access to capital and at lower costs than Warring. By D.18-07-013, the Commission recently
16 authorized California American Water to issue up to \$359,450,000 in long-term debt. California
17 American Water has a Financial Services Agreement with American Water Capital Corporation,
18 another subsidiary of American Water. That Agreement’s purpose is to provide financing to
19 other subsidiaries, such as California American Water.¹¹ The Commission and Legislature have
20 recognized that access to capital is important and benefits the public interest. Additionally, the
21 carrying cost of rate base for California American Water would be lower than the prevailing cost
22 under Warring’s current ownership. California American Water’s current cost of capital is
23 7.61%, which is well below 13.75% for Warring as established in Resolution W-4796. Thus,
24 California American Water’s acquisition of Warring ensures access to capital needed to finance
25 infrastructure necessary to supply Warring customers with safe water.

26
27 ¹¹ See D.18-07-013, *Application of California-American Water Company (U210W) to issue, sell and*
28 *deliver debt securities consisting of long-term notes not exceeding \$359,450,000 in the aggregate, and*
other related requests, dated July 12, 2018 (“D.18-07-013”).

1 trouble spreading those increased fixed costs. Because of California American Water’s large
2 size, it has a much better ability to spread costs and improve efficiencies.

3 California American Water anticipates savings in insurance expenses from leveraging
4 American Water’s ability to obtain favorable rates due to the larger company size. Further,
5 California American Water anticipates reducing Warring’s miscellaneous expenses related to
6 regulatory, materials and plant maintenance through leveraging economies of scale, existing
7 employees, and existing statewide shared services. These specific items will not necessarily
8 create dollar-for-dollar savings, as much of the associated work will still need to be performed;
9 however, California American Water will be able to leverage existing economies of scale to
10 perform the work at lower cost, creating long-term savings for Warring customers.

11 Thus, economies of scale based on the ability to spread fixed costs, improved efficiencies
12 through specialization, as well as things such as market presence (which includes access to
13 capital and volume discounts for materials), as well as synergies all support granting the
14 Application.

15 **B. State Water Resources Control Board Policy Supports Application Approval**

16 According to the Public Policy Institute of California, “...the state is actively
17 encouraging one solution: the consolidation of smaller systems into larger ones.”¹² In
18 Resolution No. 2008-0048, the SWRCB noted that small water systems: (1) often cannot provide
19 the economies of scale necessary to build and maintain adequate water and wastewater systems;
20 (2) lack resources and in-house expertise, including those necessary to best manage long-term
21 operations; and (3) need financial and technical assistance to ensure compliance.¹³ Senate Bill
22 88 (2015) added sections 116680-116684 to the California Health and Safety Code, giving the
23 SWRCB the ability to mandate consolidation when appropriate – underscoring the Legislature’s
24

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26 ¹² Available at www.ppic.org/blog/connecting-water-systems-for-safe-drinking-water/: Connecting
27 Water Systems for Safe Drinking Water.

28 ¹³ SWRCB Resolution No. 2008-0048, Promoting Strategies to Assist Small and/or Disadvantaged
Communities with Wastewater Needs, at p. 1.

1 recognition of the need for consolidation. In implementing that new authority, the SWRCB has
2 publicly stated that it “has encouraged – and will continue to encourage –voluntary
3 consolidations of public water systems...”¹⁴ According to the SWRCB, “Small public water
4 systems are often less resilient to natural disasters, such as drought and fire, have more difficulty
5 adjusting to regulatory changes, and may struggle to fund infrastructure maintenance and
6 replacement due to poor economies of scale and lack of staff.”¹⁵ This is why the SWRCB
7 “supports water partnerships whenever feasible.”¹⁶

8 As noted above, California American Water’s acquisition of Warring will help to provide
9 greater economies of scale and bring greater resources and expertise (financial, technical,
10 personnel) to the management and operation of the Warring. This is consistent with the
11 SWRCB’s recognition of the benefits of this type of transaction.

12 C. The Commission’s Water Action Plan Supports Application Approval

13 The Commission’s Water Action Plan recognizes that to maintain the highest standards
14 of water quality, the Commission should provide incentives for the acquisition or operation of
15 smaller water and sewer utilities. In adopting the plan, the Commission noted:

16 Smaller water companies often do not have the resources or expertise to
17 operate in full compliance with increasingly stringent and complex water
18 quality regulations. Many water companies are too small to be viable in
19 the long-term, raising questions as to whether they will be able to continue
20 to provide clean and reliable water in the future. DPH requests Class A
utilities (over 10,000 connections) to report on an annual basis which
smaller utilities they might consider purchasing.¹⁷

21 The Water Action Plan’s objectives include: (1) maintaining the highest standards of
22

23 ¹⁴ Available at www.waterboards.ca.gov/drinking_water/programs/compliance/: Mandatory
24 Consolidation or Extension for Disadvantaged Communities.

25 ¹⁵ Available at
26 https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/waterpartnership.html: Water
System Partnerships and Voluntary Consolidation.

27 ¹⁶ *Id.*

28 ¹⁷ California Public Utilities Commission 2010 Water Action Plan, at p. 9, available at
<http://docs.cpuc.ca.gov/PUBLISHED/Graphics/125501.PDF>.

1 water quality; (2) strengthening water conservation programs to a level comparable to those of
2 energy utilities; (3) promoting water infrastructure investment; (4) assisting low-income
3 ratepayers; (5) streamlining Commission regulatory decision making; and (6) setting rates that
4 balance investment, conservation, and affordability.¹⁸ This application seeks approval of a
5 transaction that will further these Commission objectives.

6 **1. Maintaining the Highest Standards of Water Quality**

7 California American Water’s purchase of Warring will ensure that the first objective of
8 the Water Action Plan (maintaining the highest standards of water quality) is met. This
9 Application seeks approval of a transaction that furthers these Commission objectives. The
10 purchase of a smaller system by a larger system makes economic sense. California American
11 Water will bring economies of scale, greater internal expertise, access to resources, and greater
12 knowledge and experience. These will help maintain the highest standards of water quality.

13 **2. Strengthening Water Conservation Programs**

14 The proposed transaction will also promote the Water Action Plan objective of
15 strengthening conservation. California American Water has an established, successful, more
16 robust conservation program. If the application is approved, Warring customers will ultimately
17 have access to California American Water’s wide-ranging conservation programs. These include
18 rebates for turf replacement, water-saving appliances/equipment (*e.g.*, toilets, clothes washers,
19 weather-based irrigation controls and efficient sprinkler heads), free water-saving devices such
20 as showerheads and hose nozzles and free Water-Wise Home and Business Calls, a water audit
21 service that provides visits by California American Water staff to homes and businesses to
22 review water use and identify ways to save water. Dedicated California American Water
23 employees work one-on-one with customers to audit high consumption connections, inform
24 customers of water saving practices, and provide water saving equipment.

25 **3. Promoting Water Infrastructure Investment**

26 California American Water has greater access to resources, including financing and
27

28 ¹⁸ *Id.* at p. 3.

1 personnel trained in planning for infrastructure development and in finding state and federal
2 funding where available, therefore helping to advance the Water Action Plan's goal of promoting
3 water infrastructure investment.

4 **4. Assisting Low-Income Ratepayers**

5 Warring currently lacks a low-income program. Given Warring's size, such a program
6 could prove difficult for Warring to implement. California American Water has a well-
7 functioning low-income program and has implemented that program in acquired systems.
8 Moreover, California American Water's program benefits from the company's ability (through
9 coordination with energy companies) to identify customers that qualify. This ability is important
10 because some qualified customers may be unaware of the programs or unsure how to subscribe
11 to them. Because of California American Water's size and scope of operations, the data
12 processing costs are kept low on a per-customer basis. The acquisition, therefore, advances the
13 Water Action Plan's objective of assisting low-income ratepayers.

14 **5. Streamlining Commission's Regulatory Decision-Making**

15 California American Water's acquisition of Warring's assets will reduce the workload in
16 terms of Commission review. It decreases the number of independent systems the Commission
17 must regulate and better centralizes reporting for systems.

18 **6. Setting Rates That Balance Investment, Conservation and** 19 **Affordability**

20 Due to California American Water's size, financial strength, and the breadth of expertise
21 of its employees, the acquisition supports the Commission Water Action Plan's objectives of
22 strengthening water conservation programs and setting rates that balance investment,
23 conservation, and affordability. In addition, California American Water is able to spread costs to
24 operate, maintain, and invest over a much larger customer base.

25 For all these reasons, the acquisition will further the Commission's goals under the Water
26 Action Plan and should be approved by the Commission.

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D. Customer Benefits

As discussed above, the purchase will increase the likelihood of the Warring community’s long-term access to safe and reliable water services at affordable prices. California American Water’s size, position in the industry and association with American Water, and the proximity of California American Water’s Ventura service areas, will allow California American Water to meet water quality, reliability, and customer service standards efficiently. California American Water’s larger and more specialized workforce and nearby locations allow for expanded customer service options and for assistance in emergency situations. In addition, after the acquisition, customers now served by Warring will have access to web self-service for many services, paperless billing and call centers that have the capacity to obtain translation services in several languages.

California American Water also has a robust safety program that focuses on leading indicators. The Company’s near miss program is one example of this. Employees are encouraged to report incidents that could have created an injury or accident but did not in that instance. Near miss incidents are reported through a phone call, computer or handheld device. Corrective actions are then taken if appropriate. Another program is the Company’s Safety Lead Program, where field employees are empowered to perform job site safety checks and teach safety courses for co-workers. Learning from their peers is an excellent way to make certain that California American Water communicates safety information to employees and contractors. Finally, each worker carries a “Stop Work Authority” reminder on the back of his/her work identification card. This is a reminder that if an employee feels that a job is unsafe, the employee is empowered to stop the job immediately until the unsafe situation is remedied. All these programs will enhance the safety of the water service provided to customers now served by Warring.

In the long run, a larger total customer base will spread costs and risks, benefiting all current and future California American Water customers.

