

**STATE WATER RESOURCES CONTROL BOARD MEETING
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 19, 2011**

ITEM 10

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5 (COMMENCING WITH SECTION 1061) OF THE CALIFORNIA CODE OF REGULATIONS.

DISCUSSION

Water Code section 1525 requires the State Water Resources Control Board (State Water Board) to adopt, by emergency regulations, a schedule of fees to recover the costs incurred in connection with the State Water Board's Water Rights Program. Water Code section 1525 further requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act. Water Code section 1551 requires that all water rights fee revenue be deposited in the Water Rights Fund (WRF). Similar provisions in Water Code section 13160.1 govern water quality certification fees. The current fee schedules were adopted on October 19, 2010.

Financial Condition of the Water Rights Fund

[Attachment 1](#) shows an analysis of the fund condition for the WRF. The beginning balance for Fiscal Year (FY) 2010-11 was \$5.7 million. Total revenue was \$8.6 million, including \$51,000 in other revenue and a \$926,000 loan from the WRF to the General Fund. Total expenditures were \$8.8 million, resulting in a \$179,000 decrease and an ending balance of \$5.5 million.

The projected beginning balance for FY 2011-12 is \$5.5 million. Under the current fee schedule rates, total revenue is estimated to be \$11.5 million, including \$51,000 in other revenue and a loan repayment of \$926,000 from the General Fund. Total expenditures are anticipated to be \$16.8 million, including an approximately \$3.6 million fund shift from the General Fund to the WRF, resulting in a \$5.4 million deficit and an ending balance of \$149,000.

Proposed Changes for FY 2011-12

The State Water Board staff proposes to increase annual permit, license and pending application fees by increasing the minimum annual fee from \$100 to \$150 and increasing the per acre-foot charge from \$0.03 to \$0.05 to conform with revenue levels set forth in the Budget Act. This proposed increase in fees will generate approximately \$4.9 million in revenue, leaving an estimated \$429,000 shortfall between revenue and expenditures that will be absorbed by the Fund's reserve. The State Water Board staff also proposes to adjust the caps on application and petition filing fees based on changes in the consumer price index.

POLICY ISSUE

Should the State Water Board approve a resolution to adopt emergency regulations to change the current water right fee schedules as proposed by staff?

FISCAL IMPACT

- 1) **Increase fees to conform to the Budget Act:** Under the current fee schedules, total revenue would be approximately \$11.5 million while expenditures increase to \$16.8 million resulting in a loss of \$5.4 million and an ending balance of \$149,000. The revised fee schedules will:
 - Increase annual fees to conform to revenue levels set forth in the Budget Act and draw down the fund reserve by \$429,000 to cover a shortfall between revenue and expenditures.

- 2) **Adjust the caps on application and petition filing fees based on the consumer price index:** Currently, the caps for application and petition filing fees are set at \$454,826 for applications and for change petitions involving water transfers, and \$5,713 for most other change petitions. The adjustments will:
 - Increase the current cap of \$454,823 by the increase in the consumer price index of 1.2% to \$460,281.
 - Increase the current cap of \$5,713 by the increase in the consumer price index of 1.2% to \$5,782.

REGIONAL BOARD IMPACT

No.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current water right fee schedules as proposed by staff.

State Water Board action on this item will assist the Water Boards in reaching Goals 3 and 5 of the Strategic Plan Update: 2008-2012 to increase sustainable local water supplies available and ensure adequate water flows for fish and wildlife habitat, and to improve transparency and accountability.

D R A F T
STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2011-

ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHT FEE SCHEDULES
IN TITLE 23, DIVISION 3, CHAPTER 5 (COMMENCING WITH SECTION 1061) OF THE
CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. The Water Code requires the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Rights Fund in the State Treasury. (Wat. Code, §§ 1525, 1530, 1551, 13160.1.) The emergency regulations must be adopted to implement the fee revenue requirement in the Budget Act. The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a [fee schedule](#) that will generate revenues to support expenditures in the amount the Budget Act sets for specified regulatory activities.
4. The Budget Act delegates to the Department of Finance the authority to make specified adjustments to the amounts specified in the Budget Act. The State Water Board has taken into account the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with the Budget Act, that are required to support the water right program.
5. State Water Board staff prepared recommended revisions to the State Water Board's water right regulations to implement the Water Code and the provisions of the Budget Act.
6. The water right fee regulations and schedules will be contained in title 23, division 3, chapter 5 (commencing with section 1061) of the California Code of Regulations.
7. These [emergency regulations](#) will take effect upon filing with the Secretary of State.

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts emergency regulations revising title 23, division 3, chapter 5 (commencing with section 1061) of the California Code of Regulations as recommended by staff to implement the Water Code and provisions of the Budget Act of 2011.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 19, 2011.

Jeanine Townsend
Clerk to the Board