

Regulations

Pertaining to

**APPROPRIATION OF WATER
IN CALIFORNIA**

CALIFORNIA CODE OF REGULATIONS

TITLE 23. WATERS

DIVISION 3. STATE WATER RESOURCES CONTROL BOARD

Chapters 1 through 4.5

APRIL 2000

STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Division 3. State Water Resources Control Board

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Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 1. General Provisions

Article 1. Definitions

§ 640. Definitions.

(a) "Board" when used in this chapter and chapter 1.5, unless otherwise designated, means either the State Water Resources Control Board or any California Regional Water Quality Control Board.

(b) "State Board" when used in this chapter and chapter 1.5 means the State Water Resources Control Board.

(c) "Regional Board" when used in this division means any California Regional Water Quality Control Board.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 13203, Water Code.

HISTORY

1. Renumbering of Subchapter 1 (from Sections 600–649, not consecutive, to Subchapter 1, Sections 640–645.9, not consecutive—see Cross Referencing Table preceding Detailed Analysis filed 5–23–79 as procedural and organizational; effective upon filing (Register 79, No. 21).
2. Amendment filed 8–6–81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of division heading and repealer and new section filed 3–26–98 as an interim regulation pursuant to Government Code section 11400.20; operative 3–26–98 (Register 98, No. 13). Interim regulations expire 12–31–98 unless earlier amended or repealed.
4. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3–31–99 by filing of permanent regulations with OAL on 11–25–98. Adoption of permanent regulations disapproved by OAL 1–12–99; resubmitted by the State Water Resources Control Board on 3–10–99; and filed with the Secretary of State on 3–31–99, effective upon filing (Register 99, No. 14).

Article 2. Purpose, Use and Effect of Regulations

§ 641. Purpose.

The regulations contained in this chapter are adopted for the purpose of implementing and carrying out provisions of Parts 1, 2, 3, 5 and 5.1 of Division 2, Part 2 of Division 6, Division 7 and Division 7.5 of the Water Code.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 185 and 1058, Water Code.

HISTORY

1. Amendment filed 3–10–60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 12–7–67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Amendment filed 8–6–81; effective thirtieth day thereafter (Register 81, No. 32).

§ 641.1. Use and Effect.

NOTE: Authority and reference cited: Section 1058, Water Code.

HISTORY

1. Amendment filed 3–10–60; effective thirtieth day thereafter (Register 60, No. 5).
2. Repealer filed 8–6–81; effective thirtieth day thereafter (Register 81, No. 32).

Article 3. Official Records

NOTE: Authority and reference cited: Section 1058, Water Code.

HISTORY

1. Repealer of Article 3 (Sections 642 and 642.1) filed 8–6–81; effective thirtieth day thereafter (Register 81, No. 32). For prior history, see Register 60, No. 5.

Article 4. Meeting Notice and Agenda Requirements

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 11125, Government Code.

HISTORY

1. New Article 4 (Sections 620–623) filed 3–8–74; effective thirtieth day thereafter (Register 74, No. 10).
2. Repealer of Article 4 (Sections 643–643.3) filed 12–1–80; effective thirtieth day thereafter (Register 80, No. 49).

Article 5. Conflict of Interest

§ 644. State Board Membership.

Pursuant to Water Code Section 13388, no person shall be a member of the State Board if he receives or has received during the previous two years a significant portion of his income directly or indirectly from any person subject to waste discharge requirements or an applicant for waste discharge requirements under the provisions of Chapter 5.5, Division 7, California Water Code (NPDES permits).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 11125, Government Code.

HISTORY

1. New Article 5 (Sections 625–631) filed 5–22–75; effective thirtieth day thereafter (Register 75, No. 21).

§ 644.1. Regional Water Quality Control Board Membership.

Pursuant to Water Code Section 13388, no person shall be a member of a Regional Board if he receives or has received during the previous two years a significant portion of his income directly or indirectly from any person subject to waste discharge requirements or an applicant for waste discharge requirements under the provisions of Chapter 5.5, Division 7, California Water Code (NPDES permits).

NOTE: Authority cited: Sections 1058, 13370 and 13371, Water Code. Reference: Sections 13388, Water Code; and Clean Water Act Section 304(i)(2)(D), 33 USC Section 1314(i)(2)(D) and 40 CFR Section 123.25(c)(1)(i), (ii), (iii), (iv) and (e)(2).

HISTORY

1. New NOTE filed 10–1–85; effective thirtieth day thereafter (Register 85, No. 40).

§ 644.2. Significant Portion of Income.

The term "significant portion of his income" shall mean ten percent of gross personal income for a calendar year except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension or similar arrangement.

NOTE: Authority cited: Sections 1058, 13370 and 13371, Water Code. Reference: Sections 13388, Water Code; and Clean Water Act Section 304(i)(2)(D), 33 USC Section 1314(i)(2)(D) and 40 CFR Section 123.25(c)(1)(ii).

HISTORY

1. New NOTE filed 10–1–85; effective thirtieth day thereafter (Register 85, No. 40).

§ 644.3. Persons Subject to Requirements and Applicant.

The terms "persons subject to waste discharge requirements" and "applicant for waste discharge requirements" shall apply only to persons regulated under Chapter 5.5, Division 7, California Water Code (NPDES permits) but shall not include any department or agency of the state government including the University of California and the State University and Colleges.

NOTE: Authority cited: Sections 1058, 13370 and 13371, Water Code. Reference: Sections 13388, Water Code; and Clean Water Act Section 304(i)(2)(D), 33 USC Section 1314(i)(2)(D) and 40 CFR Section 123.25(c)(1)(iii).

HISTORY

1. New NOTE filed 10–1–85; effective thirtieth day thereafter (Register 85, No. 40).

§ 644.4. Income.

The word "income" includes, but is not limited to, retirement benefits, consultant fees, and stock dividends.

NOTE: Authority cited: Sections 1058, 13370 and 13371, Water Code. Reference: Sections 13388, Water Code; and Clean Water Act Section 304(i)(2)(D), 33 USC Section 1314(i)(2)(D) and 40 CFR Section 123.25(c)(1)(iv).

HISTORY

1. New NOTE filed 10-1-85; effective thirtieth day thereafter (Register 85, No. 40).

§ 644.5. Direct or Indirect Income.

Income is not received "directly or indirectly" which is derived from mutual fund payments, or from other investments which are so diversified that the recipient does not know the identity of the primary sources of income.

NOTE: Authority cited: Sections 1058, 13370 and 13371, Water Code. Reference: Sections 13388, Water Code; and Clean Water Act Section 304(i)(2)(D), 33 USC Section 1314(i)(2)(D) and 40 CFR Section 123.25(c)(2).

HISTORY

1. New NOTE filed 10-1-85; effective thirtieth day thereafter (Register 85, No. 40).

§ 644.6. Board Member's Statement of Employment.

By July 15, 1975, and by April 30 of each year thereafter, each member of the State Board and each member of a Regional Water Quality Control Board shall file with the Executive Director of the State Board a statement under penalty of perjury containing the following information:

(a) The names of any persons who are applicants for waste discharge requirements, or who are subject to waste discharge requirements, from which the Board member has received any income.

(b) If the total of income from persons listed under (a) is in excess of ten percent of his gross personal income for the current year or for either of the two previous calendar years.

(c) If the Board member is over 60 years of age, whether the total of income from persons listed under (a) from retirement, pension or similar arrangement is in excess of 50 percent of his gross personal income for the current year or for either of the two previous calendar years.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 11125, Government Code, Section 13388, Water Code.

HISTORY

1. Amendment filed 8-6-81; effective thirtieth day thereafter (Register 81, No. 32).

Article 6. State Water Resources Control Board—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11409(a), that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

STATE WATER RESOURCES CONTROL BOARD
PERSONNEL OFFICER
901 P STREET
P.O. BOX 100
SACRAMENTO, CALIFORNIA 95812-0100

FAIR POLITICAL PRACTICES COMMISSION
428 J STREET, SUITE 800
P.O. BOX 807
SACRAMENTO, CALIFORNIA 95804

ARCHIVES
SECRETARY OF STATE
1020 O STREET
SACRAMENTO, CALIFORNIA 95814

The Conflict of Interest Code is designated as Article 6, Chapter 1, Division 3 of Title 23 of the California Code of Regulations and consists of sections numbered and titled as follows:

Article 6.	State Water Resources Control Board—Conflict of Interest Code
Section	
645.	General Provisions
	Appendix

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300 et seq., Government Code.

HISTORY

1. New article 6 (sections 640-649) filed 2-14-78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 6-8-77 (Register 78, No. 7).
2. Amendment filed 11-2-79; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 6-5-79 (Register 79, No. 44).
3. Repealer of article 6 (sections 645-645.9) and new article 6 (section 645 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 1-12-81 (Register 81, No. 9).
4. Amendment of Appendix filed 2-24-93; operative 3-26-93. Approved by Fair Political Practices Commission 11-13-92 (Register 93, No. 9).
5. Editorial correction of printing errors updating addresses (Register 94, No. 3).
6. Amendment of addresses and Appendix filed 2-14-94; operative 3-16-94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 12-28-93 (Register 94, No. 7).
7. Amendment of general provisions, addresses and Appendix filed 1-9-96; operative 2-8-96. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 10-31-95 (Register 96, No. 2).
8. Amendment of Appendix filed 12-9-97; operative 1-8-98. Approved by Fair Political Practices Commission 10-31-97 (Register 97, No. 50).
9. Amendment of Appendix filed 12-31-99; operative 1-30-2000. Approved by Fair Political Practices Commission 11-5-99 (Register 99, No. 53).

Article 7. Verification of Alien Eligibility

§ 645. Limitations on Eligibility of Aliens for Certain Programs.

NOTE: Authority cited: Sections 1058 and 13268, Water Code; and Section 25284.4, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; 33 U.S.C.A. Section 1251; Sections 13450, et seq., 13625 and 13627, Water Code; and Section 25284.4, Health and Safety Code.

HISTORY

1. New article 7 (section 645) and section filed 5-14-98 as an emergency; operative 5-14-98 (Register 98, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-11-98 or emergency language will be repealed by operation of law on the following day.
2. New article 7 (section 645) and section refiled 9-10-98 as an emergency; operative 9-11-98 (Register 98, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-11-99 or emergency language will be repealed by operation of law on the following day.
3. New article 7 (section 645) and section refiled 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 5).

Chapter 1.5. Rules of Practice and Procedure

Article 1. Meetings

§ 647. Purpose.

Provisions of this article are intended to govern procedures of the State Water Resources Control Board (State Board) and the Regional Water Quality Control Board (Regional Boards) in public meetings of the State and Regional Boards. This subchapter is intended to establish minimum requirements of practice and procedure. It is a supplement to the requirements of Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3 of the Government Code, also known as the Bagley Act. To the extent that other sections of this chapter establish more detailed and specific procedures, those sections shall apply. Unless otherwise specified, use of the word "Board" in this subchapter shall mean both the State Board and the Regional Boards.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 11120, et seq., Government Code.

