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A PROFESSIONAL CORPORATION

STATE WATER RESOURCES  
CONTROL BOARD

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DIV. OF WATER RIGHTS  
SACRAMENTO

ERIC N. ROBINSON

June 11, 2003

Edward C. Anton  
Water Rights Division Chief  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Re: Comments on draft order on American River Fully Appropriated Streams  
Petition

Dear Mr. Anton:

Aerojet-General Corporation ("Aerojet") respectfully submits the following comments on the State Water Resources Control Board's May 12, 2003, Draft Order Denying Petition to Revise the Declaration of Fully Appropriated Streams to Allow Processing of Applications to Appropriate Treated Groundwater Discharged into the Lower American River ("Draft Order").

The Draft Order appropriately concludes that to the extent Aerojet's discharged water originates as percolating groundwater that would not contribute to lower American River flows under natural conditions, this developed water is foreign because it would not otherwise have reached the river. The Draft Order properly concludes from the more-than-substantial evidence in the administrative record that the vast majority of water currently discharged, and proposed to be discharged, by Aerojet originates as percolating groundwater that would not contribute to lower American River flows under natural conditions.

The Draft Order accurately concludes that Aerojet's revised NPDES permit No. CA0083861 authorizes the discharge of up to 9,450 gallons per minute (12 cubic feet per second or 15,100 acre feet per annum) of treated water to the American River stream system from the ARGET System and the GET E/F System, and that planned development of the 4C alternative is projected to increase Aerojet's total discharges to the American River stream system to 13,600 gallons per minute (30 cubic feet per second or 21,800 acre feet per annum).

The Draft Order appropriately rejects the novel claims of Sacramento County and California-American Water Company that percolating groundwater that is extracted, treated and discharged into a surface stream remains subject to the law governing rights in percolating groundwater. That theory has never been the law, is not the law, and would do great mischief if it were ever to be applied as law. Aerojet supports the State Board's conclusion that percolating groundwater discharged into a surface stream, like the lower American River, is subject to the law governing rights in surface waters.

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Aerojet thanks the State Board and its staff for their diligent consideration of the evidence submitted during the hearing process and for this opportunity to comment on the resulting Draft Order.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation



Eric N. Robinson

cc: William E. Hvidsten, Esq.

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