IV. RATES AND REGULATORY TREATMENT

The regulatory treatment proposed in this application for California American Water’s acquisition of Warring’s assets is in the public interest. The purchase and eventual full

1 consolidation of Warring into California American Water’s Los Angeles County District, with
2 partial allocation of authorized rate base to General Office, for ratemaking purposes supports
3 California American Water’s ability to provide safe, reliable and affordable water and services –
4 including to Warring customers. Assuring affordable, safe and reliable water services is an
5 established goal of the State of California.

6 **A. Request for Authorized Rate Base Equal to Fair Market Value**

7 Applicants request the Commission authorize rate base equal to the total final purchase
8 price (*i.e.*, \$4.6 million plus or minus the Adjustment Amount, plus the Assumed Liabilities).¹⁹
9 The purchase price resulted from negotiations between a willing and informed buyer and a
10 willing and informed seller with neither side compelled to enter into the transaction hastily or out
11 of necessity. The purchase price accounts for forecasted growth in the Warring service area.

12 The purchase price conforms to the definition of “fair market value” set forth in Code of
13 Civil Procedure Section 1263.320(a). Inclusion of the entire purchase price in rate base is
14 supported by Commission Decision D.99-10-064 and the Public Water System Investment and
15 Consolidation Act of 1997 (“Consolidation Act”), codified at Public Utilities Code Sections
16 2718-2720. The Legislature enacted the Consolidation Act to facilitate the acquisitions by Class
17 A water utilities and to:

18 ...aid water systems in making infrastructure improvements, to
19 meet increasingly stringent state and federal drinking water laws,
20 to recognize that economies of scale are achievable in the
21 operation of public water systems, and to provide water
22 corporations with incentives to achieve economies that benefit
23 ratepayers.²⁰

22 Public Utilities Code Section 2720(a) provides that the Commission “shall use the
23 standard of fair market value when establishing the rate base for the distribution system of a
24 public water system acquired by a water [utility]. This standard shall be used for ratesetting.”

25
26 ¹⁹ As is discussed above, this amount is subject to change based on the Adjustment Amount the
27 calculation of which is determined based on the methodology set forth in Exhibit 3 to the Asset Purchase
28 Agreement that is included as Confidential Attachment 1 to the Direct Testimony of Garry Hofer.

²⁰ D.99-10-064, p. 2.

1 Public Utilities Code Section 2720(a)(2) defines “fair market value” as having the meaning set
2 forth in Code of Civil Procedure Section 1263.320, which states that fair market value is “the
3 highest price ... that would be agreed to by a seller, being willing to sell but under no particular
4 or urgent necessity for doing, nor obligated to sell, and a buyer, being ready, willing, and able to
5 buy but under no particular necessity for doing so.” The Act, therefore, requires that any water
6 corporation acquiring a public water system use the fair market value as the rate base value of
7 the acquired distribution system.

8 Applicants request that the Commission authorize inclusion of the full purchase price
9 reached through the Asset Purchase Agreement into California American Water’s rate base. As
10 described above, this purchase price is the result of arms’ length negotiations between a willing
11 and knowledgeable buyer and seller. The total purchase price therefore represents the fair market
12 value for the assets purchased, pursuant to Public Utilities Code Section 2720 and Code of Civil
13 Procedure Section 1263.320(a). While this fair market value exceeds Warring’s existing
14 approved rate base, in accordance with the Consolidation Act, the Commission should authorize
15 California American Water to include the difference between current rate base and the final
16 purchase price paid by California American Water in the rate base for the acquired water
17 system.²¹

18 D.99-10-064 specifically recognizes that Public Utilities Code Sections 2718-2720
19 require that any water corporation acquiring a public water system use the fair market value as
20 the rate base value of the acquired distribution system.²² In addition to being required by
21 statute, the ratemaking requested is in the public interest. The purchase of Warring’s assets by
22 California American Water supports and furthers the long-term provision of safe, reliable, and
23 affordable water and services to current Warring customers.

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27 ²¹ In addition, rate base may be adjusted to include transaction costs, depending on the resolution of
28 recovery of such costs in California American Water’s subsequent GRC.

²² D.99-10-064, p. 2.

1 **B. Rate Impact**

2 Immediately after the application is approved and the transaction closes, the rates
3 applicable for water service in the Warring service area would be the rates already established by
4 Warring at the time of closing. California American Water proposes integration for ratemaking
5 purposes take place in the GRC schedule to be filed as an application on July 1, 2022 for test
6 year 2024. In the interim, between when the sale closes and California American Water’s 2022
7 GRC becomes effective (i.e. January 1, 2024) California American Water requests approval to
8 file standard CPI-U rate increases as allowed for Class C or D utilities, for the former Warring
9 service area. For example, if the sale closes in early 2021, California American Water would file
10 for CPI-U increases for the Warring customers effective January of 2021, 2022, and 2023
11 respectively. Warring would then be consolidated in 2024, so CPI-U increase filings would no
12 longer be necessary. As provided in Commission standard practice, these CPI-U increases
13 would be subject to an earnings test based on the rate base determination from this proceeding.²³

14 California American Water proposes \$2.255 million of the purchase price be allocated to
15 its Los Angeles County District and the remaining \$2.345 million be allocated to the Corporate
16 Office. This will ensure that any increased revenue requirement related to the acquisition be
17 spread over all customers of California American Water on a customer proportional basis
18 through the General Office allocation and not just be spread to the customers of the Los Angeles
19 County District.²⁴

20 For illustrative purposes, it may be constructive to estimate what the revenue impact
21

22
23 ²³ See Cal. Pub. Util. Comm’n, Division of Water and Audits, Standard Practice U-27-W, revised April
24 16, 2014, at ¶65, available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M090/K002/90002198.PDF>.

25 ²⁴ In its pending GRC, California American Water is also seeking to consolidate its Los Angeles County,
26 Ventura County and San Diego County Districts together for ratemaking purposes. This would create a
27 single Southern California Division tariff area. Additionally, California American Water is seeking in its
28 GRC to normalize the rate base of several recently approved acquisitions and one pending acquisition by
spreading the utility plant acquisition adjustment related to those acquisitions either partially or entirely.
(The pending recently approved acquisitions are Rio Plaza Water Company (D.19-04-015), Hillview
Water Company, Inc. (D.19-11-013), and Fruitridge Vista Water Company (D.19-12-038). The pending
acquisition is for the Bellflower Municipal Water System (A.18-09-013).

1 would be if the consolidation were implemented immediately. Based on certain assumptions, the
2 consolidated revenue requirement of California American Water would increase approximately
3 0.35% under rate consolidation. Based on the average residential usage, Warring customers and
4 California American Water customers would see an increase of approximately 0.12%. However,
5 this estimate is for illustrative purposes only. California American Water is not seeking
6 immediate ratemaking consolidation of Warring in this application.

7 **C. Memorandum Accounts**

8 California American Water seeks authorization to track certain costs in the memorandum
9 accounts discussed below. Costs included therein may be considered for recovery in subsequent
10 GRCs. Establishing memorandum accounts does not guarantee recovery of costs. It is simply a
11 first step in the recovery process. To establish a memorandum account, the expense to be
12 tracked may be reviewed using the following four criteria: (1) they are caused by an event of an
13 exceptional nature not under the control of the utility; (2) they cannot have been reasonably
14 foreseen; (3) they are of a substantial nature in monetary terms; and (4) ratepayers benefit from
15 the memorandum account treatment.

16 **1. Warring Acquisition Contingency Memorandum Account**

17 Although integration of Warring for ratemaking purposes will not take place until 2024, it
18 is still necessary for California American Water to obtain recovery of the approved acquisition
19 consideration paid in the interim period. In order to track this revenue requirement associated
20 with the acquisition, California American Water requests authority to create a memorandum
21 account, the WACMA, to track lost revenue from all affected entities until the acquisition can be
22 integrated for ratemaking purposes as part of a subsequent GRC. This account would capture the
23 differences between revenues billed at current Warring rates and revenues that would have been
24 billed under the final rates effective January 1, 2021²⁵, if the Warring system were integrated for
25 ratemaking following the decision in California American Water's 2019 GRC. The associated
26

27 ²⁵ This differential capture would include differences in all revenue requirements of all entities in
28 California American Water where a difference may occur due to the inability to capture the Warring
acquisition in the 2019 California American Water GRC.

1 revenue requirement will consist of items including, but not limited to, return on investment, ad
2 valorem tax, depreciation, general office costs, other taxes and fees, and incremental operating
3 expenses.

4 **2. Warring Transaction Cost Memorandum Account**

5 As with any acquisition, transaction costs will occur. Such costs may include outsourced
6 services, such as legal, engineering, surveying, the appraisal, noticing costs, and other
7 professional activities. As discussed above, the purchase of Warring by California American
8 Water promotes the public interest and is in line with Commission and SWRCB directives and
9 findings, which recognize that the purchase of smaller utilities is important and provides
10 benefits, including to ratepayers. Ensuring the appropriate recovery of costs associated with
11 such transactions helps make such acquisitions possible. California American Water proposes it
12 be permitted to defer any unrecovered transactional costs as a recoverable regulatory asset. In its
13 subsequent GRC, California American Water will support the prudence of the transactional
14 costs, support their proposed regulatory treatment, seek recovery of the costs, and request that
15 the Commission authorize such recovery.

16 **3. Memorandum Account for Environmental Improvements and** 17 **Compliance Issues for Applications**

18 California American Water also requests Commission approval to expand the currently
19 authorized memorandum account entitled “Memorandum Account for Environmental
20 Improvements and Compliance Issues for Acquisitions.” That approval would allow California
21 American Water to record in that account the same type of costs in connection with the Warring
22 acquisition as California American Water was allowed to record in that account for the
23 acquisitions of the Dunnigan, Geyserville, Meadowbrook and Rio Plaza water systems.²⁶ The
24 costs to address environmental compliance and required improvements have yet to be

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26 ²⁶ Because California American Water is not seeking to establish a new memorandum account, meeting
27 the prerequisites for creating such an account is not necessary. That said, because of the nature of the
28 costs to be tracked, such prerequisites are nonetheless satisfied. The memorandum account treatment
helps make certain that the requisite capital expenditures will be subject to regulatory oversight and that
funds are used judiciously.