HISTORY

1. New Subchapter 1.5 (Articles 1-4, Sections 647-649.6).

§ 647.1. Scheduling.

State and Regional Boards shall meet at least six times a year. Additional meetings may be held at any time.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 11120, et seq., Government Code.

§ 647.2. Notice and Agenda Requirements.

(a) Purpose. Government Code Section 11125 requires state agencies to provide notice at least one week in advance of any meeting to any person who requests such notice in writing except that emergency meetings may be held with less than one week's notice when such meetings are necessary to discuss unforeseen emergency conditions as defined by published rule of the agency. The purpose of this section is to establish procedures for compliance with Government Code Section 11125 by the State Board and the Regional Boards.

(b) Contents of Meeting Notice. The notice for all meetings of the State Board and Regional Boards shall specify the date, time and location of the meeting and include an agenda listing all items to be considered. The agenda shall include a description of each item, including any proposed action to be taken.

(c) Time of Notice. Notice shall be given at least one week in advance of the meeting. When the notice is mailed, it shall be placed in the mail at least eight days in advance of the meeting.

(d) Emergency Conditions. The provisions of this section do not apply when an item must be considered or a meeting held because of unforeseen emergency conditions. Unforeseen emergency conditions exist when there have been unexpected circumstances requiring immediate action by the State Board or Regional Boards to regulate the water resources of the state so as to protect the public health, welfare, or safety. It is not necessary that the emergency conditions be such that they could not have been anticipated or prepared for but only that in the normal course of events they would seldom be expected. Notice of such consideration or meeting shall be given by mail, telephone, telegram, or other available means to persons known to be interested in the matter.

(e) Distribution. Notice shall be given to all persons directly affected by proceedings on the agenda and to all persons who request in writing such notice. Notice shall be given to any person known to be interested in proceedings on the agenda.

(f) Uncontested Items Calendar. The agenda may include an item designated "the uncontested items calendar."

(1) The uncontested items calendar shall include only those matters for which there appears to be no controversy.

(2) At the request of any Board member or other interested person, any matter shall be removed from the uncontested items calendar and may be considered at the same meeting as a separate item of business.

(3) Late revisions and/or corrections to items on the uncontested items calendar shall be specified for inclusion prior to considering a vote on the uncontested items calendar. If such revisions constitute a significant change in the proposed action on any item, action shall be deferred until a later meeting of the Board.

(4) After an opportunity for requests to remove any matters from the uncontested items calendar has been given, a vote shall be taken on the uncontested items calendar. Upon a vote to approve the uncontested items calendar, each matter on the uncontested items calendar shall be approved and shall have the same force and effect as it would have if approved as a separate agenda item.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 11125, Government Code.

§ 647.3. Public Comments.

(a) Any person may submit comments in writing on any agenda item. Any person submitting such comments shall provide the Board with a copy of the comments in advance of the meeting at which it is to be considered. Such comments may be inspected by any interested person.

(b) Persons present shall be given an opportunity to make relevant oral comments on any agenda item; provided, however, that the Chairperson or other presiding member may limit or preclude such comments as necessary for the orderly conduct of business. The provisions of this section are limited to meetings and shall not apply to adjudicatory hearings as defined and provided for in Article 2.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 11120, et seq., Government Code.

§ 647.4. Recording of Meetings.

(a) State and Regional Board public meetings shall be recorded by stenographic reporter or electronic recording or both. Such recordings shall be available for public review and copying at the appropriate State or Regional Board office.

(b) The cost of copying the record of any meeting shall be borne by the requester. Staffing needs may require that copying be performed at another location by persons other than the staff of the Board.

(c) The recordings shall be retained for the period of time required by applicable law governing the retention of records of state agency public proceedings, or until conclusion of administrative or judicial proceedings, whichever is later.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 11120, et seq., Government Code.

§ 647.5. Minutes of Meetings.

(a) The State and Regional Boards shall keep minutes of their meetings.

(b) Minutes shall be approved by each Board.

(c) Approved minutes shall be the official record of actions taken at any meeting.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 11120, et seq., Government Code.

Article 2. Adjudicative Proceedings**§ 648. Laws Governing Adjudicative Proceedings.**

(a) For purposes of this article, "adjudicative proceeding" means an evidentiary hearing for determination of facts pursuant to which the State Board or a Regional Board formulates and issues a decision.

(b) Incorporation of Applicable Statutes. Except as otherwise provided, all adjudicative proceedings before the State Board, the Regional Boards, or hearing officers or panels appointed by any of those Boards shall be governed by these regulations, chapter 4.5 of the Administrative Procedure Act (commencing with section 11400 of the Government Code), sections 801-805 of the Evidence Code, and section 11513 of the Government Code.

(c) Portions of Administrative Procedure Act Not Applicable. The following articles and sections of chapter 4.5 of the Administrative Procedure Act (commencing with section 11400 of the Government Code) are specifically not included in the procedures governing the conduct of hearings before the State Board, any of the Regional Boards, or hearing officers or panels appointed by those Boards:

Article 8. Language Assistance (except that the procedures for language assistance shall apply to an adjudicative proceeding pursuant to Article 6 [commencing with section 25299.50] of Chapter 6.75 of Division 20 of the Health and Safety Code)

Article 13. Emergency Decision

Article 14. Declaratory Decision

Except as provided in subdivision (b) of this section, chapter 5 of the Administrative Procedure Act (commencing with section 11500 of the Government Code) does not apply to hearings before the State Board, any of the Regional Boards, or hearing officers or panels appointed by those Boards.

(d) Waiver of Nonstatutory Requirements. The presiding officer may waive any requirements in these regulations pertaining to the conduct of adjudicative proceedings including but not limited to the introduction of evidence, the order of proceeding, the examination or cross-examination of witnesses, and the presentation of argument, so long as those requirements are not mandated by state or federal statute or by the state or federal constitutions.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Amendment of article 2 heading and repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.

2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.1. Parties and Other Interested Persons.

(a) The party or parties to an adjudicative proceeding before the Board shall include the person or persons to whom the agency action is directed and any other person whom the Board determines should be designated as a party. The hearing notice may specify a procedure for designation of the parties to a particular adjudicative proceeding.

(b) In a water right proceeding, the party or parties shall include the water right applicant or petitioner, persons who have filed unresolved protests, persons who have filed unresolved objections to a temporary change petition, persons who have filed an unresolved written complaint with the Board concerning the subject matter of the hearing, and any other persons who are designated as parties in accordance with the procedure specified in the hearing notice.

(c) Persons who fail to comply with the procedural requirements specified in the hearing notice for participation as parties in a proceeding may be dismissed as parties to the proceeding.

(d) The Board or presiding officer may provide an opportunity for presentation of policy statements or comments, either orally or in writing, by interested persons who are not participating as parties in the proceeding. Persons presenting nonevidentiary policy statements will not be subject to cross-examination but may be asked to respond to clarifying questions from the Board, staff, or others, at the discretion of the Board or presiding officer. The criteria and procedures applicable to participation in a Board adjudicative proceeding as an interested person may be established in the hearing notice or by the presiding officer. Interested persons will not normally be required to serve copies of their statements on the parties to the proceeding nor will they normally be allowed to participate in cross-examination. The hearing notice may require that any written policy statements proposed to be submitted to the Board, be submitted prior to the hearing. If the requirement for prior submittal of policy statements applies to persons who address the Board or a subcommittee of the Board at a meeting subject to the Bagley-Keene Open Meeting Act (article 9 [commencing with section 11110] of chapter 1 of article 1 of division 3 of title 2 of the Government Code), the requirement should be included in the notice of the meeting. Interested persons are not entitled to receive service of exhibits, testimony, or other documents served on the parties to the proceeding unless specifically so provided in the hearing notice or by the presiding officer.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263, and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.2. Official Notice.

The Board or presiding officer may take official notice of such facts as may be judicially noticed by the courts of this state. Upon notice to the parties, official notice may also be taken of any generally accepted technical or scientific matter within the Board's field of expertise, provided parties appearing at the hearing shall be informed of the matters to be noticed. The Board or presiding officer shall specify the matters of which official notice is to be taken. Parties shall be given a reasonable opportunity on request to refute officially noticed technical or scientific matters in a manner to be determined by the Board or presiding officer.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.3. Evidence by Reference.

Public records of the Board that are relevant to the subject of the hearing, and books, reports, and other evidence that have been prepared and published by a public agency, if otherwise admissible, may in the discretion of the Board be received in evidence as exhibits by reference without the necessity of supplying copies to the Board and other parties, provided the original or a copy is in the possession of the Board and the specific file folder or other exact location where it can be found is identified. The party offering an exhibit by reference shall designate the particular portions on which the party relies. Each exhibit shall be appropriately identified and designated in the record as an exhibit of the party offering the exhibit or an exhibit of Board staff.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.4. Identification of Witnesses; Presubmission and Presentation of Testimony and Exhibits.

(a) It is the policy of the State and Regional Boards to discourage the introduction of surprise testimony and exhibits.

(b) The hearing notice may require that all parties intending to present evidence at a hearing shall submit the following information to the Board prior to the hearing: the name of each witness whom the party intends to call at the hearing, the subject of each witness' proposed testimony, the estimated time required by the witness to present direct testimony, and the qualifications of each expert witness. The required information shall be submitted in accordance with the procedure specified in the hearing notice.

(c) The hearing notice may require that direct testimony be submitted in writing prior to the hearing. Copies of written testimony and exhibits shall be submitted to the Board and to other parties designated by the Board in accordance with provisions of the hearing notice or other written instructions provided by the Board. The hearing notice may require multiple copies of written testimony and other exhibits for use by the Board and Board staff. Copies of general vicinity maps or large, nontechnical photographs generally will not be required to be submitted prior to the hearing.

(d) Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct. Written testimony shall not be read into the record unless allowed by the presiding officer.

(e) Where any of the provisions of this section have not been complied with, the presiding officer may refuse to admit the proposed testimony or the proposed exhibit into evidence, and shall refuse to do so where there is a showing of prejudice to any party or the Board. This rule may be modified where a party demonstrates that compliance would create severe hardship.

(f) Rebuttal testimony generally will not be required to be submitted in writing, nor will rebuttal testimony and exhibits be required to be submitted prior to the start of the hearing.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.5. Order of Proceedings.

(a) Adjudicative proceedings shall be conducted in a manner as the Board deems most suitable to the particular case with a view toward securing relevant information expeditiously without unnecessary delay and expense to the parties and to the Board. Adjudicative proceedings generally will be conducted in the following order except that the chairperson or presiding officer may modify the order for good cause:

(1) An opening statement by the chairperson, presiding member, or hearing officer, summarizing the subject matter and purpose of the hearing;

(2) Identification of all persons wishing to participate in the hearing;

(3) Administration of oath to persons who intend to testify;

(4) Presentation of any exhibits by staff of the State or Regional Board who are assisting the Board or presiding officer;

(5) Presentation of evidence by the parties;

(6) Cross-examination of parties' witnesses by other parties and by Board staff assisting the Board or presiding officer with the hearing;

(7) Any permitted redirect and recross-examination;

(b) Questions from Board members or Board counsel to any party or witness, and procedural motions by any party shall be in order at any time. Redirect and recross-examination may be permitted.

