

**STATE WATER RESOURCES CONTROL BOARD MEETING
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
OCTOBER 8, 2013**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064, 1066 AND 1068 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 review and, if necessary, revise the fees annually to conform to the amounts appropriated by the Legislature. 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 September 19, 2012.

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) 2012-13 was \$6.2 million. Total estimated revenue was \$14.4 million and total expenditures are approximately \$16.8 million, resulting in a \$2.4 million decrease in revenue with an ending balance of \$3.8 million and a fund reserve of approximately 22 percent.

The projected beginning balance for FY 2013-14 is \$3.8 million. Under the current fee schedule, total revenue is anticipated to be approximately \$15.3 million, including \$1.0 million in cost recovery for California Environmental Quality Act (CEQA) consultation and \$81,000 in other revenue. Total expenditures are projected to be approximately \$17.5 million resulting in a \$2.2 million decrease in revenue with an ending balance of \$1.6 million and a fund reserve of approximately 9.1 percent.

Proposed Changes for FY 2013-14

State Water Board staff proposes to increase annual permit, license and pending application fees by increasing the per acre-foot charge from \$0.05 to \$0.053 to conform to amounts appropriated by the Legislature. This proposed increase in fees will generate approximately \$15.1 million in revenue, resulting in total revenue of \$16.2 million, including \$1.0 million in cost recovery for CEQA consultation and \$81,000 in other revenue. Total expenditures are projected to be \$17.5 million, resulting in a \$1.3 million decrease in revenue with an ending balance of approximately \$2.5 million and a fund reserve of approximately 14.2 percent. 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.

State Water Board staff proposes to amend section 1068 to specify that the \$250 registration fee for any person who registers an appropriation of water for small domestic, livestock stock pond or small irrigation use is non-refundable.

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 annual fees to conform to amounts appropriated by the Legislature:**
Under the current fee schedules, total revenue would be approximately \$15.3 million while expenditures increase to \$17.5 million resulting in a loss of \$2.2 million and an ending balance of \$1.6 million. The revised fee schedules will:
 - Increase annual fees to conform to amounts appropriated by the legislature and increase fund reserve to 14.2 percent.

- 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 \$472,248 for applications and for change petitions involving water transfers, and \$5,932 for most other change petitions. The adjustments will:
 - Increase the current application and petition cap of \$472,248 by the increase in the consumer price index of 2.2% to \$482,609.
 - Increase the current change petition cap of \$5,932 by the increase in the consumer price index of 2.2% to \$6,062.

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 2013-

ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHT FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064, 1066 AND 1068 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 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 necessary to conform to the amounts appropriated by the Legislature for support of water rights program activities.
4. The Department of Finance has the authority to make adjustments to the amounts appropriated by the Legislature for the State Water Board's programs. The State Water Board has taken into account the anticipated adjustments that the Department of Finance will make this fiscal year.
5. State Water Board staff prepared recommended revisions to the State Water Board's water right regulations and fee schedules in accordance with the Water Code and the amounts appropriated by the Legislature for support of the water right program activities.
6. The water right fee regulations and schedules will be contained in title 23, division 3, chapter 5 (commencing with section 1062) of the California Code of Regulations.
7. These [emergency regulations](#) will take effect upon filing with the Secretary of State.

D R A F T

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts emergency regulations revising title 23, division 3, chapter 5, sections 1062, 1064, 1066 and 1068 of the California Code of Regulations as recommended by staff.

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 October 8, 2013.

Jeanine Townsend
Clerk to the Board