1 determined. Such costs are not under the utility’s control, nor can they be reasonably foreseen.
2 Compliance with such requirements, however, ensures safety, benefitting ratepayers. The
3 proposed memorandum account treatment helps make certain that the requisite capital
4 expenditures will be subject to regulatory oversight and that funds will be used judiciously.

5 **V. THE ACQUISITION COMPLIES WITH COMMISSION DECISION 99-10-064**

6 After the Legislature passed the Consolidation Act, which added Sections 2718, 2719,
7 and 2720 to the Public Utilities Code, the Commission instituted Rulemaking 97-10-048 to set
8 guidelines for acquisitions and mergers of water companies. The final decision in that
9 proceeding approved the terms of a settlement agreement included as Appendix D to D.99-10-
10 064. That Appendix contains guidelines for mergers and acquisitions of water utilities in
11 accordance with Public Utilities Code Sections 2718, *et seq.* Five relevant sections from the
12 settlement from D.99-10-064 support granting this Application.

13 First, Section 2.04 states applications should include a forecast of the results of operation
14 for the acquiring utility, the acquired utility, and the combined operation for the first and fifth
15 years following the acquisition, with the supporting information. Attachment 1 to this
16 Application includes those results of operation.

17 Second, Section 2.05 states the applicant should include an appraisal with all supporting
18 materials and work papers. It also states such an appraisal “should include all assets, including
19 the value of the land and the cost of replacing the existing improvements, less accumulated
20 depreciation.” The required appraisal, which includes a Replacement Cost New Less
21 Depreciation (“RCNLD”) analysis is included with the Direct Testimony of Kevin Zanni of
22 Willamette Management Associates. The total valuation of the system is in excess of the
23 purchase price. The total RCNLD valuation of the system is \$5.3 million.

24 Third, Section 2.07 states the appraisal should value contributed assets in accordance
25 with Section 820 of the Evidence Code. Contributed assets have been appropriately included in
26 the appraisal of Warring’s assets in accordance with Section 820 of the Evidence Code.

27 Fourth, Section 4.03 states notice of a proposed acquisition should be given to all affected
28

1 customers at the time when the application is filed with the Commission.²⁷ Copies of the draft
2 notices are included as Attachment 2 to this Application. The notices will be sent to Warring
3 customers and to all California American Water customers statewide as soon as the Commission
4 assigns an application number in this proceeding and the Commission’s Public Advisor’s Office
5 has reviewed and approved the notices.

6 Fifth, Section 5.00 states the utility needs to address how it will finance the acquisition.
7 It may either file an application for the long-term debt financing of a particular acquisition or
8 rely on authorization previously given by the Commission. The acquisition of Warring is small
9 compared to the size of California American Water and the Company already has sufficient
10 financing authority to complete the transaction. With respect to long-term debt financing, in
11 D.18-07-013, the Commission authorized California American Water to issue up to
12 \$359,450,000 in long-term debt for the following purposes: “the refinancing of existing debt,
13 upgrade aging infrastructure, addition of new facilities and infrastructure, *acquisition of other*
14 *utility property and systems*, reimbursement of its treasury for capital expenditures, and support
15 for the construction of the Monterey Peninsula Water Supply Project.”²⁸

16 This Application, therefore, meets and exceeds the guidelines for acquisitions set forth in
17 D.99-10-064 and should therefore be approved.

18 **VI. SAFETY**

19 California American Water is committed to the safety of its employees and customers.
20 The Company’s commitment to worker safety is reflected in its work to eliminate OSHA
21 recordable incidents and provide training to employees. California American Water has
22 implemented extensive safety programs designed to protect both its workforce and customers.

23 California American Water’s commitment to safety involves efforts to protect system
24 infrastructure and safeguard customer water supplies. Such efforts include ensuring back-up
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27 ²⁷ Technically, this Section 4.03 may apply only to the acquisition of mutual and publicly-owned water
28 systems.

²⁸ D.18-07-013, at p. 15, Finding of Fact 5 (emphasis added).

1 power at critical sites and protecting its SCADA system. They also involve assessments of
2 system vulnerabilities to wildfires, Public Safety Power Shutoffs, and terrorist acts and
3 formulating response plans.

4 California American Water’s parent, American Water, is a member of several
5 organizations focused on safety concerns, including Water Information Sharing and Analysis
6 Center, Infragard, Homeland Security Information Network and Industrial Control System
7 Computer Emergency Response Team. Information obtained from such groups helps provide
8 American Water and its subsidiaries with information on possible physical and cyber threats as
9 well as best practices. American Water’s physical security program was developed in
10 compliance with the Corporations Physical Security Policy, which adopts best practices and
11 standards from the American Water Works Association and American Society for Industrial
12 Security.

13 Such a commitment to safety supports the acquisition at issue in this Application.
14 California American Water’s efforts and resources in that area will benefit Warring customers.

15 **VII. CEQA REVIEW IS NOT REQUIRED**

16 Rule 2.4 of the Commission’s Rules of Practice and Procedure requires applications to
17 address the applicability of the California Environmental Quality Act (“CEQA”) to the proposed
18 project or transaction that is the subject of the application. The transaction described in this
19 Application is not subject to CEQA because it does not constitute a “project” within the meaning
20 of CEQA. Projects under CEQA are those specifically defined as any “activity which may cause
21 either a direct physical change [to] the environment, or a reasonably foreseeable indirect physical
22 change in the environment.”²⁹ A proposed “activity [that] will not result in a direct or
23 reasonably foreseeable indirect physical change in the environment” is not subject to CEQA.³⁰
24 Similarly, where “it can be seen with certainty that there is no possibility that the [proposed]

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27 ²⁹ See Cal. Pub. Res. Code § 21065.

28 ³⁰ CEQA Guidelines at § 15060(c)(2).

1 activity in question may have a significant effect on the environment, the activity is not subject
2 to CEQA.”³¹

3 This Application seeks Commission approval of the acquisition of Warring assets by
4 California American Water. Critically, once sold and transferred, there will be no change in the
5 operation of the Warring Assets. They will be used and operated in the same manner and for the
6 same purposes for which they are currently being used – to provide water service. The
7 Commission has consistently held such a transfer of control and operation of existing water
8 system facilities does not result in any changes to the environment, and thus, an application
9 seeking authorization for such a transaction is not subject to CEQA.³² Here, also, because it is
10 clear that no “direct or reasonably foreseeable indirect physical change in the environment” will
11 occur as a result of the proposed transaction, it is not subject to the provisions of CEQA.

12 **VIII. OTHER PROCEDURAL REQUIREMENTS**

13 **A. Communications Concerning Application**

14 All communications and correspondence with the Applicants should be directed to:

15 Sarah E. Leeper
16 California-American Water Company
17 555 Montgomery Street, Suite 816
18 San Francisco, CA 94111
19 Tel: (415) 863-2960
20 Fax: (415) 397-1586
21 Email: sarah.leeper@amwater.com

Cathy A. Hongola-Baptista
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
Tel: (415) 293-3023
Fax: (415) 397-1586
Email: cathy.hongola-
baptista@amwater.com

22
23
24 ³¹ CEQA Guidelines at § 15061(b)(3).

25 ³² D.13-01-033, *Application of California-American Water Company (U210W) and Garrapata Water*
26 *Company (U212W) for an Order Authorizing Garrapata Water Company to Sell and California-*
27 *American Water Company to Purchase the Assets of Garrapata Water Company*, dated January 24, 2013,
28 pp. 8-9; D.11-03-016, *Application of Watertek, Inc. a California corporation (U420W) for Authority to*
Sell and Del Oro Water Co., Inc (U61W) for Authority to Buy the Watertek, Inc. Water Utilities (Grand
View Gardens and East Plano) in Tulare County and (Metropolitan) in Fresno County, dated March 10,
2011, pp. 9-10.

1 Frank Brommenschenkel
2 Frank B & Associates
3 Water Management Consulting
4 134 Davis Street
5 Santa Paula, CA 93060
6 Phone: (805) 525-4200
7 Email: frank.brommen@verizon.net

Glen Pace
President/Manager
Warring Water Service, Inc.
P.O. Box 189 Piru, CA 93040
Phone: (805) 795-7600
Email: glen.pace@ECGcivil.com

6 **B. Articles of Incorporation and Financial Statements**

7 A copy of Warring's articles of incorporation is included as Attachment 3 to this
8 Application.³³ Warring's most recent balance sheet and income statements were provided to
9 Water Division in connection with the 2018 Annual Report.

10 California American Water filed a certified copy of its articles of incorporation with the
11 Commission on January 6, 1966, in Application 48170. California American Water filed a
12 certified copy of an amendment to its articles of incorporation with the Commission on
13 November 30, 1989, in Application 89-11-036. California American Water filed a certified copy
14 of a further amendment to its articles of incorporation with the Commission on February 28,
15 2002, in Application 02-02-030. California American Water filed, with the Commission, a
16 certified copy of an additional amendment to its articles of incorporation with Application 17-04-
17 003. California American Water has not subsequently amended its articles of incorporation.

18 **C. Categorization and Schedule**

19 Applicants request that the Commission classify this Application as ratesetting. The
20 issues presented in the Application are whether the transaction will serve the public interest,
21 whether California American Water is financially qualified to acquire Warring, whether
22 California American Water is qualified to operate the Warring system, what the appropriate rate
23 base for the acquisition should be and whether the Commission should approve the several rate-
24 setting procedures and memorandum accounts proposed herein. Applicants believe these issues
25 should not raise material contested issues of fact, so hearings may not be required.

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28 ³³ At the time of filing Warring could not verify when the articles were previously filed with the
Commission.

1 The following schedule is consistent with D.99-10-064, including the schedule provided
2 in the settlement attached to that decision between the Ratepayer Representation Branch of
3 Water Division (predecessor to Public Advocates Office) and the Class A water utilities.