(c) If the Board or the presiding officer has determined that policy statements may be presented during a particular adjudicative proceeding, the presiding officer shall determine an appropriate time for presentation of policy statements.

(d) After conclusion of the presentation of evidence, all parties appearing at the hearing may be allowed to present a closing statement.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 11126, Government Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.5.1. Rules of Evidence.

Adjudicative proceedings will be conducted in accordance with the provisions and rules of evidence set forth in Government Code section 11513. Hearsay evidence is admissible subject to the provisions of Government Code section 11513.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. New section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.6. Alternative Dispute Resolution.

Pursuant to article 5, commencing with section 11420.10, of chapter 4.5 of the Administrative Procedure Act, the State Board or any Regional Board may refer a dispute in a proceeding before it to mediation or non-binding arbitration to resolve any adjudicative issues pending before it. Under no circumstances may any Board refer an issue to arbitration that

is binding upon it with respect to adjudicative issues pending before that Board.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 11420.10, Government Code; and Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.7. Informal Hearings.

Unless the hearing notice specifies otherwise, the presiding officer shall have the discretion to determine whether a matter will be heard pursuant to the informal hearing procedures set forth in article 10, commencing with section 11445.20, of chapter 4.5 of the Administrative Procedure Act.

Among the factors that should be considered in making this determination are:

The number of parties,

The number and nature of the written comments received,

The number of interested persons wishing to present oral comments at the hearing,

The complexity and significance of the issues involved, and

The need to create a record in the matter.

An objection by a party, either in writing or at the time of the hearing, to the decision to hold an informal hearing shall be resolved by the presiding officer before going ahead under the informal procedure. Failure to make a timely objection to the use of informal hearing procedures before those procedures are used will constitute consent to an informal hearing. A matter shall not be heard pursuant to an informal hearing procedure over timely objection by the person to whom agency action is directed unless an informal hearing is authorized under subdivision (a), (b), or (d) of section 11445.20 of the Government Code.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 648.8. Enforcement Orders and Sanctions.

(a) The presiding officer or Board shall have the power to impose sanctions as specified in Sections 11455.10 and 11455.30 of the Government Code.

(b) If the Board cites a person for contempt for any of the actions listed in Section 11455.10 of the Government Code, then the matter shall be certified to the superior court for contempt proceedings without further review by the Board. If the Board orders payment of costs pursuant to Section 11455.30 of the Government Code, then the order is effective upon issuance.

(c) Board Review of Enforcement Orders and Sanctions Imposed by Hearing Officers and Hearing Panels.

(1) If the presiding officer is a Board member or other hearing officer or hearing panel authorized by the Board to conduct the hearing, a citation for contempt issued pursuant to Section 11455.10 of the Government Code or an order for payment of costs issued pursuant to Section 11455.30 of the Government Code is subject to review by the Board as provided in this subdivision.

(2) The person or persons subject to the citation or order may request a hearing before the Board within 10 days of entry of the citation or order. The hearing will take place at the next regularly scheduled meeting of that Board, subject to the limitations of the Bagley-Keene Open Meeting

Act (Article 9 [commencing with Section 11120] of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). If the Board determines that the actions listed in Section 11455.10 of the Government Code occurred, then the matter shall be certified to the superior court for contempt proceedings. The Board may affirm, set aside, or modify as appropriate an order entered to pay reasonable expenses pursuant to the provisions of Section 11455.30 of the Government Code.

(3) If the person or persons subject to a citation or order fails to request a hearing before the Board within 10 days of entry of the citation or order, then the citation or order is final and subject to enforcement pursuant to Sections 11455.20 and 11455.30 of the Government Code.

(d) A determination by a Regional Board pursuant to this section is not subject to review by the State Board under Water Code Section 13320.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 13263 and 13378, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

Article 3. Rulemaking and Informational Proceedings

§ 649. Scope.

(a) "Rulemaking proceedings" shall include any hearings designed for the adoption, amendment, or repeal of any rule, regulation, or standard of general application, which implements, interprets or makes specific any statute enforced or administered by the State and Regional Boards.

(b) "Informational proceedings" shall include any hearings designed to gather and assess facts, opinions, and other information relevant to any matters within the jurisdiction of the Boards and whose primary purposes are to assist the Boards in the formulation of policy or guidelines for future Board action; to inform the public of Board policies, reports, orders, plans, or findings; and to obtain public comment and opinion with respect to such policies, reports, orders, plans, or findings, or to adopt such policies, reports, orders plans, or findings.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

§ 649.1. Rulemaking Proceedings.

Proceedings to adopt regulations, including notice thereof, shall, as a minimum requirement, comply with all applicable requirements established by the Legislature (Government Code Section 11340, et seq.). This section is not a limitation on additional notice requirements contained elsewhere in this chapter.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

§ 649.2. Notice of Informational Proceedings.

The notice of informational proceedings shall include:

- (1) A statement of the nature and purpose of the proceedings;
- (2) A statement of the time, date, and place of each proceeding.

Notice of informational proceedings shall, as a minimum requirement, comply with applicable requirements of Section 647.2. This section is not a limitation on additional notice requirements contained elsewhere in this chapter.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

§ 649.3. Order of Procedure.

Rulemaking or informational proceedings shall be conducted in the following order; provided, however, that the Chairperson or presiding member may modify the order for good cause:

(1) An opening statement by the Chairperson or presiding member summarizing the subject matter and purpose of the proceeding.

(2) Presentation of comments or evidence by the staff of the Regional or State Board.

(3) Presentation of comments or evidence by interested persons.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

§ 649.4. Prepared Written Evidence.

The State or Regional Board may require that prepared written testimony or other evidence be submitted in advance of any rulemaking or informational proceeding for the purpose of the orderly consideration of issues at the proceeding.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

§ 649.5. Questioning.

Questions from Board members, staff or legal counsel are in order at any time. Persons wishing to have prior evidence or comments clarified should request the Chairperson, presiding member, or hearing officer, to obtain the answer or clarification. The Chairperson, presiding member, or hearing officer, may allow additional answers to be given as appropriate based on, but not limited to, the following considerations:

(1) The need to accommodate all the various interests within the time allotted for the proceeding;

(2) The area of inquiry to be pursued by further questioning;

(3) The adequacy of questioning already provided in covering the area of inquiry; and

(4) The alternative of permitting the questions to be submitted in writing, with such questions and answers becoming part of the record.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 183, Water Code, and Sections 11340 et seq., Government Code.

Article 4. Subpoenas

§ 649.6. Subpoenas.

(a) Upon its own motion or upon request of any person, the Board may issue subpoenas and subpoenas duces tecum for attendance at a proceeding and for production of documents at any reasonable time and place or at a hearing.

(b) Article 11 (commencing with section 11450.05) and article 12 (commencing with section 11455.10) of chapter 4.5 of part 1 of division 3 of title 2 of the Government Code shall apply to the issuance of a subpoena or subpoena duces tecum in an adjudicative proceeding. The Board may also compel attendance, testimony, or the production of evidence as provided in article 3 (commencing with section 1090) of chapter 3 of part 1 of division 2 of the Water Code.

(c) Section 1086 of the Water Code does not apply to any witness required to attend an adjudicative proceeding pursuant to article 11 (commencing with section 11450.05) of chapter 4.5 of part 1 of division 3 of title 2 of the Government Code.

(d) Article 5 (commencing with section 1105) of chapter 3 of part 1 of division 2 of the Water Code applies to any person required to testify or produce any evidence pursuant to a subpoena or subpoena duces tecum or pursuant to a notice issued under section 11450.50 of the Government Code.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 1080 and 13221, Water Code.

HISTORY

1. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.

2. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

Chapter 2. Appropriation of Water

Article 1. General Provisions

§ 650. Application for Water.

Any person who wishes to appropriate unappropriated water pursuant to Water Code Section 1202 shall file an application and comply with the provisions of the subchapter.

NOTE: Authority cited: Section 1058 and 1252, Water Code. Reference: Sections 1200, 1260 and 1375, Water Code.

HISTORY

1. Amendment filed 5-9-74 as procedural and organizational; effective upon filing (Register 74, No. 19). For prior history, see Register 60, No. 5.
2. Renumbering and amendment of former section 650 to section 705 and new section 650 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
3. Editorial correction of section (Register 92, No. 21).

§ 651. Policy.

In acting on applications, petitions for changes, and petitions for extensions of time where reclaimed water is available or water can be reused or reclaimed, the amount of water specified in the application or permit shall be reduced to the extent and in the quantity that, and so long as, the use of reclaimed water or reuse of water is reasonable.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 275, 461, 1253 and 1257, Water Code.

HISTORY

1. New section filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Renumbering and amendment of former Section 651 to Section 675, and renumbering and amendment of former Section 654.4 to 651 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 5.

§ 652. Application Must Be Accompanied by Minimum Filing Fee.

HISTORY

1. New section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering from 651 filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of Section 652 to Section 676 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 652.5. Application Fees for Small Hydroelectric Projects.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1525.5, Water Code.

HISTORY

1. New section Schedule 1 filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).
2. Renumbering and amendment of former Section 652.5 and Schedule 1 to Section 677 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 653. Applications for Water Where an Existing Right Is Claimed.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 1201, 1202, 1253, 1255 and 1375, Water Code.

HISTORY

1. New section filed 3-23-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 3-11-81; effective thirtieth day thereafter (Register 81, No. 11).
3. Renumbering and amendment of Section 653(a) to Section 695, and renumbering and amendment of Section 653(b)-(g) to Section 731 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 654. Documents That Must Be Sworn To.

NOTE: Authority cited: Section 1058, Water Code. Reference: Part 2, Division 2, Water Code.

HISTORY

1. New section filed 10-9-73 as procedural; effective upon filing (Register 73, No. 41).
2. Renumbering and amendment of Section 654 to Section 711 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 654.4. Policy.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, Chapter 2.5, Division 1 and Part 2, Division 2, Water Code.

HISTORY

1. New section filed 1-28-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Renumbering and amendment of former Section 654.4 to Section 651 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 2. Definitions

Subarticle 1. General

§ 655. Application.

"Application" means the form entitled "Application to Appropriate Water," the "Environmental Information Form," and the maps required by this subchapter. "Application" includes the form entitled "Supplement to Application" when:

(a) The purpose of use is municipal, industrial, mining, power, temperature control or any other use that is not listed in paragraph 5 of the application; or

(b) The applicant applies to store 25 acre-feet or more of water. These forms are provided by the board.

