

1 JON D. RUBIN, State Bar No. 196944  
DIEPENBROCK HARRISON  
2 A Professional Corporation  
400 Capitol Mall, Suite 1800  
3 Sacramento, CA 95814-4413  
Telephone: (916) 492-5000  
4 Facsimile: (916) 446-4535

5 Attorneys for San Luis & Delta-Mendota  
Water Authority and Westlands Water District  
6  
7  
8

9 BEFORE THE CALIFORNIA  
10 STATE WATER RESOURCES CONTROL BOARD

11 In the Matter of Draft Cease and Desist Order  
Nos. 262.31-16 and 262.31-17 Against the  
12 Department of Water Resources and the  
13 United States Bureau of Reclamation Under  
their Water Right Permits and License; and

14  
15 In the Matter of Petitions for Reconsideration  
of the Approval of a Water Quality Response  
16 Plan Submitted by the Department of Water  
Resources and the United States Bureau of  
17 Reclamation for their Use of Joint Points of  
Diversion in the Sacramento-San Joaquin Delta

**DECLARATION OF JON D. RUBIN IN  
SUPPORT OF PETITION FOR  
RECONSIDERATION**

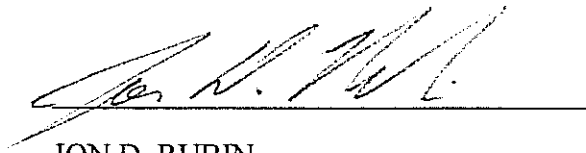
18  
19 I, JON D. RUBIN, hereby declare under penalty of perjury:

20 1. I am an attorney licensed to practice before all the courts of the State of California. I  
21 am employed by Diepenbrock Harrison, attorneys of record for San Luis & Delta-Mendota Water  
22 Authority (Water Authority) and Westlands Water District (Westlands). If called as a witness, I  
23 would and could competently testify to the following facts that are within my personal knowledge.

24 2. On February 9, 2006, the California Court of Appeal, Third Appellate District filed  
25 an opinion in *State Water Resources Control Board Cases C044714, JCCP No. 4118*. The opinion  
26 is evidence that was not presented during the above-captioned hearing. The Water Authority and  
27 Westlands could not have offered the opinion into evidence because the opinion was not issued  
28 until after the hearing was closed.

1           3.       The opinion is relevant in part because it (1) provides general guidance on the  
2 relationship between water quality control plans and how the objectives established therein may be  
3 implemented, at least in part, through a water right decision, and (2) provides specific guidance on  
4 the Program of Implementation established in the 1995 Water Quality Control Plan for the San  
5 Francisco Bay/Sacramento San Joaquin Delta Estuary (1995 Plan) and how the Program relates to  
6 Decision 1641. The opinion makes plain that the Program contemplates implementation of the  
7 southern Delta salinity objectives, responsibility for which is subject of the above-captioned  
8 hearing, through "a combination of [the State Water Board's] water quality and water rights  
9 authorities." Opinion at p. 33 (emphasis added).

10           I declare under penalty of perjury under the laws of the State of California that the foregoing  
11 is true and correct. Executed this 17th day of March, 2006, at Sacramento, California.

12  
13   
14 JON D. RUBIN