4	Application Filed	April 24, 2020 (Day 0)
5	Protests Filed	30 days after Application filed
6	Replies to Protest	40 days after Application filed
7	Prehearing Conference	45 days after Application filed
8	Cal PA's Report	90 days after Application filed
9	Hearings (if required)	120-125 Days after Application filed
10	Briefs	155 Days after Application filed
11	Proposed Decision	215* Days after Application filed
12	Commission's Agenda	245** Days after Application filed

13 * Or 60 days after the case is submitted.

14 ** Or 90 days after the case is submitted.

15
16 **IX. NOTICE AND SERVICE OF THE APPLICATION**

17 As soon as the Commission has accepted this Application for filing and assigned it an
18 application number and the notices have been approved by the Commission's Public Advisor's
19 Office, Warring will provide notice of the proposed transaction and the filing of this Application
20 to its customers and California American Water will provide notice to all of its customers
21 statewide. Copies of the draft notices are included as Attachment 2 to this Application.

22 A copy of this Application is also being served on those persons and entities set forth on
23 the service list for the Application.

24 **X. CONCLUSION**

25 For the reasons set forth above, the Applicants respectfully request that the Commission
26 issue an order approving this Application and granting each and every request made herein.

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DATED: April 27, 2020
By /s/ Frank Brommenschenkel

Frank Brommenschenkel

Frank Brommenschenkel
Frank B & Associates
Water Management Consulting
134 Davis Street
Santa Paula, CA 93060
Phone: (805) 525-4200
Email: frank.brommen@verizon.net

For Warring Water Service, Inc.

Respectfully submitted,
By /s/ Cathy A. Hongola-Baptista

Cathy A. Hongola-Baptista

Sarah E. Leeper
Cathy A. Hongola-Baptista
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
Tel: (415) 863-2960
Fax: (415) 397-1586
Email: sarah.leeper@amwater.com
cathy.hongola-baptista@amwater.com

Attorneys for Applicant
California-American Water Company

VERIFICATION

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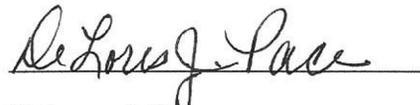
I, DeLores J. Pace, declare and verify the following:

1. This verification is made in connection with the "Joint Application of California-American Water Company (U-210-W) and Warring Water Service, Inc. (U-321-W) for an Order Authorizing Warring Water Service, Inc. to Sell and California-American Water to Purchase the Water Utility Assets of Warring Water Service, Inc." (the "Application").

2. I am the Secretary and an owner of Warring Water Service, Inc. (U-3321-W), a party to the Application. I have read the Application. As to those matters in the Application of which I have personal knowledge, I verify them to be true. As to those matters stated on information and belief, I believe them to be true.

3. I declare, under penalty of perjury under the laws of the State of California, the foregoing is true and correct.

Executed this 25 day of April, 2020 at Fillmore, California.


DeLores J. Pace

VERIFICATION

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I, Jeffrey T. Linam, declare and verify the following:

1. This verification is made in connection with the “Joint Application of California-American Water Company (U-210-W) and Warring Water Service, Inc. (U-321-W) for an Order Authorizing Warring Water Service, Inc. to Sell and California-American Water to Purchase the Water Utility Assets of Warring Water Service, Inc.” (the “Application”).

2. I am the Vice President of Rates and Regulatory for California-American Water Company, a party to the Application. I have read the Application. As to those matters in the Application of which I have personal knowledge, I verify them to be true. As to those matters stated on information and belief, I believe them to be true.

3. I declare, under penalty of perjury under the laws of the State of California, the foregoing is true and correct.

Executed this 24 day of April, 2020, at San Diego, California.


Jeffrey T. Linam

ATTACHMENT 1

California American Water Company
Warring Water Company

Results of Operations Year 1 and Year 5 Projections (\$1,000)

	California American Water*		Warring		Combined Water Companies	
	Y1 **	Y5 ***	Y1 **	Y5 ***	Y1 **	Y5 ***
Operating Water Revenues	\$ 272,624	\$ 312,795	\$ 644	\$ 705	\$ 273,268	\$ 313,501
Operating Expenses	\$ 169,432	\$ 176,432	\$ 319	\$ 343	\$ 169,751	\$ 176,776
Depreciation	\$ 31,737	\$ 42,760	\$ 115	\$ 140	\$ 31,852	\$ 42,901
General Taxes	\$ 8,880	\$ 10,850	\$ 48	\$ 52	\$ 8,928	\$ 10,902
Total Exp. Before Inc Tax	\$ 210,048	\$ 230,043	\$ 482	\$ 536	\$ 210,531	\$ 230,578
Income Taxes (Fed & State)	\$ 10,073	\$ 13,843	\$ 45	\$ 47	\$ 10,117	\$ 13,890
Total Expenses	\$ 220,121	\$ 243,886	\$ 527	\$ 582	\$ 220,648	\$ 244,469
Net Operating Revenue	\$ 52,503	\$ 68,909	\$ 117	\$ 123	\$ 52,620	\$ 69,032

*Y1 based on pending GRC forecasted revenue requirement; Y5 based on GRC forecast plus escalation assumptions

** - does not include any increase due to the Warring acquisition since it is requested that rates are increased in Test Year 2024 of the next GRC

*** - Includes the amounts to cover the revenue shortfall per Warring - Attachment 1 that is proposed to be included in General Office

ATTACHMENT 2

DRAFT NOTICE TO WARRING WATER SERVICE, INC. CUSTOMERS

April 27, 2020

Warring Water Service, Inc.
P.O. Box 189
Piru, CA 93040

Re: California American Water's Application to Purchase Warring Water Service, Inc.

Application A.20-__ - _____

Dear Customers:

As you may know, California-American Water Company (California American Water) recently agreed to buy your water provider, Warring Water Service, Inc. (Warring). The California Public Utilities Commission (CPUC) must approve the sale.

On April 27, 2020, California American Water and Warring submitted application A.20-__ - _____ to the CPUC. The application seeks CPUC approval of California American Water's acquisition of Warring's assets, permission for California American Water to serve Warring's customers, and inclusion of Warring's service area into California American Water's CPUC approved service territory.

Upon approval of this application, your rates will not be directly affected until 2024.

The proposed acquisition would result in an approximate **0.12% increase**. Based on current rates for a typical residential Warring customer with a bill of \$56.07, this would amount to a 7 cent monthly increase.¹ The actual amounts of any rate changes will be determined through a General Rate Case (GRC) process. California American Water expects to file its next GRC in July of 2022, for rates to take effect in 2024. California American Water is also proposing the Warring service area be consolidated into its Ventura County District for operational purposes. A decision on any rate or ratemaking consolidation in the Los Angeles District will be considered in California American Water's next GRC.

CPUC PROCESS

This application will be assigned to a judge, who will consider proposals and evidence presented during the formal hearing process. The judge will issue a proposed decision which may adopt California American Water's application, modify it or deny it. Any CPUC Commissioner may sponsor an alternate decision. The proposed decision, and any alternate decisions, will be discussed and voted upon by the CPUC Commissioners.

The Public Advocates Office (Cal Advocates) will review this application. Cal Advocates is the independent consumer advocate within the CPUC with a statutory mandate to represent

¹ Actual increases may vary depending on outcome of pending and future General Rate Cases and subsequent requests.

customers of investor-owned utilities to obtain the lowest possible rate for service consistent with safe and reliable service and the state's environmental policy goals. Cal Advocates has a multi-disciplinary staff with expertise in economics, finance, accounting and engineering. For more information about Cal Advocates, please call (415) 703-1584, e-mail PublicAdvocatesOffice@cpuc.ca.gov, or visit Cal Advocates' website at publicadvocates.cpuc.ca.gov.

WHERE CAN I GET MORE INFORMATION?

Contact California American Water

Write: Vera Kostikova
4701 Beloit Drive
Sacramento, CA 95838
Email: vera.kostikova@amwater.com
Phone: (916) 568-4246

Contact the CPUC

You may also get information about this proceeding by contacting the CPUC:

- If you would like to make a comment, please visit cpuc.ca.gov/A20 **Comment** to submit a comment on the CPUC Docket Card. You can also review other public comments.
- If you have questions about CPUC processes, you may contact the CPUC's Public Advisor's Office:

Write: CPUC Public Advisor's Office
505 Van Ness Avenue
San Francisco, CA 94102
Email: public.advisor@cpuc.ca.gov
Phone: 1-866-849-8390
1-866-836-7825 TTY

Please refer to **Application A.20-__-__** in any communications with the CPUC regarding this matter.

Sincerely,

Warring Water Service, Inc.

DRAFT NOTICE TO CALIFORNIA-AMERICAN WATER COMPANY CUSTOMERS

April 27, 2020

NOTICE OF APPLICATION REQUESTING THE SALE OF WARRING WATER SERVICE, INC. TO CALIFORNIA-AMERICAN WATER COMPANY APPLICATION

A.20- -

On April 27, 2020, California-American Water Company (California American Water) submitted Application A.20- - to the California Public Utilities Commission (CPUC). The application seeks CPUC's approval of California American Water's acquisition of Warring Water Service, Inc's (Warring) assets, permission for California American Water to service Warring customers, and consolidation of those customers for operational purposes into California American Water's Ventura County District and consolidation for ratemaking purposes into California American Water's Los Angeles County District.

Warring includes approximately 518 customer service connections. It owns and operates a water production, storage and distribution system consisting of wells, meters, mains and distribution lines. The integration of the Warring system into California American Water's systems is expected to create greater economies of scale and synergies, which would benefit both existing customers and Warring customers over time. The acquisition also helps to ensure the provision of safe and reliable water service for Warring and California American Water customers now and in the future.

The average residential California American Water customer is not expected to see any rate or bill impact from the purchase of Warring Water until 2024. California American Water has requested a portion of the purchase price of the Warring water system to be included in the California American Water General Office costs and recovered from all California American Water customers. Based on requested rates in California American Water's ongoing General Rate Case (GRC)¹, this would result in an approximate 0.12% increase to all customers.²

If this purchase is approved, California American Water will in a future GRC seek to consolidate its Warring customers with those of the Los Angeles District, for ratemaking purposes. Potential rate changes will be addressed in future GRCs. California American Water expects to file its next GRC in July of 2022, for rates to take effect in 2024. You will receive notice of the GRC proceedings.