NOTE: Authority cited: Section 1058 and 1252, Water Code. Reference: Sections 1260 and 1375, Water Code; and Sections 21080, 21080.1 and 21160, Public.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 655 to Section 696, and new Section 655 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 656. Complete and Incomplete Applications.

(a) Complete Application. An application shall be considered complete when the board has certified, in writing, that the applicant has fully and completely disclosed all information required in the "application" according to instructions set forth in the form and this subchapter.

(b) Incomplete Application. An incomplete application is one that is substantially complete except that it fails in some manner to fully conform to the law or the regulations of the board. It includes an application determined to be incomplete pursuant to Sections 65920 et seq. of the Government Code and an application determined to be defective pursuant to Section 1270 of the Water Code. See Section 675 regarding substantial compliance.

NOTE: Authority cited: Sections 1058 and 1252, Water Code. Reference: Sections 1270, Water Code; and Sections 65940, 65941 and 65943, Government Code.

HISTORY

1. Renumbering and amendment of former Section 656 to Section 698, and renumbering and amendment of Section 692 to 656 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 78, No. 31 and 17, No. 5.

§ 657. Regulation of Water.

Regulation of water means the direct diversion of water to a tank or reservoir in order that the water may be held for use at a rate other than the rate at which it may be conveniently diverted from its source. For licensing purposes, refill, in whole or in part, held in a tank or reservoir for less than 30 days shall be considered regulation of water.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1240, 1250, 1253 and 1260, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).

3. Renumbering and amendment of former Section 657 to Section 697, and new Section 657 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 657.1. Recreational Reservoirs for Subdivisions.

NOTE: Authority cited: Section 1058, Water Code. Reference: Part 2 (commencing with Section 1200) of Division 2, Water Code.

HISTORY

1. New section filed 2-27-73; effective thirtieth day thereafter (Register 73, No. 9).
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 657.2. Stockwatering Reservoirs.

NOTE: Authority cited: Section 1058, Water Code. Reference: Part 2 (commencing with Section 1200) of Division 2, Water Code.

HISTORY

1. New section filed 3-8-74; effective thirtieth day thereafter (Register 74, No. 10).
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 658. Storage of Water.

Storage of water means the collection of water in a tank or reservoir during a time of higher stream flow which is held for use during a time of deficient stream flow. For licensing purposes all initial collections within the collection season plus refill, in whole or in part, held in a tank or reservoir for more than 30 days shall be considered water diverted for storage except as provided in Section 735(c).

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 658 to Section 699, and new Section 658 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Subarticle 2. Beneficial Uses

§ 659. Beneficial Use of Water.

Beneficial use of water includes those uses defined in this subarticle. The board will determine whether other uses of water are beneficial when considering individual applications to appropriate water.

NOTE: Authority cited: Sections 1058 and 1252, Water Code. Reference: Section 1240, Water Code.

HISTORY

1. Repealer of Section 659 and new Article 2.5 (Sections 659-660) filed 10-12-79; effective thirtieth day thereafter (Register 79, No. 41).
2. Renumbering and amendment of former Section 659 to Section 735, and new Section 659 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 660. Domestic Uses.

Domestic use means the use of water in homes, resorts, motels, organization camps, camp grounds, etc., including the incidental watering of domestic stock for family sustenance or enjoyment and the irrigation of

not to exceed one-half acre in lawn, ornamental shrubbery, or gardens at any single establishments. The use of water at a camp ground or resort for human consumption, cooking or sanitary purposes is a domestic use.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1254 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of former Section 660 to Section 735, and renumbering and amendment of Section 661 to Section 660 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 661. Irrigation Use.

Irrigation use includes any application of water to the production of irrigated crops or the maintenance of large areas of lawns, shrubbery, or gardens.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1254 and 1260, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 661 to Section 660, and renumbering and amendment of Section 662 to 661 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 662. Power Use.

Power use means the use of water for hydroelectric and hydromechanical power.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1260 and 1263, Water Code.

HISTORY

1. Renumbering and amendment of former Section 662 to Section 661, and renumbering and amendment of Section 663 to Section 662 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 662.5. Frost Protection Use.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 1253, Water Code.

HISTORY

1. New section filed 10-12-79; effective thirtieth day thereafter (Register 79, No. 41).
2. Renumbering and amendment of Section 662.5 to Section 671 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 663. Municipal Use.

Municipal use means the use of water for the municipal water supply of a city, town, or other similar population group, and use incidental thereto for any beneficial purpose.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1260 and 1264, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 663 to Section 662, and renumbering and amendment of Section 664 to Section 663 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

[The next page is 47.]

§ 664. Mining Use.

Mining use means any use of water is for mining processes such as hydraulicing, drilling, and on concentrator tables.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1260 and 1265, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 664 to Section 663, and renumbering and amendment of Section 665 to 664 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 665. Industrial Use.

Industrial use means using the use of water for the purposes, not more specifically defined herein, of commerce, trade or industry.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1260, Water Code.

HISTORY

1. Renumbering and amendment of former Section 665 to Section 664, and renumbering and amendment of Section 666 to Section 665 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 666. Fish and Wildlife Preservation and Enhancement Use.

For purposes of specifying a beneficial use in an application to appropriate unappropriated water, fish and wildlife preservation and enhancement use means using water to maintain or provide habitat or other benefit for fish and wildlife by taking water under control as in the following examples:

- (a) The collection or diversion of water to storage for either retention in the reservoir or release downstream for the purpose of preservation or enhancement of fish or wildlife; or
- (b) Direct diversion of water for the purpose of preservation or enhancement of fish or wildlife.

This category of water use includes the use of water for the raising of fish or other organisms for scientific purposes or release in the waters of the state.

NOTE: Authority cited: Section 1058, Water Code. Reference: *California Trout, Inc. v. SWRCB*, 90 Cal.App.3d 816, 153 Cal.Rptr. 672 (1979); *Fullerton v. State Water Resources Control Board*, 90 Cal.App.3d 590, 153 Cal.Rptr. 518 (1979); and Sections 1243 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of former Section 666 to Section 665, and renumbering and amendment of Section 667.5 to Section 666 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 667. Aquaculture Use.

Aquaculture use means the use of water for raising fish or other organisms for commercial purposes, or large scale private use in which the fish or organisms will not be released in waters of the state.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1260, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).
3. Renumbering and amendment of former Section 667 to Section 668, and new Section 667 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 667.5. Fish and Wildlife Protection and Enhancement.

NOTE: Authority cited: Section 1058, Water Code.

HISTORY

1. Renumbering and amendment of former Section 667.5 to Section 666 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 668. Recreational Use.

Recreational use means the use of water for resorts or other recreational establishments, boating, swimming, and fishing, and may include water which is appropriated by storage and either retained in the reservoir or released downstream to support these purposes. Use of water at a camp

ground or resort for human consumption, cooking or sanitary purposes is a domestic use and irrigation of golf courses is an irrigation use.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1243 and 1260, Water Code.

HISTORY

1. Amendment filed 12-1-55 effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 668 to Section 669, and renumbering and amendment of Section 667 to Section 668 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 668.5. Water Quality Use.

NOTE: Authority cited: Section 1058, Water Code.

HISTORY

1. New section filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).
2. Renumbering and amendment of former Section 668.5 to Section 670 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 669. Stockwatering Use.

Stockwatering use means the use of water for commercial livestock.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1260, Water Code.

HISTORY

1. Renumbering and amendment of former Section 669 to Section 706, and renumbering and amendment of Section 668 to Section 669 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 60, No. 5 and 55, No. 17.

§ 669.5. Name and Address of Applicant.**HISTORY**

1. New section filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
2. Renumbering and amendment of former Section 669.5 to Section 707 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 670. Water Quality Use.

Water quality use includes appropriation of water by storage to be released for the purpose of protecting or enhancing the quality of other waters which are put to beneficial uses.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1242.5 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of former Section 668.5 to Section 670 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For history of former Section 670, see Registers 74, No. 19 and 71, No. 48.

§ 670.5. Supplement to Application May Be Required.**HISTORY**

1. New section filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
2. Renumbering and amendment of former Section 670.5 to Section 708 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 670.6. Instream Beneficial Use Assessment.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 106.7 and 1250.5, Water Code, and Section 21069, Public Resources Code.

HISTORY

1. New section filed 12-13-82 as an emergency; effective upon filing (Register 82, No. 51).
2. Order of Repeal of 12-13-82 order filed 12-13-82 by OAL pursuant to Government Code Section 11349.6 (Register 82, N. 51).
3. New section filed 3-2-83 as an emergency; effective upon filing (Register 83, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-30-83.
4. Order of Repeal of subsection (h)(2) filed 3-10-83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 11).
5. Emergency language filed 3-2-83 repealed by operation of Government Code Section 11346.1 (Register 83, No. 32).
6. New section filed 8-1-83; effective upon filing pursuant to Government Code Section 11364.2(d) (Register 83, No. 32).
7. Renumbering and amendment of former Section 670.6 to Section 709 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 671. Frost Protection Use.

Frost protection use means the application of water to crops by fine sprays, mists, or sprinklers for the purpose of preventing damage by frost.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1253 and 1260, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment of subsections (c) and (e), and new subsections (g) and (h) filed 5-18-79; effective thirtieth day thereafter (Register 79, No. 20).
3. Renumbering and amendment of former Section 671 to Section 710, and renumbering and amendment of former Section 662.5 to Section 671 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 19, No. 41.

§ 672. Heat Control Use.

Heat control use means the application of water to crops by fine sprays, mists, or sprinklers for the purpose of preventing damage by high temperatures.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1253 and 1260, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 673. General Requirements.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 673 to Section 715 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 674. Requirements for Irrigation Purposes.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 674 to Section 719 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 3. How Applications Are Processed

§ 675. Substantial Compliance.

Upon receipt, an application will be reviewed for compliance with the requirements of the Water Code and this subchapter. An application will be accepted for filing when it substantially complies with the requirements. Substantial compliance means that the application is made in a good faith attempt to conform to the rules and regulations of the board and to the law, and the information submitted and the form of submission are sufficient in view of the particular circumstances to fulfill the purpose of the requirements.

NOTE: Authority cited: Section 1058 and 1252, Water Code. Reference: Section 1270, Water Code.

HISTORY

1. Amendment filed 3-3-78 as procedural and organizational; effective upon filing (Register 78, No. 9).
2. Renumbering and amendment of former Section 675 to Section 720, and renumbering and amendment of Section 651 to Section 675 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 67, No. 49 and 60, No. 5.

§ 676. Filing Fees.

An application will not be accepted for filing unless it is accompanied by the minimum filing fee required by law.

NOTE: Authority cited: Section 1058 and 1252, Water Code. Reference: Section 1525, Water Code.

HISTORY

1. Renumbering and amendment of former Section 676 to Section 721, and renumbering and amendment of Section 652 to Section 676 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 79, No. 20; 60, No. 5; and 55, No. 17.

§ 677. Application Fees for Small Hydroelectric Projects.

For all applications which propose, as a primary purpose, the development of small hydroelectric energy facilities as defined in Water Code Section 1250.5, an application fee covering the costs of the board and the

Department of Fish and Game for evaluating and processing the application shall be charged as follows:

- (a) An initial deposit of \$1,000.00.
- (b) For the initial deposit, the board shall give notice to the applicant in the manner specified by Water Code Section 1527.

(c) When the costs incurred for evaluating and processing the application reach seventy-five percent (75%) of the initial deposit, a second deposit amounting to the balance of one-half of the estimated total reasonable cost as set forth in Schedule 1 shall be charged.

(d) At any time the costs incurred reach one hundred percent (100%) of an applicant's first deposit plus seventy-five percent (75%) of the applicant's second or later deposits, the board may require an additional deposit to cover estimated costs of completion as determined at that time.

(e) For subsequent deposits, after the first deposit, the board shall give thirty days notice by registered mail of the further amount of fee due. If this amount is not received within thirty days of the mailing by the board the application may be cancelled without further notice.

(f) After action by the board on the application—and, if a permit is to be issued, before it is issued—a final payment shall be made so that the total fee paid by the applicant equals but does not exceed the reasonable costs of the board and the Department of Fish and Game. If the deposit exceeds the cost, the excess shall be refunded.

The board shall notify the applicant by registered mail if a final payment on the application fee is owed. If the final payment on the application fee is not received by the board within 30 days after the notice has been mailed, the application may be cancelled without further notice.

(g) The fee provided for in this section shall be in lieu of all other fees prescribed for water right applications through permit issuance; except, that costs, if any, associated with preparation of environmental documents pursuant to the California Environmental Quality Act (CEQA) shall be separately charged.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1525.5, Water Code.

HISTORY

1. New section and Schedule 1 filed 6-17-83 effective thirtieth day thereafter (Register 83, No. 25). For prior history, see Register 82, No. 51.
2. Renumbering and amendment of former Section 677 to Section 718, and renumbering and amendment of Section 652.5 to Section 677 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 83, No. 25).

SCHEDULE 1

SMALL HYDROELECTRIC APPLICATION PROCESSING COST ESTIMATES

<i>Maximum Theoretical Generating Capacity (MW)</i>	<i>Cost Estimates* One-half Estimated Total Reasonable Cost</i>
5.0 MW or less at \$6,400/MW	\$1,650
	to
	\$16,000
Greater than 5.0 MW up to and including 30 MW	\$16,000

*Does not include the costs of preparation of an environmental report should one be required.

§ 678. Determination of Completeness.

(a) Upon acceptance of an application to appropriate water, the board staff shall, within 30 days, determine whether an application is complete by applying the criteria set forth in this subchapter.

(b) In the event that the board staff determines that the application is incomplete, it shall, in writing, notify the applicant of such determination, shall specify those parts of the application that are incomplete, and shall indicate the manner in which they can be made complete.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1270, Water Code; Section 65943, Government Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).

2. Renumbering and amendment of former Section 678 to Section 723, and renumbering and amendment of Section 692.3 to Section 678 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 3).

§ 679. Cancellation of Application.

Upon receiving an incomplete application made in a bona fide attempt to conform to the rules of the board and to the law, the board will notify the applicant in what respect his application is incomplete and that unless within 60 days an amended and completed application is filed or good cause is shown for extension of time, following the notice required in Section 678, the application will be subject to cancellation without further notice. Unless within the time prescribed, or such further time as may be allowed for good cause consistent with the provisions of Section 680, an amended and completed application is filed with the board, the application may be cancelled without further notice.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1270 and 1271, Water Code.

HISTORY

1. Renumbered from former Section 680. Former Section 679 repealer filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
4. Renumbering and amendment of former Section 679 to Section 716, and renumbering and amendment of Section 695 to Section 679 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 680. Applications Not Made in a Bona Fide Attempt to Conform to Rules and Law.

Applications which are not made in a bona fide attempt to conform to the rules of the board and to the law, including those in which no effort, or only a token effort, is made to supply one or more of the items of information required by Sections 1260 through 1266 of the Water Code, will not be accepted for filing. When the board's staff determines not to accept such an application, it shall notify the applicant within 30 days of receipt of the application.

NOTE: Authority cited: Section 1058 and 1252, Water Code. Reference: Sections 1260 and 1270, Water Code.

HISTORY

1. Renumbering of former Section 681 and amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Amendment filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).
4. Amendment filed 11-25-80; effective thirtieth day thereafter (Register 80, No. 48).
5. Renumbering and amendment of former Section 680 to Section 717, and renumbering and amendment of Section 696 to Section 680 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 681. Time to Complete and Extensions Thereof.

Upon receipt of a request for an extension of time to complete an application, if good cause is shown the board will grant such time as appears reasonably necessary. Good cause requires a satisfactory showing that a diligent effort has been made to complete the application within the time previously allowed and that failure to do so has been occasioned by obstacles which could not reasonably be avoided. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not the enterprise will not generally be accepted as good cause for delay. The board may, in its discretion, require such showing of good cause to be made at a hearing upon notice to the applicant and other interested parties.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1270 and 1271, Water Code.

HISTORY

1. Renumbering of former Section 682 and amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 681 to Section 724, and renumbering and amendment of Section 614 to Section 681 filed 1-16-87; effective

thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 682. Additional Information.

After an application has been determined to be complete, the applicant shall not be required to submit any new or added information which is not set forth or required in or by this Subchapter. An applicant may, however, submit any new or added information on his own behalf, and the board may, in its discretion, hear or consider such information in deciding whether to approve the application.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 65944, Government Code.

HISTORY

1. Renumbering and amendment of former Section 692.5 to Section 682 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 31.

§ 683. Supplemental Information.

(a) Notwithstanding the provisions of Section 682 the board may, in the course of processing the application, and at any time prior to rendering a decision on the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information required in or by this Subchapter and to obtain information necessary to comply with the Public Resources Code Section 21000 et seq.

(b) Failure by an applicant to comply with a written request for information pursuant to subdivision (a) of this section within a reasonable time and in a responsive manner may be cause for the board to cancel or reject the application pursuant to Government Code Section 65956(c) or the State Administrative Manual Permit Guidelines Section 1099, adopted on January 31, 1978.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 65944 and 65956(b), Government Code; and Section 1255, Water Code.

HISTORY

1. Renumbering and amendment of former Section 692.7 to Section 683 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 31.

§ 684. Issuance of Notice.

(a) As soon as practicable after receipt of a complete application and, if an instream beneficial use assessment is required by Water Code Section 1250.5 (for a project which proposes the development of a small hydroelectric project) as soon as practicable after the determination that the instream beneficial use assessment is adequate, a notice will be issued by the board. The applicant will be directed to post or publish it.

(b) If a hearing on an application is delayed for more than one year after the close of the protest period, the board may issue a new notice and direct the applicant to post or publish it. The board will take such action when, in its judgment, the record does not reflect up-to-date circumstances because of changes in the project or in the circumstances of affected downstream water users or other interested persons. The board will mail a copy of the new notice to all persons who filed a protest to the application in response to the original notice and will inform them that they may either submit a new protest or stand on their existing protest.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1300, 1310 and 1320, Water Code.

HISTORY

1. Renumbering and amendment of former Section 712 to Section 684 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 73, No. 10 and 60, No. 5.

§ 685. Effect of Issuance of Notice.

Issuance of a notice of application shall not be construed as a final determination that the application is complete in all details.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 65941, 65943 and 65944, Government Code; and Section 1270, Water Code.

HISTORY

1. Renumbering and amendment of former Section 701 and amendment to Subsection 685 filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Amendment of subsections (b) and (c) filed 3-3-78 as procedural and organizational; effective upon filing (Register 78, No. 9).

4. Repealer of former Section 685 and renumbering and amendment of Section 713 to Section 685 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 4. Requirements for Separate Applications and Joint Applications

§ 686. Separate Applications for Consumptive and Nonconsumptive Uses.

Separate applications shall be filed for consumptive and nonconsumptive uses except that an application for either consumptive or nonconsumptive purposes may include water for strictly incidental domestic, power, industrial, stockwatering, recreational, fish and wildlife enhancement, or water quality uses. For the purpose of this section, nonconsumptive use is one which returns substantially all of the water to a surface stream or other surface body of water. Incidental power is generated when operation of the turbine is incidental to the movement of water to meet requirements for other purposes. Notice of a petition to add incidental uses may be given at the board's discretion, in accordance with Section 795, Article 15 of this subchapter.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of former Section 698 to Section 686 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 80, No. 48.

§ 687. Separate Application for Each Diversion.

When water is to be diverted at two or more places, a separate application shall be filed for each, except that one application will be accepted when:

(a) Successive diversions are made of water from the same stream system for a nonconsumptive use,

(b) The water will be used for common purposes at adjoining places of use and when the works required for each diversion will be constructed simultaneously with all the other units of the project. Units of a project to be constructed by stages at different times which involve separate diversions of water shall be covered by separate applications, or

(c) Water will be stored in several reservoirs in the same watershed or general locality, provided there shall not be included in one application more than 5 reservoirs.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of former Section 699 to Section 687 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 64, No. 6 and 55, No. 17.

§ 688. Separate Applications for Separately Owned Places of Use.

Separate applications shall be filed when two or more parties desire to cooperate in the construction and operation of a common system for direct diversion of water (not proposing the use of water stored in a reservoir) but will use water on separately owned parcels. Such applications may be filed simultaneously and thereby establish an equal priority, either by personal delivery of the applications or by forwarding them in the same envelope.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. New article 7 (§§688 and 689) filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Amendment of subsection (b) filed 3-3-78 as procedural and organizational; effective upon filing (Register 78, No. 9).
4. Renumbering and amendment of former Section 688 to Section 733, and renumbering and amendment of Section 700 to Section 688 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 689. Separate Application for Frost Protection.

Direct diversion for frost protection shall be the subject of a separate application, except where such uses are clearly incidental to other uses is areas other than in Napa Valley. Existing permits for frost protection direct diversion combined with other uses may be separated into separate permits when an order is issued allowing an extension of time or a change in the permit. Separate licenses or a permit and a license may be issued upon completion of the separate portions of the project if appropriate.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of former Section 689 to Section 722, and renumbering and amendment of Section 648.5 to Section 689 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 79, No. 41.

§ 690. Application by an Agency Representing Users Within a Combined Place of Use.

An application by an agency proposing to serve water to several separately owned parcels of land will be accepted when that agency is competent to take title to the water right (for example, an irrigation district or a mutual water company).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of former Section 701 to Section 690 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see register 55, No. 17.

§ 691. Joint Applications.

(a) Two or more persons proposing to share in the use of water stored in a reservoir or proposing a common place of use (such as the irrigation of jointly owned property), shall file a joint application.