CPUC PROCESS

This application will be assigned to a judge, who will consider proposals and evidence presented during the formal hearing process. The judge will issue a proposed decision which may adopt California American Water's application, modify it or deny it. Any CPUC Commissioner may

¹ Application 19-07-004.

² Actual increases may vary depending on outcome of General Rate Case and subsequent requests.

sponsor an alternate decision. The proposed decision, and any alternate decisions, will be discussed and voted upon by the CPUC Commissioners.

The Public Advocates Office (Cal Advocates) will review this application. Cal Advocates is the independent consumer advocate within the CPUC with a statutory mandate to represent customers of investor-owned utilities to obtain the lowest possible rate for service consistent with safe and reliable service and the state's environmental policy goals. Cal Advocates has a multi-disciplinary staff with expertise in economics, finance, accounting and engineering. For more information about Cal Advocates, please call (415) 703-1584, e-mail PublicAdvocatesOffice@cpuc.ca.gov, or visit Cal Advocates' website at publicadvocates.cpuc.ca.gov.

WHERE CAN I GET MORE INFORMATION?

Contact California American Water

Write: Vera Kostikova
4701 Beloit Drive
Sacramento, CA 95838
Email: vera.kostikova@amwater.com
Phone: (916) 568-4246

Contact the CPUC

You may also get information about this proceeding by contacting the CPUC:

- If you would like to make a comment, please visit cpuc.ca.gov/A20 _____ **Comment** to submit a comment on the CPUC Docket Card. You can also review other public comments.
- If you have questions about CPUC processes, you may contact the CPUC's Public Advisor's Office:

Write: CPUC Public Advisor's Office
505 Van Ness Avenue
San Francisco, CA 94102
Email: public.advisor@cpuc.ca.gov
Phone: 1-866-849-8390
1-866-836-7825 TTY

Please refer to **Application A.20-**_____ in any communications with the CPUC regarding this matter.

ATTACHMENT 3



State of California

OFFICE OF THE SECRETARY OF STATE

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this

JUL 11 1988



March Fong Eu

Secretary of State

509441

ARTICLES OF INCORPORATION
OF
WARRING WATER SERVICE INC.

FILED
In the office of the Secretary of State
of the State of California

MAY 20 1966

FRANK M. JORDAN, Secretary of State

By *[Signature]*
Deputy

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under and pursuant to the laws of the State of California, and we do hereby certify:

FIRST: The name of the corporation is WARRING WATER SERVICE, INC.

SECOND: The purposes for which the corporation is formed are:

Restriction of right
to amend articles
Yes **OK**

(a) The specific business in which the corporation proposes primarily to engage is the operation of a public utility water business supplying water to domestic, agricultural and commercial consumers in the Piru, California area, in the County of Ventura, State of California.

(b) To engage generally in the business of furnishing water and services connected therewith.

(c) To engage in any business, related or unrelated, to those described in clauses (a) and (b) of this Article SECOND, from time to time authorized or approved by the Board of Directors of this corporation, or carry on any trade or business which can, in the opinion of the Board of Directors of this corporation, be advantageously carried on in connection with or auxiliary to those described in clauses (a) and (b) of this Article SECOND, and to do all such things as are incidental or conducive to the attainment of the above objects, or any of them.

- (d) To become a member of any partnership or joint venture and to promote and organize other corporations;
- (e) To guarantee the contracts of customers and others;
- (f) To do business anywhere in the world;
- (g) To have and exercise all rights and powers from time to time granted to a corporation by law.

The foregoing shall be construed as objects, purposes and powers and the enumeration thereof shall not be held to limit or restrict in any manner the powers now or hereafter conferred on this corporation by the laws of the State of California.

The objects, purposes and powers specified herein shall, except as otherwise expressed, be in no way limited or restricted by reference to or inference from the terms of any other clause or paragraph of these Articles. The objects, purposes and powers specified in each of the clauses or paragraphs of these Articles of Incorporation shall be regarded as independent objects, purposes and powers.

The corporation may in its by-laws confer powers not in conflict with law, upon its Directors, in addition to the foregoing and in addition to the powers and authority expressly conferred upon them by statute.

THIRD: The county in the State of California where the principal office of the corporation for the purpose of transacting its business is located is the county of Ventura.

FOURTH:

(a) The number of Directors of this corporation is three (3).

(b) The names and addresses of the persons who are appointed as first Directors are:

NAME:
ALICE WAPPING GIDDINGS

ADDRESS:
351 North Dos Caminos
Ventura, California

Restriction of Right
to ...

<u>NAME:</u>	<u>ADDRESS:</u>
FRANCES W. TALBOT	245 Eugenia Drive Ventura, California
ROBERT D. TALBOT	245 Eugenia Drive Ventura, California

(c) The number of Directors of the corporation set forth in clause (a) of the Article FOURTH shall constitute the authorized number of Directors until changed by an amendment of these Articles of Incorporation or by a by-law duly adopted by the vote or written consent of the holders of a majority of the then outstanding shares of stock of the corporation.

FIFTH: The total number of shares which the corporation is authorized to issue is One Thousand (1,000) shares. The aggregate par value of all said shares is One Hundred Thousand Dollars (\$100,000.00), and the par value of each share is One Hundred Dollars (\$100.00).

SIXTH: Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of the Directors.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of California, we, the undersigned, constituting the incorporators of this corporation, and including all of the persons named herein as the first Directors, have executed these Articles of Incorporation this 17 day of May, 1966.

Alice Warring Giddings
ALICE WARRING GIDDINGS

Frances W. Talbot
FRANCES W. TALBOT

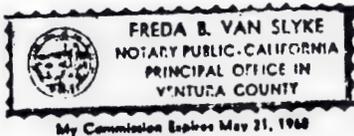
Robert D. Talbot
ROBERT D. TALBOT

STATE OF CALIFORNIA }
COUNTY OF VENTURA } ss.

On this 17 day of May, 1966, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ALICE WARRING GIDDINGS, FRANCES W. TALBOT and ROBERT D. TALBOT, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Freda B. Van Slyke
Notary Public in and for Said
County and State



ARTICLES OF INCORPORATION

OF

I

The name of this corporation is

WARRING WATER SERVICE, INC.

II

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Alice Warring Giddings
245 Eugenia Dr.
Ventura, Ca 93003

IV

This corporation is authorized to issue only one class of shares of stock; and the total number of shares which this corporation is authorized to issue is 5,000

Dated: May 20, 1966

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

Alice Warring Giddings



B Y L A W S

O F

WARRING WATER SERVICE, INC.

A CALIFORNIA CORPORATION.

Article I.

OFFICES

Section 1. PRINCIPAL EXECUTIVE OFFICE. The principal executive office of the corporation shall be located at such place as the board of directors shall from time to time determine.

Section 2. OTHER OFFICES. Other offices may at any time be established by the board of directors or the chief executive officer at any place or places where the corporation is qualified to do business.

Article II.

MEETINGS OF SHAREHOLDERS

Section 1. PLACE OF MEETINGS. All meetings of shareholders shall be held at the principal executive office of the corporation or at any other place within or without the State of California which may be designated either by the board of directors or by the shareholders in accordance with these bylaws.

Section 2. ANNUAL MEETINGS. The annual meetings of shareholders shall be held on the _____ day of _____, of each year, at _____ o'clock

M. or at such other date and time as shall be designated from time to time by the board of directors or by the shareholders in accordance with these bylaws. If the date set forth in these bylaws falls upon a legal holiday, then such annual meeting of shareholders shall be held at the same time and place on the next day thereafter ensuing which is not a legal holiday. At such annual meetings, directors shall be elected, and any other business may be transacted which is within the powers of the shareholders.

Section 3. SPECIAL MEETINGS. Special meetings of the shareholders, for the purpose of taking any action which is within the powers of the shareholders, may be called at any time by the chairman of the board or the president or by the board of directors, or by the holders of shares entitled to cast not less than ten percent of the votes at the meeting. Upon request in writing that a special meeting of shareholders be called for any proper purpose, directed to the chairman of the board, president, vice-president or secretary by any person (other than the board) entitled to call a special meeting of shareholders, the officer forthwith shall cause notice to be given to the shareholders entitled to vote that a meeting will be held at a time requested by the person or persons calling the meeting, not less than thirty-five nor more than sixty days after receipt of the request.

Section 4. NOTICE OF MEETINGS OF SHAREHOLDERS. Written notice of each meeting of shareholders, whether annual or special, shall be given to each shareholder entitled to vote thereat, either personally or by mail or other means of written communication, charges prepaid, addressed to such shareholder at the address of such shareholder appearing on the books of the corporation or given by such shareholder to the corporation for the purpose of notice. If any notice addressed to the shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the shareholder at such address, all future notices shall be deemed to have been duly given without further mailing if the same shall be available for the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of one year from the date of the giving of the notice to all other shareholders. If no address appears on the books of the corporation or is given by the shareholder to the corporation for the purpose of notice, notice shall be deemed to have been given to such shareholder if sent by mail or other means of written communication addressed to the place where the principal executive office of the corporation is located, or if published at least once in a newspaper of general circulation in the county in which the principal executive office is located.

All such notices shall be given to each shareholder entitled thereto not less than ten days nor more than sixty days before the meeting. Any such notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any such notice

in accordance with the foregoing provisions, executed by the secretary, assistant secretary or any transfer agent of the corporation shall be prima facie evidence of the giving of the notice.

All such notices shall state the place, date and hour of such meeting. In the case of a special meeting such notice shall also state the general nature of the business to be transacted at such meeting, and no other business may be transacted thereat. In the case of an annual meeting, such notice shall also state those matters which the board of directors at the time of the mailing of the notice intends to present for action by the shareholders. Any proper matter may be presented at an annual meeting of shareholders though not stated in the notice, provided that unless the general nature of a proposal to be approved by the shareholders relating to the following matters is stated in the notice or a written waiver of notice, any such shareholder approval will require unanimous approval of all shareholders entitled to vote:

(a) a proposal to approve a contract or other transaction between the corporation and one or more of its directors or any corporation, firm or association in which one or more of its directors has a material financial interest or is also a director;

(b) A proposal to amend the articles of incorporation;

(c) A proposal to approve the principal terms of a reorganization as defined in Section 181 of the General Corporation Law;

(d) A proposal to wind up and dissolve the corporation;

(e) If the corporation has preferred shares outstanding and the corporation is in the process of winding up, a proposal to adopt a plan of distribution of shares, obligations or securities of any other corporation or assets other than money which is not in accordance with the liquidation rights of the preferred shares.

The notice of any meeting at which directors are to be elected shall include the names of nominees intended at the time of the notice to be presented by management for election.

Section 5. QUORUM. The presence in person or by proxy of the holders of a majority of the shares entitled to vote at any meeting shall constitute a quorum for the

transaction of business. The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

Section 6. ADJOURNED MEETINGS AND NOTICE THEREOF. Any shareholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by vote of a majority of the shares the holders of which are either present in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting, except as provided in Section 4 of this Article II.

When any shareholders' meeting, either annual or special, is adjourned for forty-five days or more, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting as in the case of an original meeting. Except as set forth in this Section 6 of Article II, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement of the time and place thereof at the meeting at which such adjournment is taken.

Section 7. VOTING. At all meetings of shareholders, every shareholder entitled to vote shall have the right to vote in person or by proxy the number of shares standing in the name of such shareholder on the stock records of the corporation on the record date for such meeting. Shares held by an administrator, executor, guardian, conservator, custodian, trustee, receiver, pledgee, minor, corporation or fiduciary or held by this corporation or a subsidiary of this corporation in a fiduciary capacity or by two or more persons shall be voted in the manner set forth in Sections 702, 703, and 704 of the General Corporation Law. Shares of this corporation owned by this corporation or a subsidiary (except shares held in a fiduciary capacity) shall not be entitled to vote. Unless a record date for voting purposes is fixed pursuant to Section 1 of Article V of these bylaws, then only persons in whose names shares entitled to vote stand on the stock records of the corporation at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held, shall be entitled to vote at such meeting, and such day shall be the record date for such meeting. Votes at a meeting may be given by viva voce or by ballot; provided,

however, that all elections for directors must be by ballot upon demand made by a shareholder at any election and before the voting begins. If a quorum is present at the beginning of the meeting, except with respect to the election of directors (and subject to the provisions of Section 5 of this Article II should shareholders withdraw thereafter) the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on any matter shall be the act of the shareholders and shall decide any question properly brought before the meeting, unless the vote of a greater number or voting by classes is required by the General Corporation Law or the Articles of Incorporation, in which case the vote so required shall govern and control the decision of such question. Subject to the provisions of the next sentence, at all elections of directors of the corporation, each shareholder shall be entitled to cumulate his votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which his shares are entitled, or to distribute his votes on the same principle among as many candidates as he shall think fit. No shareholder shall be entitled to cumulate his votes unless the name of the candidate or candidates for whom such votes would be cast has been placed in nomination prior to the voting and any shareholder has given notice at the meeting prior to the voting, of such shareholder's intention to cumulate his votes. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected.

Section 8. WAIVER OF NOTICE AND CONSENT OF ABSENTEES. The proceedings and transactions of any meeting of shareholders, either annual or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of such meeting, or an approval of the minutes thereof. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law or these bylaws to be included in the notice but which was not so included, if such objection is expressly made at the meeting, provided however, that any person making such objection at the beginning of the meeting or to the consideration of matters required to be but not included in the

notice may orally withdraw such objection at the meeting or thereafter waive such objection by signing a written waiver thereof or a consent to the holding of the meeting or the consideration of the matter or an approval of the minutes of the meeting. Neither the business to be transacted at nor the purpose of any annual or special meeting of shareholders need be specified in any written waiver of notice except that the general nature of the proposals specified in subsections (a) through (e) of Section 4 of this Article II, shall be so stated. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 9. ACTION WITHOUT A MEETING. Directors may be elected without a meeting by a consent in writing, setting forth the action so taken, signed by all of the persons who would be entitled to vote for the election of directors, provided that, without notice except as hereinafter set forth, a director may be elected at any time to fill a vacancy not filled by the directors by the written consent of persons holding a majority of the outstanding shares entitled to vote for the election of directors.

Any other action which, under any provision of the General Corporation Law may be taken at any annual or special meeting of the shareholders, may be taken without a meeting, and without notice except as hereinafter set forth, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Unless the consents of all shareholders entitled to vote have been solicited in writing,

(a) Notice of any proposed shareholder approval of, (i) a contract or other transaction between the corporation and one or more of its directors or any corporation, firm or association in which one or more of its directors has a material financial interest or is also a director, (ii) indemnification of an agent of the corporation as authorized by Section 16, of Article III, of these bylaws, (iii) a reorganization of the corporation as defined in Section 181 of the General Corporation Law, or (iv) the distribution of shares, obligations or securities of any other corporation or assets other than money which is not in accordance with the liquidation rights of preferred shares if the corporation is in the process of winding up, without a meeting by less than unanimous written consent, shall be given at least ten days before the consummation of the action authorized by such approval; and

(b) Prompt notice shall be given of the taking of any other corporate action approved by shareholders without a meeting by less than unanimous written consent, to those shareholders entitled to vote who have not consented in writing. Such notices shall be given in the manner and shall be deemed to have been given as provided in Section 4 of Article II of these bylaws.

Unless, as provided in Section 1 of Article V of these bylaws, the board of directors has fixed a record date for the determination of shareholders entitled to notice of and to give such written consent, the record date for such determination shall be the day on which the first written consent is given. All such written consents shall be filed with the secretary of the corporation.

Any shareholder giving a written consent, or the shareholder's proxyholders, or a transferee of the shares or a personal representative of the shareholder or their respective proxyholders, may revoke the consent by a writing received by the corporation prior to the time that written consents of the number of shares required to authorize the proposed action have been filed with the secretary of the corporation, but may not do so thereafter. Such revocation is effective upon its receipt by the secretary of the corporation.

Section 10. PROXIES. Every person entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or the duly authorized agent of such person and filed with the secretary of the corporation, or the persons appointed as inspectors of election or such other person as may be designated by the board of directors or the chief executive officer to receive proxies; provided, that no such proxy shall be valid after the expiration of eleven months from the date of its execution, unless the shareholder executing it specifies therein the length of time for which such proxy is to continue in force. Every proxy duly executed continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Except as otherwise provided by law, such revocation may be effected by attendance at the meeting and voting in person by the person executing the proxy or by a writing stating that the proxy is revoked or by a proxy bearing a later date executed by the person executing the proxy and filed with the secretary of the corporation or the persons appointed as inspectors of election or such other persons as may be designated by the board of directors or the chief executive officer to receive proxies.

Section 11. INSPECTORS OF ELECTION. In advance of any meeting of shareholders, the board of directors may appoint any persons as inspectors of election to act at such meeting or any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any such meeting may, and on the request of any shareholder or his proxy shall, make such appointment at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more shareholders or proxies, the majority of shares represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

The inspectors of election shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all shareholders. In the determination of the validity and effect of proxies the dates contained on the forms of proxy shall presumptively determine the order of execution of the proxies, regardless of the postmark dates on the envelopes in which they are mailed.

The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

Article III.

DIRECTORS

Section 1. POWERS. Subject to the General Corporation Law and any limitations in the articles of incorporation relating to action requiring shareholder approval, and subject to the duties of directors as prescribed by the bylaws, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board of directors.

Section 2. NUMBER AND QUALIFICATIONS OF DIRECTORS. The authorized number of directors shall be 9. After the issuance of shares, this number may be changed only by an amendment to the articles of incorporation or the bylaws approved by the affirmative vote or written consent of a majority of the outstanding shares entitled to vote. If the number of directors is or becomes five or more, an amendment of the articles of incorporation or the bylaws reducing the authorized number of directors to less than five cannot be adopted if the votes cast against its adoption at a meeting or the shares not consenting in the case of action by written consent are equal to more than 16-2/3 percent of the outstanding shares entitled to vote. Directors need not be residents of the State of California nor shareholders of the corporation.

Section 3. ELECTION AND TERM OF OFFICE. The directors shall be elected at each annual meeting of shareholders, but if any such annual meeting is not held or the directors are not elected at any annual meeting, the directors may be elected at any special meeting of shareholders held for that purpose, or at the next annual meeting of shareholders held thereafter. Each director shall hold office at the pleasure of the shareholders until the next annual meeting of shareholders and until his successor has been elected and qualified or until his earlier resignation or removal or his office has been declared vacant in the manner provided in these bylaws.

Section 4. RESIGNATION AND REMOVAL OF DIRECTORS. Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation, in which case such resignation shall be effective at the time specified. Unless such resignation specifies otherwise, its acceptance by the corporation shall not be necessary to make it effective. The board of directors may declare vacant the office of a director who has been declared of unsound mind by an order of court or convicted of a felony. Any or all of the directors may be removed without cause if such removal is approved by the affirmative vote of a majority of the outstanding shares entitled to vote provided that no director may be removed (unless the entire board is removed) when the votes cast against removal (or, if such action is taken by written consent, the shares held by persons not consenting in writing to such removal) would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected. No reduction of the authorized number of directors shall have the effect of removing any director before his term of office expires.