(b) A joint application shall clearly indicate the nature and extent of the respective rights of each applicant in the ownership and operation of the proposed reservoir and to any water right received. Joint applicants shall designate one person to receive correspondence from the board and to act for them in all matters pertaining to the usual processing of the application.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, 1260 and 1775, Water Code.

HISTORY

1. Renumbering and amendment of former Section 702 to Section 691 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 74, No. 48 and 55, No. 17.

§ 692. Definitions.

NOTE: Specific authority cited: Sections 1058 and 13991(g), Water Code. Specific reference cited: Part 2, Division 2, Chapters 3-5, 8 and 14, Division 7, Water Code; and Divisions 1-2, Title 7, Government Code.

HISTORY

1. Renumbering of former Sections 685, 686, 687 and 688 to 692, 693, 694 and 695, respectively, and amendments of 694 and 695 filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Amendment filed 9-3-76; effective thirtieth day thereafter (Register 76, No. 36).
4. Amendment of Article title and Section 692 filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
5. Renumbering and amendment of Section 692 to Section 656 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 692.3. Determination of Completeness.

NOTE: Specific authority cited: Sections 1058 and 13991(g), Water Code. Specific reference cited: Part 2, Division 2, Chapters 3-5, 8 and 14, Division 7, Water Code; and Divisions 1-2, Title 7, Government Code.

HISTORY

1. New section filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
2. Renumbering and amendment of Section 692.3 to Section 678 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 692.5. Additional Information.

NOTE: Specific authority cited: Sections 1058 and 13991(g), Water Code. Specific reference cited: Part 2, Division 2, Chapters 3-5, 8 and 14, Division 7, Water Code; and Divisions 1-2, Title 7, Government Code.

HISTORY

1. New section filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
2. Renumbering and amendment of Section 692.5 to Section 682 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 692.7. Supplemental Information.

NOTE: Specific authority cited: Sections 1058 and 13991(g), Water Code. Specific reference cited: Part 2, Division 2, Chapters 3-5, 8 and 14, Division 7, Water Code; and Divisions 1-2, Title 7, Government Code.

HISTORY

1. New section filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
2. Renumbering and amendment of Section 692.7 to Section 683 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 693. Statement of Reasons and Request for Time to Complete.

HISTORY

1. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 694. Time to Complete and Extensions Thereof.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 694 to Section 681 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 5. Amounts for Which to Apply

§ 695. Unappropriated Water.

A permit can be issued only for unappropriated water. Unappropriated water does not include water being used pursuant to an existing right, whether the right is owned by the applicant, or by another person. (For the relationship between new applications and existing rights, see Section 731.)

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1202 and 1375, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 695 to Section 679, and renumbering and amendment of Section 653(a) to Section 695 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 81, No. 11 and 73, No. 12.

§ 696. Applications Reasonably Necessary for Beneficial Use—How Stated.

The amount of water for which to apply is governed by the estimated amount which can be put to beneficial use including reasonable conveyance losses, and shall be stated in the definite terms of some established unit of measurement, such as cubic feet per second, gallons per minute or per day, or acre-feet per annum.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 275, 1240, 1241, 1252 and 1260, Water Code.

HISTORY

1. New section filed 3-10-0; effective thirtieth day thereafter (Register 60, No. 5).
2. Editorial correction (Register 60, No. 8).
3. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
4. Renumbering and amendment of former Section 696 to Section 680, and renumbering and amendment of Section 655 to Section 696 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 697. Examples of Amounts Considered Reasonably Necessary.

The amount of water considered reasonably necessary for certain uses when the appropriation will be by direct diversion shall be determined in the following manner:

(a) Irrigation Use.

(1) In most portions of the central valley of California and elsewhere in the State where similar conditions prevail a duty of one cubic foot per second continuous flow to each 80 acres shall be considered a reasonable headgate duty for most crops. Where there is a greater abundance of water and a heavy transportation loss, or the land to be irrigated is of a porous, sandy or gavelly character a continuous flow allowance of one cubic foot per second to each 50 acres may be considered reasonable. Under other conditions where water supply is less abundant and conditions are favorable to a more economical use a duty of one cubic foot per second to 150 acres may be considered reasonable for most crops. For the irrigation of rice the customary allowance shall be one cubic foot per second continuous flow to each 40 acres of irrigated land.

(2) The equivalent of these continuous flow allowances for and 30-day period may be diverted in a lesser time at a greater rate so long as there is no interference with other users, and a clause allowing such rotation will be included in a permit issued for irrigation purposes.

(b) Domestic Use. Allowances for domestic use are variable, depending upon the character of the place of use, method of use, character of use and availability of water. The quantities considered reasonable for the respective domestic uses are as follows:

Homes, Resorts, Motels, Organization Camps, etc.

Fully plumbed	55 to 75 gallons per day per person
Sink and flush toilet only	40 gallons per day per person
Sink and shower only	35 gallons per day per person
Sink only	25 gallons per day per person
Outside supply only	15 gallons per day per person
Cafe, fountain, etc	2.5 gallons per day per person

Camp Grounds

Depending upon facilities provided, allowances range from 5 gallons per day per person, where faucets only are provided, to 30 gallons per day per person where washbowls, showers, flush toilets and laundry trays are provided.

Lawn, Garden, Orchard and Grounds

Irrigation	18.5 gallons per day per 100 square feet
Sprinkling to allay dust	7.5 to 10 gallons per day per 100 square feet

Livestock

Milch cows	30 gallons per day per head
Horses	15 gallons per day per head
Goats and hogs	2.5 gallons per day per head
Poultry, rabbits, etc	0.25 gallon per day per head

(c) Stockwatering Use. For use for watering commercial livestock, the quantities considered reasonable are as follows:

Range cattle and horses	15 gallons per day per head
Hogs and goats	2.5 gallons per day per head
Sheep	1.5 gallons per day per head
Milch cows	30 gallons per day per head
Hosing out dairy barn	35 gallons per day per head

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, 1240 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 657 to Section 697 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 64, No. 6 and 55, No. 17.

§ 698. Action upon an Application for an Excessive Amount.

An application for an amount of water clearly in excess of the capacity of the proposed diversion works or in excess of an amount reasonably necessary for the proposed use will not be approved and shall be reduced.

In the event of uncertainty, a showing of need for an ability to divert additional water will be required of the applicant.

NOTE: Authority cited: Sections 1058, Water Code. Reference: Section 2, Article X, California Constitution; and Section 275, Water Code.

HISTORY

1. Renumbering and amendment of former Section 695 and amendment to Section 695 filed 12-1-55; effective thirtieth day thereafter. Former Section 696 repealer filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Amendment filed 11-25-80; effective thirtieth day thereafter (Register 80, No. 48).
4. Renumbering and amendment of former Section 698 to Section 686, and renumbering and amendment of Section 656 to Section 698 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 698.5. Separate Application for Frost Protection.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 1253, Water Code.

HISTORY

1. New section filed 10-12-79; effective thirtieth day thereafter (Register 79, No. 41).
2. Renumbering and amendment of Section 698.5 to Section 689 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 699. Limitation upon Application and Right Obtained.

Neither the amount of water applied for, nor the season of diversion, as stated in the application as first filed can subsequently be increased in the application or in a permit or license issued on the application.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1450, Water Code.

HISTORY

1. New section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Renumbering and amendment of former Section 699 to Section 687, and renumbering and amendment of Section 658 to Section 699 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 700. Approval of Applications for Partial Season of Use.

When unappropriated water is not available to the applicant during the entire season for which the use of water is needed, an application may be approved for the portion of the season during which unappropriated water is available, provided the applicant first supplies to the board reasonable assurance that water can and will be obtained from an alternate source during the remainder of the season without impairing the prior rights of others.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1202, Water Code.

HISTORY

1. Renumbering of former Section 756 and amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of former Section 700 to Section 688, and renumbering and amendment of Section 760 to Section 700 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 71, No. 48.

§ 701. Application by an Agency Representing a Combined Use.

HISTORY

1. Renumbering and amendment of former Section 697 and amendment to Section 701 filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering and amendment of Section 701 to Section 690 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 702. Joint Applications.

HISTORY

1. Repealer and new section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Repealer and new section filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).
3. Renumbering and amendment of Section 702 to Section 611 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 703. Joint Ownership of Places of Use.

HISTORY

1. Renumbering of former Section 755 and amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Repealer filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).

Article 6. Contents of Application and Instream Beneficial Use Assessment

§ 705. Form of Application.

An application for a permit to appropriate water shall be typewritten or legibly written in black ink, and filed in duplicate upon a printed form furnished by the board.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 650 to Section 705 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 19.

§ 706. General Requirements.

(a) Applicants shall fill in each blank in the application. Supplements may be attached if there is insufficient space in the blanks of the printed form. If supplement is used it should be attached to the application and marked "Supplement." The data included should be segregated into paragraphs with numbers corresponding to the paragraph numbers and titles of the printed form and should be properly cross-referenced to the form. The application and supplement should include all data and information required to describe the proposed appropriation and use of water.

(b) The board may require the applicant to furnish a brief description of the project and its operation.

(c) General statements and data other than as indicated on the form are not desired as a part of the application but can be submitted in an accompanying letter which will be filed and made a part of the record.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 669 to Section 706 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 707. Legal Nature, Name and Address of Applicant.

If the applicant is other than a natural person, its legal nature shall be given (corporation, partnership, or other entity.) If the application is made by two or more persons, the name of each shall be given, and the address shall be supplied to which notices and other correspondence concerning any matter relating to the application may be mailed. Thereafter, notice mailed to that address will be considered notice to all.

NOTE: Authority cited: Section 11058, Water Code. Reference: Sections 1252 and 122.5, Water Code.

HISTORY

1. Repealer of former Section 707, and renumbering and amendment of Section 669.5 to Section 707 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, No. 6.

§ 708. Supplement to Application May Be Required.

When directed by the board, the applicant shall supplement the application with a statement showing the maximum quantity of water, in acre-feet or other unit of measurement prescribed by the board, that will be beneficially used each month during the proposed season of use.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 275, 1240, 1252 and 1253, Water Code.

HISTORY

1. Renumbering and amendment of Section 670.5 to Section 708 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, No. 6.

§ 709. Instream Beneficial Use Assessment.

(a) The instream beneficial use assessment required by Water Code Section 1250.5 shall provide information including but not limited to:

- (1) design, construction and operation of the project;

(2) in the area affected by the project: identification, and quantification, to the extent possible, of fish, wildlife and botanical resources; aquatic, riparian and terrestrial habitats; hydrology, including water quality and quantity relationships; geologic and soil resources; recreational demand; cultural resources; aesthetic values; specially designated or protected species, habitats, areas, or stream sections; and land-use plans;

(3) the applicant's preliminary findings on the flow regime necessary to protect existing resources and beneficial use levels, and assumptions and methodologies used to make this determination;

(4) the applicant's assessment of the effect of the proposed project on existing resources and current beneficial use levels, and assumptions and methodologies used to make this determination.