Section 5. VACANCIES. Vacancies on the board of directors (except vacancies created by the removal of a director) may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director, and each director elected in this manner shall hold office until the next annual meeting of shareholders and until a successor has been elected and qualified or until his earlier resignation or removal or his office has been declared vacant in the manner provided in these bylaws. A vacancy or vacancies on the board of directors shall exist on the death, resignation or removal of any director, or if the board declares vacant the office of a director if he is declared of unsound mind by an order of court or is convicted of a felony, or if the authorized number of directors is increased, or if the shareholders fail to elect the full authorized number of directors to be voted for at any shareholders meeting at which an election of directors is held. The shareholders may elect a director at any time to fill any vacancy not filled by the directors or which occurs by reason of the removal of a director. Any such election by written consent of shareholders shall require the consent of a majority of the outstanding shares entitled to vote. If the resignation of a director states that it is to be effective at a future time, a successor may be elected to take office when the resignation becomes effective.

Section 6. PLACE OF MEETINGS. Regular and special meetings of the board of directors shall be held at any place within or without the State of California which has been designated in the notice or written waiver of notice of the meeting, or, if not stated in the notice or waiver of notice or there is no notice, designated by resolution of the board of directors or, either before or after the meeting, consented to in writing by all members of the board who were not present at the meeting. If the place of a regular or special meeting is not designated in the notice or waiver of notice or fixed by a resolution of the board or consented to in writing by all members of the board not present at the meeting, it shall be held at the corporation's principal executive office.

Section 7. REGULAR MEETINGS. Immediately following each annual shareholders' meeting, the board of directors shall hold a regular meeting to elect officers and transact other business. Such meeting shall be held at the same place as the annual meeting or such other place as shall be fixed by the board of directors. Other regular meetings of the board of directors shall be held at such times and places as are fixed by the board. Call and notice of regular

meetings of the board of directors shall not be required and is hereby dispensed with.

Section 8. SPECIAL MEETINGS. Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairman of the board, the president, any vice president, the secretary, any assistant secretary or any two directors. Notice of the time and place of special meetings shall be delivered personally or by telephone or telegraph or sent to the director by mail. In case notice is given by mail or telegram, it shall be sent, charges prepaid, addressed to the director at his address appearing on the corporate records, or if it is not on these records or is not readily ascertainable, at the place where the meetings of the directors are regularly held. If notice is delivered personally or given by telephone or telegraph, it shall be given or delivered to the telegraph office at least 48 hours before the meeting. If notice is mailed, it shall be deposited in the United States mail at least four days before the meeting. Such mailing, telegraphing or delivery, personally or by telephone, as provided in this Section, shall be due, legal and personal notice to such director.

Section 9. QUORUM. A majority of the authorized number of directors shall constitute a quorum of the board for the transaction of business, except to adjourn a meeting under Section 11. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board of directors, unless the vote of a greater number or the same number after disqualifying one or more directors from voting, is required by law, the articles of incorporation or these bylaws. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, provided that any action taken is approved by at least a majority of the required quorum for such meeting.

Section 10. WAIVER OF NOTICE OR CONSENT. The transactions of any meeting of the board of directors, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum is present and if, either before or after the meeting, each of the directors not present or who, though present, has prior to the meeting or at its commencement, protested the lack of proper notice to him, signs a written waiver of notice, or a consent to holding the meeting, or an approval of the minutes of the meeting. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A notice or waiver of notice need not specify the purpose of any regular or special meeting of the board of directors. Notice of a meeting need not be

given to any director who signs a waiver of notice, whether before or after the meeting, or who attends the meeting without protesting, prior to or at its commencement, the lack of notice to such director.

Section 11. ADJOURNMENT. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of the adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 12. MEETINGS BY CONFERENCE TELEPHONE. Members of the board of directors may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation by directors in a meeting in the manner provided in this Section constitutes presence in person at such meeting.

Section 13. ACTION WITHOUT A MEETING. Any action required or permitted to be taken by the board of directors may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

Section 14. FEES AND COMPENSATION. Directors and members of committees shall receive neither compensation for their services as directors or members of committees or reimbursement for their expenses incurred as directors or members of committees unless these payments are fixed by resolution of the board. Directors and members of committees may receive compensation and reimbursement for their expenses incurred as officers, agents or employees of or for other services performed for the corporation as approved by the chief executive officer without authorization, approval or ratification by the board.

Section 15. COMMITTEES. The board of directors may, at its discretion, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each of which shall be composed of two or more directors, to serve at the pleasure of the board. The board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The board may delegate to any such committee, to the extent provided in such resolution, any of the board's powers and authority in the management of the corporation's business and affairs, except with respect

to:

(a) the approval of any action for which the General Corporation Law or the articles of incorporation also requires approval by the shareholders;

(b) the filling of vacancies on the board of directors or any committee;

(c) the fixing of compensation of directors for serving on the board or on any committee;

(d) the amendment or repeal of bylaws or the adoption of new bylaws;

(e) the amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable;

(f) a distribution to the shareholders of the corporation, except at a rate or in a periodic amount or within a price range determined by the board;

(g) the authorization of the issuance of shares;
and

(h) the appointment of other committees of the board or the members thereof.

The board may prescribe appropriate rules, not inconsistent with these bylaws, by which proceedings of any such committee shall be conducted. The provisions of these bylaws relating to the calling of meetings of the board, notice of meetings of the board and waiver of such notice, adjournments of meetings of the board, written consents to board meetings and approval of minutes, action by the board by consent in writing without a meeting, the place of holding such meetings, meetings by conference telephone or similar communications equipment, the quorum for such meetings, the vote required at such meetings and the withdrawal of directors after commencement of a meeting shall apply to committees of the board and action by such committees. In addition, any member of the committee designated by the board as the chairman or as secretary of the committee or any two members of a committee may call meetings of the committee. Regular meetings of any committee may be held without notice if the time and place of such meetings are fixed by the board of directors or the committee.

Section 16. INDEMNIFICATION OF AGENTS.

(a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of this corporation, or is or was serving at the request of this corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of this corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or subdivision (e)(3) of this Section.

(b) This corporation shall indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of this corporation) by reason of the fact that such person is or was an agent of this corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of this corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of this corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) This corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of this corporation to procure a judgment in its favor by reason of the fact that such person is or was an agent of this corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this subdivision (c):

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to this corporation in the performance of such person's duty to this corporation, unless and only to the extent that the court in which such action was brought shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval.

(d) To the extent that an agent of this corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this Section shall be made by this corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval or ratification by the affirmative vote of a majority of the shares of this corporation entitled to vote represented at a duly held meeting at which a quorum is present or by the written consent of the holders of a majority of the outstanding shares entitled to vote. For such purpose, the shares owned by the person to be indemnified shall not be considered outstanding or entitled to vote thereon; or

(3) The court in which such proceeding is or was pending, upon application made by this corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by this corporation.

(f) Expenses incurred in defending any proceeding may be advanced by this corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Section.

(g) Nothing contained in this Section shall affect any right to indemnification to which persons other than directors and officers of this corporation or any subsidiary hereof may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this Section, except as provided in subdivision (d) or subdivision (e)(3), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles of incorporation, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) Upon and in the event of a determination by the board of directors of this corporation to purchase such insurance, this corporation shall purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not this corporation would have the power to indemnify the agent against such liability under the provisions of this Section.

Article IV

OFFICERS

Section 1. OFFICERS. The officers of the corporation shall be a chairman of the board or a president, or both, a secretary and a chief financial officer. The corporation may also have, at the discretion of the board of directors, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article IV. Any two or more offices may be held by the same person.

Section 2. ELECTIONS. The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article IV, shall be chosen annually by the board of directors, and each such officer shall serve at the pleasure of the board of directors until the regular meeting of the board of directors following the annual meeting of shareholders and until his successor is elected and qualified or until his earlier resignation or removal.

Section 3. OTHER OFFICERS. The board of directors may appoint, and may empower the chairman of the board or the president or both of them to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the bylaws or as the board of directors may from time to time determine.

Section 4. REMOVAL AND RESIGNATION. Any officer may be removed with or without cause either by the board of directors or, except for an officer chosen by the board, by any officer upon whom the power of removal may be conferred by the board (subject, in each case, to the rights, if any, of an officer under any contract of employment). Any officer may resign at any time upon written notice to the corporation (without prejudice however, to the rights, if any, of the corporation under any contract to which the officer is a party). Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective. Unless a resignation specifies otherwise, its acceptance by the corporation shall not be necessary to make it effective.

Section 5. VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in a manner prescribed in the bylaws for regular appointments to the office.

Section 6. CHAIRMAN OF THE BOARD. The board of directors may, in its discretion, elect a chairman of the board, who, unless otherwise determined by the board of directors, shall preside at all meetings of the board of directors at which he is present and shall exercise and perform any other powers and duties assigned to him by the board or prescribed by the bylaws. If the office of president is vacant, the chairman of the board shall be the general manager and chief executive officer of the corporation

and shall exercise the duties of the president as set forth in Section 7.

Section 7. PRESIDENT. Subject to any supervisory powers, if any, that may be given by the board of directors or the bylaws to the chairman of the board, if there be such an officer, the president shall be the corporation's general manager and chief executive officer and shall, subject to the control of the board of directors, have general supervision, direction and control of the business, affairs and officers of the corporation. Unless otherwise determined by the board of directors, he shall preside as chairman at all meetings of the shareholders, and in the absence of the chairman of the board, or if there be none, at all meetings of the board of directors. He shall have the general powers and duties of management usually vested in the office of president of a corporation; shall have any other powers and duties that are prescribed by the board of directors or the bylaws; and shall be primarily responsible for carrying out all orders and resolutions of the board of directors.

Section 8. VICE PRESIDENTS. In the absence or disability of the chief executive officer, the vice presidents in order of their rank as fixed by the board of directors, or if not ranked, the vice president designated by the board of directors, or if there has been no such designation, the vice president designated by the chief executive officer, shall perform all the duties of the chief executive officer, and when so acting, shall have all the powers of, and be subject to all the restrictions on, the chief executive officer. Each vice president shall have any of the powers and perform any other duties that from time to time may be prescribed for him by the board of directors or the bylaws or the chief executive officer.