(b) The board shall develop a mailing list in connection with such applications and make it available to the applicant within 30 days after the application is accepted and given a priority of right (as defined in Water Code Section 1450) so that applicants may contact the parties on the board's mailing list prior to beginning work on the instream beneficial use assessment to obtain their opinion as to the appropriate scope and content of the instream beneficial use assessment.

(c) Applicants for water rights for small hydroelectric projects who are required by Water Code Section 1250.5 to do an instream beneficial use assessment must complete the Instream Beneficial Use Assessment Form. The entire Instream Beneficial Use Assessment Form for Small Hydroelectric Facilities, adopted by the board in June 1983 is incorporated by reference in this section. It may be obtained from the Division of Water Rights of the board.

(1) The applicant should determine the depth of analysis required to complete the "Instream Beneficial Use Assessment Form" after an initial investigation that includes consultation with the appropriate local, state and federal agencies and other interested parties and organizations, which are identified on the board's mailing list. The applicant may also know other interested or potentially affected parties, who should be consulted.

(2) Following consultation with resources management agencies and other interest parties, the applicant should develop a written copy of work for completion of the "Instream Beneficial Use Assessment Form." The written scope of work must be submitted to the Division of Water Rights for staff review. Based upon the staff review, the Division may agree that the applicant should proceed with the instream beneficial use assessment, or alternatively, the Division may schedule a meeting or scoping session to enable the applicant, the responsible resource agencies and other interested and concerned parties to discuss information needs and make recommendations for a revised scope of work acceptable to the Division.

(3) The following definitions are applicable to the Instream Beneficial Use Assessment Form:

(A) "Bedload" refers to the particles in a stream channel that mainly move by jumping, sliding or rolling on or near the bottom of the stream.

(B) "Bank-full capacity" refers to the rate of water flow that completely fills a channel; i.e., the rate at which the water surface is level with the flood plain. The bank-full state is the most effective or dominant channel-forming flow.

(C) "Change in streamflow regime" see (CC) "Streamflow Regime, Change In," below.

(D) "Critical area" refers to the terrestrial or riparian area on either side of the critical reach that is influenced by the amount of streamflow.

(E) "Critical reach" refers to that section of the stream extending either from the point of diversion or, if the project includes an impoundment, the most upstream point of the impoundment to the point of return.

(F) "Critical riparian/wetland area" is the area on either side of the water course that is influenced by the amount of streamflow, and extends from the point of diversion or uppermost point of the impoundment, whichever is the highest upstream point, to the point of return. This area also includes stream influenced wetlands, including but not limited to wet meadows, marshes, swamps and overflow areas.

(G) "Deposition" refers to the laying down of material by erosion or transport by water.

(H) "Ecosystem" refers to a complex system composed of a community of fauna and flora taking into account the chemical and physical environment with which the system is interrelated.

(I) "Erosion" refers to a group of processes whereby earth or rock material is worn away, loosened or dissolved and removed from any part of the earth's surface. It includes the process of weathering, solution, corrosion and transportation.

(J) "Flood frequency curve" refers to a curve that plots over time the probability that floods of given magnitudes will recur.

(K) "Full length of the stream," as used in the "Instream Beneficial Use Assessment Form," will vary with individual site settings and will be determined on a case-by-case basis.

(L) "Groundwater recharge" refers to the addition to the water within the earth that occurs naturally from infiltration of rainfall and from water flowing over the earth materials that allow water to infiltrate below the land surface.

(M) "Habitat" or "primary habitat" refers to the place where an organism lives.

(N) "Habitat, migration" refers to that area which individuals periodically visit or through which individuals periodically pass on their way to another destination.

(O) "Habitat type" refers to a naturally occurring assemblage of plants. (For example: aspen, grove, white alder/willow forest, willow thicket, meadow.)

(P) "International whitewater scale" refers to a scale developed by the American Whitewater affiliation which is used to rate the boating difficulty of a river. Sections of a river are rated on a scale of I to VI, with VI being the most difficult.

(Q) "International scale of river difficulty": (If rapids on a river generally fit into one of the following classifications, but if the water temperature is below 50 degrees Fahrenheit, or if the trip is an extended trip in a wilderness area, the river should be considered one class more difficult than normal.)

CLASS I. Moving water with a few riffles and small waves. Few or no obstructions.

CLASS II. Easy rapids with waves up to 3 feet, and wide, clear channels that are obvious without scouting. Some maneuvering is required.

CLASS III. Rapids with high, irregular waves often capable of swamping an open canoe. Narrow passages that often require complex maneuvering. May require scouting from shore.

CLASS IV. Long, difficult rapids with constricted passages that often require precise maneuvering in very turbulent waters. Scouting from shore is often necessary, and conditions make rescue difficult. Generally not possible for open canoes. Boaters in covered canoes and kayaks should be able to Eskimo roll.

CLASS V. Extremely difficult, long, and very violent rapids with highly congested routes which nearly always must be scouted from shore. Rescue conditions are difficult and there is significant hazard to life in event of mishap. Ability to Eskimo roll is essential for kayaks and canoes.

CLASS VI. Difficulties of Class V carried to the extreme of navigability. Nearly impossible and very dangerous. For teams of experts only, after close study and with all precautions taken.

(R) "Key species" refers to the species of concern in any given circumstances.

(S) "Landslides" refers to the failure of a slope in which the movement of the soil mass takes place along an interior surface of sliding.

(T) "Mudflows" refers to a moving mass of almost liquid material or wet earth caused by rain.

(U) "Nutrient transfer" refers to the transfer of nutrients from land to water through leaching and from water to land in times of floods.

(V) "Primary habitat" refers to the primary place where an organism lives.

(W) "Productivity" refers to the amount of living matter actually produced by the unit being discussed.

(X) "Change in streamflow regime" see (CC) "Streamflow Regime, Change In," below.

(Y) "Riparian vegetation" refers to moisture-loving vegetation along a watercourse which is distinguished from other vegetation by its dependence on the combination of soil moisture and other environmental factors provided by a permanent or intermittent stream.

(Z) "Sediment transfer" refers to the quantity of sediment measured in dry weight or by volume, transported through a stream cross section in a given time. Consists of both suspended load and bedload.

(AA) "Slope stability" refers to an evaluation (almost always qualitative and expressed as a probability) of the tendency for the materials on or constituting a slope (e.g., rocks, soil, snow) to either remain in place or to move downhill.

(BB) "Spoils" refers to loose rock, solid and vegetation debris, left from construction activities.

(CC) "Streamflow regime, change in" refers to the criteria which shall be considered in determining whether or not the project will change the streamflow regime, including but not limited to, the following:

1. Will the rate and volume of flow be changed?
2. Will the water temperature be changed?
3. Will there be changes in the concentration of dissolved oxygen?
4. Will there be changes in the timing of water releases from any existing water diversion or storage facility?

(DD) "Structural characteristics" refers to the physical or life-form characteristics of the habitat type described in terms of the vertical pattern, including but not limited to overstory, understory or seedling tree, tall or low shrub, perennial or annual herb, and moss or lichen, and the horizontal pattern described in terms of age-class.

(EE) "Suspended solids" refers to the small, solid particles in water that cause a cloudy condition. Particles of suspended sediment tend to settle at the channel bottom (settleable solids), but upward currents in turbulent flow counteract gravitational settling.

(FF) "Substrate" refers to the base on which an organism lives.

(GG) "Tailrace" refers to the channel, downstream of the draft tube, that carries the water discharged from the turbine. The draft tube is the discharge section of the turbine.

(HH) "Turbidity" refers to a measure of the extent to which light passing through water is reduced due to suspended materials. Excessive turbidity may interfere with light penetration and minimize photosynthesis, thereby causing a decrease in primary productivity. It may interfere directly with essential physiological functions of fish and other aquatic organisms, making it difficult for fish to locate a good food source, and altering water temperature.

(d) An instream beneficial use assessment shall be considered adequate when the Division of Water Rights has certified in writing, that:

(1) The applicant has filed with the Division of Water Rights 10 copies of the "Instream Beneficial Use Assessment Form," legible typed, properly executed, and has fully and adequately provided the information required in the form as determined by the Division of Water Rights.

(2) Within 10 days of the date the form is submitted to the board (1) the Division of Water Rights shall make copies available to resource management agencies, and (2) interest parties shall be notified of the availability of copies for examination at locations open to the public. This will include, at a minimum, two locations in the general area of the project, the Resources Agency Library, and Division of Water Rights headquarters. Copies also may be purchased from the Division at the cost of reproduction.

(3) The applicant has filed final and complete maps as required by the "Instream Beneficial Use Assessment Form," as determined by the Division of Water Rights.

(e) Upon receipt of an instream beneficial use assessment, the division shall, within 90 calendar days, determine whether the assessment is ade-

quate, taking into account the written scope of work, the discussion at the scoping session, if one is held, comments from other agencies and interested parties, and whether the assessment has met procedural requirements. Board approval of the adequacy of the assessment does not constitute endorsement of the assessment's preliminary findings on streamflow regime. (f) When the division determines that an instream beneficial use assessment is adequate, it shall inform the applicant, in writing, of such determination.

(g) If the division determines that an instream beneficial use assessment is inadequate, it shall, in writing, inform the applicant of that determination, shall specify those parts of the assessment that are inadequate, and shall indicate the manner in which they can be made adequate.

(h) To harmonize the provisions of Water Code Section 1250.5 with Article 5 of the Permit Streamlining Act (beginning with Government Code Section 65950) and the California Environmental Quality Act (beginning with Section 21000 of the Public Resources Code.):

(1) When an instream beneficial use assessment is required because a proposed project would change the streamflow regime, he one (or two) year time period within which the board must act pursuant to Water Code Section 1250.5 shall begin when a complete application has been filed and the Division of Water Rights has determined that the instream beneficial use assessment is adequate.

(i) An instream beneficial use assessment form shall not be accepted for filing unless it is filed concurrently with or after the application for the water right permit for the project.

(j) If there is a disagreement regarding any of the following which cannot be resolved at the division level:

(1) whether the streamflow regime will be changed and, therefore an instream beneficial use assessment required;

(2) the scope or content of the instream beneficial use assessment required from the applicant;

(3) the adequacy of an instream beneficial use assessment submitted by an applicant; then, within 30 days from the date of the staff determination any person may petition the board in writing to resolve the matter. Within 30 days following receipt of the petition, the Division of Water Rights shall schedule the matter for a workshop for a determination by the board. The board may either resolve the issue at the workshop or schedule a hearing on the matter.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 106.7 and 1250.5, Water Code; and Section 21069, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 670.6 to Section 709 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 83, No. 32.

§ 710. Signature of Applicant.