Section 9. SECRETARY. The secretary shall keep or cause to be kept a book of minutes of all meetings and actions by written consent of all directors, shareholders and committees of the board of directors. The minutes of each meeting shall state the time and place that it was held and such other information as shall be necessary to determine whether the meeting was held in accordance with law and these bylaws and the actions taken thereat. The secretary shall keep or cause to be kept at the corporation's principal executive office, or at the office of its transfer agent or registrar, a record of the shareholders of the corporation, giving the names and addresses of all shareholders and the number and class of shares held by each. The secretary shall give, or cause to be given, notice of all meetings of shareholders, directors and committees required to be given

under these bylaws or by law, shall keep or cause the keeping of the corporate seal in safe custody and shall have any other powers and perform any other duties that are prescribed by the board of directors or the bylaws or the chief executive officer. If the secretary refuses or fails to give notice of any meeting lawfully called, any other officer of the corporation may give notice of such meeting. The assistant secretary, or if there be more than one, any assistant secretary, may perform any or all of the duties and exercise any or all of the powers of the secretary unless prohibited from doing so by the board of directors, the chief executive officer or the secretary, and shall have such other powers and perform any other duties as are prescribed for him by the board of directors or the chief executive officer.

Section 10. CHIEF FINANCIAL OFFICER. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account. The chief financial officer shall cause all money and other valuables in the name and to the credit of the corporation to be deposited at the depositories designated by the board of directors or any person authorized by the board of directors to designate such depositories. He shall render to the chief executive officer and board of directors, when either of them request it, an account of all his transactions as chief financial officer and of the financial condition of the corporation; and shall have any other powers and perform any other duties that are prescribed by the board of directors or the bylaws or the chief executive officer. The assistant treasurer, or if there be more than one, any assistant treasurer, may perform any or all of the duties and exercise any or all of the powers of the chief financial officer unless prohibited from doing so by the board of directors, the chief executive officer or the chief financial officer, and shall have such other powers and perform any other duties as are prescribed for him by the board of directors, the chief executive officer or the chief financial officer.

Article V

MISCELLANEOUS

Section 1. RECORD DATE. The board of directors may fix a time in the future as a record date for the determination of the shareholders entitled to notice of and to vote at any meeting of shareholders or entitled to give consent to corporate action in writing without a meeting, to receive any report, to receive payment of any dividend or other distribution, or allotment of any rights, or to exercise rights in respect to any change,

conversion, or exchange of shares or any other lawful action. The record date so fixed shall be not more than sixty days nor less than ten days prior to the date of such meeting, nor more than sixty days prior to any other action for the purposes of which it is fixed. When a record date is so fixed, only shareholders of record on that date are entitled to notice of and to vote at any such meeting, to give consent without a meeting, to receive any report, to receive a dividend, distribution, or allotment of rights, or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the articles of incorporation or bylaws.

Section 2. INSPECTION OF CORPORATE RECORDS. The books of account, record of shareholders, and minutes of proceedings of the shareholders and the board and committees of the board of this corporation shall be open to inspection upon the written demand on the corporation of any shareholder or holder of a voting trust certificate at any time during usual business hours, for a purpose reasonably related to such holder's interests as a shareholder or as the holder of such voting trust certificate. Such inspection by a shareholder or holder of a voting trust certificate may be made in person or by agent or attorney, and the right of inspection includes the right to copy and make extracts.

A shareholder or shareholders holding at least five percent in the aggregate of the outstanding voting shares of the corporation or who hold at least one percent of such voting shares and have filed a Schedule 14B with the United States Securities and Exchange Commission relating to the election of directors of the corporation shall have (in person or by agent or attorney) the absolute right to inspect and copy the record of shareholders' names and addresses and shareholdings during usual business hours upon five business days' prior written demand upon the corporation and to obtain from the transfer agent for the corporation, upon written demand and upon the tender of its usual charges, a list of the shareholders' names and addresses, who are entitled to vote for the election of directors, and their shareholdings, as of the most recent record date for which it has been compiled or as of a date specified by the shareholder subsequent to the date of demand. The list shall be made available on or before the later of five business days after the demand is received or the date specified therein as the date as of which the list is to be compiled.

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of this corporation and any subsidiary of this corporation. Such inspection by a director may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts.

Section 3. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the corporation, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the board of directors. The board of directors may authorize one or more officers of the corporation to designate the person or persons authorized to sign such documents and the manner in which such documents shall be signed.

Section 4. ANNUAL AND OTHER REPORTS. The board of directors shall cause an annual report to be sent to the shareholders not later than 120 days after the close of the fiscal year and at least fifteen days prior to the annual meeting of shareholders to be held during the next fiscal year. Such report shall contain a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

A shareholder or shareholders holding at least five percent of the outstanding shares of any class of the corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month or nine-month period of the current fiscal year ended more than thirty days prior to the date of the request and a balance sheet of the corporation as of the end of such period and, in addition, if no annual report for the last fiscal year has been sent to shareholders, the annual report for the last fiscal year. The statements shall be delivered or mailed to the person making the request within thirty days thereafter. A copy of such statements shall be kept on file in the principal executive office of the corporation for twelve months and they shall be exhibited at all reasonable times to any shareholder demanding an examination of them or a copy shall be mailed to such shareholder.

The corporation shall, upon the written request of any shareholder, mail to the shareholder a copy of the last annual, semiannual or quarterly income statement which it has prepared and a balance sheet as of the end of the period.

The quarterly income statements and balance sheets referred to in this Section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that such financial statements were prepared without audit from the books and records of the corporation.

Unless otherwise determined by the board of directors or the chief executive officer, the chief financial officer and any assistant treasurer are each authorized officers of the corporation to execute the certificate that the annual report and quarterly income statements and balance sheets referred to in this section were prepared without audit from the books and records of the corporation.

Any report sent to the shareholders shall be given personally or by mail or other means of written communication, charges prepaid, addressed to such shareholder at the address of such shareholder appearing on the books of the corporation or given by such shareholder to the corporation for the purpose of notice or set forth in the written request of the shareholder as provided in this Section. If any report addressed to the shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the report to the shareholder at such address, all future reports shall be deemed to have been duly given without further mailing if the same shall be available for the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of one year from the date of the giving of the report to all other shareholders. If no address appears on the books of the corporation or is given by the shareholder to the corporation for the purpose of notice or is set forth in the written request of the shareholder as provided in this Section, such report shall be deemed to have been given to such shareholder if sent by mail or other means of written communication addressed to the place where the principal executive office of the corporation is located, or if published at least once in a newspaper of general circulation in the county in which the principal executive office is located. Any such report shall be deemed to have been given at the time when delivered

personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any such report in accordance with the foregoing provisions, executed by the secretary, assistant secretary or any transfer agent of the corporation shall be prima facie evidence of the giving of the report.

Section 5. CONTRACTS, ETC., HOW EXECUTED. The board of directors, except as the bylaws or articles of incorporation otherwise provide, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 6. CERTIFICATE FOR SHARES. Every holder of shares in the corporation shall be entitled to have a certificate or certificates signed in the name of the corporation by the chairman or vice chairman of the board or the president or a vice president and by the chief financial officer or an assistant treasurer or the secretary or any assistant secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Any such certificate shall also contain such legend or other statement as may be required by Section 418 of the General Corporation Law, the Corporate Securities Law of 1968, and any agreement between the corporation and the issuee thereof, and may contain such legend or other statement as may be required by any other applicable law or regulation or agreement.

Certificates for shares may be issued prior to full payment thereof, under such restrictions and for such purposes, as the board of directors or the bylaws may provide; provided, however, that any such certificates so issued prior to full payment shall state the total amount of the consideration to be paid therefor and the amount paid thereon.

No new certificate for shares shall be issued in place of any certificate theretofore issued unless the

latter is surrendered and cancelled at the same time; provided, however, that a new certificate may be issued without the surrender and cancellation of the old certificate if the certificate theretofore issued is alleged to have been lost, stolen or destroyed. In case of any such allegedly lost, stolen or destroyed certificate, the corporation may require the owner thereof or the legal representative of such owner to give the corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 7. REPRESENTATION OF SHARES OF OTHER CORPORATIONS. Unless the board of directors shall otherwise determine, the chairman of the board, the president, any vice president, the secretary and any assistant secretary of this corporation are each authorized to vote, represent and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted to such officers to vote or represent on behalf of this corporation any and all shares held by this corporation in any other corporation or corporations may be exercised either by such officers in person or by any person authorized so to do by proxy or power of attorney or other document duly executed by any such officer.

Section 8. INSPECTION OF BYLAWS. The corporation shall keep in its principal executive office in California, or if its principal executive office is not in California, at its principal business office in California, the original or a copy of the bylaws as amended to date, which shall be open to inspection by the shareholders at all reasonable times during office hours. If the corporation has no office in California, it shall upon the written request of any shareholder, furnish him a copy of the bylaws as amended to date.

Section 9. SEAL. The corporation shall have a common seal, and shall have inscribed thereon the name of the corporation, the date of its incorporation, and the words "INCORPORATED" and "CALIFORNIA".

Section 10. CONSTRUCTION AND DEFINITIONS. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the General Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the foregoing, the masculine gender includes the feminine and neuter,

the singular number includes the plural and the plural number includes the singular, and the term "Person" includes a corporation as well as a natural person.

Article VI

AMENDMENTS

Section 1. POWER OF SHAREHOLDERS. New bylaws may be adopted or these bylaws may be amended or repealed by the affirmative vote of a majority of the outstanding shares entitled to vote, or by the written assent of shareholders entitled to vote such shares, except as otherwise provided by law or by the articles of incorporation.

Section 2. POWER OF DIRECTORS. Subject to the right of shareholders as provided in Section 1 of this Article VI to adopt, amend or repeal bylaws, bylaws other than a bylaw or amendment thereof changing the authorized number of directors may be adopted, amended or repealed by the board of directors.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

(1) That I am the duly elected and acting secretary of WARRING WATER SERVICE, INC., a California corporation; and

(2) That the foregoing bylaws, comprising 25 pages, constitute the bylaws of such corporation as duly adopted by action of the Incorporator of the corporation duly taken on September 26, 1969.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of such corporation this 26 day of September, 1969.

Alice Warring Giddings

Secretary