The application and all other writings shall be signed by the applicant or an authorized agent. The board shall presume that any person, other than an applicant, who signs an application or other writing is an authorized agent. The presumption shall be overcome if the board may be charged with actual knowledge that the person signing has no authority to do so.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1252 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of Section 671 to Section 710 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 79, No. 20.

§ 711. Documents That Must Be Sworn To.

Applications and accompanying statements, including information required by Section 731, reports required of permittees and licensees and petitions for extension of time and for changes, shall be certified as true under penalty of perjury in accordance with Section 2015.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1051, 1075, 1080, 1100, 1105 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 654 to Section 711 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 73, No. 41.

§ 712. Issuance of Notice by Board.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. New subsection (b) filed 3-7-73; effective thirtieth day thereafter (Register 73, No. 10).
3. Renumbering and amendment of Section 712 to Section 684 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 713. Effect of Issuance of Notice.

HISTORY

1. New section filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 713 to Section 685 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 714. Application for Permit to Appropriate Water from Wild and Scenic Rivers.

HISTORY

1. New section filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19). For history of former section, see Register 64, No. 6.
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 7. Map Requirements

§ 715. General Requirements.

(a) A general project map and one copy of suitable scale on a sheet not larger than 28 inches by 40 inches or smaller than 8-1/2 inches by 11 inches shall be filed in connection with each application. This map shall be neatly and accurately drawn and should show the source from which water is to be taken, all dams, main conduits, reservoirs and other facilities, the important streams and tributaries in the area, the place of use, and any other features necessary for ready identification and understanding of the project.

(b) The map shall show the lines of the public land survey by 40-acre subdivision, section and township if the area is sectionalized. If the area is not sectionized the nearest lines of the public land survey to or across the project area should be extended as if it were surveyed. The lines of any other recorded survey may be used to describe the project, provided, the relation to the lines of the nearest adjacent public land survey is shown.

(c) Points of original diversion, and of rediversion from any natural stream, must be shown wither by (1) bearing and distance or co-ordinate distances from some corner of a recorded survey if such a corner exists within a distance of two miles; (2) bearing and distance or co-ordinate distances from some permanent monument or a natural object which can be readily found and recognized, such as the confluence of two known streams; or (3) co-ordinates and zone of the California Co-ordinate System.

(d) The place of use shall be identified by reference to 40-acre subdivision, section, township, range and meridian of the public land survey or projection thereof, or by reference to the smallest subdivision of some other recorded survey if more commonly used within the project area except as otherwise provided in Section 719. If described by reference to some other recorded survey, the lines of the public land survey, or projection thereof, should be shown. The 40-acre subdivisions of the public land survey will be assumed regular unless it be shown otherwise.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

1. Renumbering and amendment of former Section 715, and renumbering and amendment of Section 673 to Section 715 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 73, No. 19 and 60, No. 5.

§ 716. Maps for Minor Projects.

For minor projects smaller than those specified in Section 717, the board will provide blank township plats upon which the maps may be submitted or the required information may be submitted on U.S.G.S. quadrangle or topographic maps.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

1. Repealer of former Section 716, and renumbering and amendment of Section 679 to Section 716 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 73, No. 19 and 67, No. 49.

§ 717. Maps for Larger Projects.

The following additional maps are required for (1) appropriating more than three cubic feet per second, or (2) constructing a dam which will be under the jurisdiction of the Department of Water Resources for safety, as defined in Sections 6002 and 6003 of the Water Code, or (3) creating a reservoir with a surface area in excess of ten acres, or (4) appropriating more than 1,000 acre-feet per annum by underground storage. (For good cause, the Chief, Division of Water Rights may waive the following requirements for projects defined in (3) above.)

(a) Maps shall be submitted which were prepared by a civil engineer or land surveyor registered or licensed in the State of California.

(b) An original map and one copy are required. The original shall be accurately and permanently rendered to a suitable scale on linen, mylar or equivalent material; the other may be a print thereof.

(c) All maps shall be titled, show the meridian and scale and bear the California certificate and registration number of the engineer or surveyor. The certificate shall: state the name and address of the person making the certificate and whether the map was prepared by him or under his supervision; indicate the source of the information shown thereon, including the dates of actual surveys if such were made; certify that it correctly represents the works described in the accompanying application, the location of streams and ditches in the immediate vicinity, and the acreage to be irrigated; be concluded by the date, signature, and California certificate number of the engineer or surveyor. The following example is a typical certificate:

CERTIFICATE OF ENGINEER (SURVEYOR)

I, John Doe, of 100 Main Street, Sacramento, California, do hereby certify that this map was prepared by me from notes taken during an actual survey made by me (or under my immediate supervision) on _____, 19____, (and/or from U.S. Geological Survey 7.5-minute Lincoln and Roseville Topographic quadrangles,) and that it correctly represents the project described in the accompanying application and shows the location of streams and ditches in the immediate vicinity.

/s/ John Doe

(date)

California Civil Engineer (Surveyor) Certificate No. _____

(d) Contour maps of surface reservoirs shall be submitted with contour intervals not greater than:

Height of dam	Maximum contour interval
300 feet or over	40 feet
100 feet or over, but less than 300 feet	20 feet
30 feet or over, but less than 100 feet	10 feet
Less than 30 feet	5 feet

For dams less than five feet high, the high water contour shall be shown and the elevation of the maximum and minimum water surfaces shall be stated.

(e) All contour maps shall show the high water line and state the elevation thereof, and include an area-capacity curve or table.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

- i. Repealer of former Section 717, and renumbering and amendment of Section 680 to 717 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 80, No. 48 and 73, No. 19.

§ 718. Requirements for Municipal Purposes.

Maps accompanying applications for municipal purposes shall show the location of the place of use by outer boundaries. Sections and townships of the public land survey or projections shall be superimposed upon the map.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

1. Renumbering and amendment of Section 677 to Section 718 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 55, No. 17.

§ 719. Requirements for Irrigation Purposes.

Where irrigation is proposed by a public district organized under statute, a public utility, or a mutual water company, the exterior boundaries of the general service area may be shown in lieu of compliance with the provisions of Section 715(d). Where irrigation of very large areas is proposed, the board may, in its discretion, waive compliance with the provisions of Section 715(d) and accept as sufficient an identification of the exterior boundaries of the general area to be irrigated.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

- Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
- Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
- Editorial correction (Register 60, No. 8).
- Amendment of subsection (c) filed 5-9-74; effective thirtieth day thereafter (Register 74, No. 19).
- Renumbering and amendment of former Section 719 to Section 745, and renumbering and amendment of former Section 674 to Section 719 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 719.5. Claim of Right Without Compliance with Statutory Procedure.**HISTORY**

- New section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
- Renumbering and amendment of former Section 719.5 to Section 746, filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 720. Requirements for Power Purposes.

(a) Maps accompanying applications for power purposes shall show the point of diversion, the conduit, penstock and power house and, the point at which the water is returned to the stream.

(b) Applicants applying for more than 3 cubic feet per second direct diversion or 200 acre-feet per annum, shall submit a profile of the penstock on which appears in figures, the elevation of the nozzle if an impulse wheel is to be used, or the elevation of the water surface at the draft tube if a reaction wheel is to be used, and the elevation of the first free water surface above the penstock. The difference between these two elevations must equal the total fall to be utilized.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260, 1261 and 1531, Water Code.

HISTORY

- Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
- Renumbering and amendment of former Section 720 to Section 747 and 753, and renumbering and amendment of Section 675 to Section 720 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 9.

§ 721. Requirements for Mining Purposes.

Maps accompanying applications for mining purposes shall show the location of the claims and of the mill if water is to be used in a mill. If water is returned to the stream, the point of return shall be shown.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

1. Renumbering and amendment of former Section 721 to Section 748, and renumbering and amendment of Section 676 to Section 721 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 79, No.2 and 76, No. 36.

§ 722. Maps for Underground Storage.

Maps accompanying applications for underground storage shall show the location of points of diversion or redirection to underground storage, the conduit system, the areas, estimated capacities and locations of spreading grounds, the areas, capacities, and locations of underground reservoirs, and the places of measurement of water diverted to underground storage, and the place of use.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

- Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
- Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
- Renumbering and amendment of former Section 722 to Section 749, and renumbering and amendment of Section 689 to Section 722 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 722.5. Abandonment of Protest.

NOTE: Authority cited: Section 1058, Water Code. Reference: Part 2, Division 2, Water Code.

HISTORY

- New section filed 9-3-76, effective thirtieth day thereafter (Register 76, No. 36).
- Renumbering and amendment of former Section 722.5 to Section 750 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 723. Requirements for Other Purposes.

(a) Maps for applications for industrial purposes outside of a municipality or for domestic, recreational, stockwatering, or other purposes not named herein, shall show the location of the place of use by sections, township and range of the public land survey and the 40-acre subdivision thereof.

(b) Maps accompanying applications for domestic use within subdivisions, forest service tracts, etc., shall show the place of use by tract name or number and lot numbers as well as by 40-acre subdivision, section, township, and range.

(c) If the place of use is in an area not covered by a public land survey, the nearest lines of the public land survey should be extended and shown on the map.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

- Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
- Renumbering and amendment of former Section 723 to Section 751, and renumbering and amendment of Section 678 to Section 723 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 724. Filing and Application Without Maps—When Allowed.

For preliminary purposes, the application may be filed without maps or with such maps as are within the present ability of applicant to supply.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1052, 1260 and 1261, Water Code.

HISTORY

- Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
- Renumbering and amendment of former Section 724 to Section 752, and renumbering and amendment of Section 681 to Section 724 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 725. Deferral of CEQA Documents.

NOTE: Specific authority cited: Sections 1058 and 13991(g), Water Code. Specific reference cited: Part 2, Division 2, Chapters 3-5, 8 and 14, Division 7, Water Code; and Divisions 1-2, Title 7, Government Code.

HISTORY

1. New section filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 728. Board May Conduct—Co-Operation by Parties.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of Section 728 to Section 755 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 729. Benefits and Detriments; Alternative Projects.

NOTE: Authority cited: Section 1058, Water Code. Reference: Chapter 6, Part 2, Division 2, Water Code.

HISTORY

1. New section filed 3-27-75; effective thirtieth day thereafter (Register 75, No. 13).
2. Renumbering and amendment of Section 729 to Section 756 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 8. Special Situation Applications**§ 730. Adding Power Plants to Existing Works.**

(a) Persons having a permit or license for the use of water may petition the board to add power use to the permit or license as a beneficial use when the use of water for power can be accomplished with no change in the streamflow regime.

See Section 799 concerning petition for change to allow the addition of power plants to existing works.

(b) A new application must be filed when:

- (1) Use of the water for power will change the stream flow regime; or
- (2) The applicant does not have a permit, license or other legal right to the water to be appropriated; or
- (3) The applicant has a permit or license, but additional water will be used above the maximum amount of water allowed under the existing permit or license.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 106.7, 110, 1200, 1250.5, 1252, 1490 and 1491, Water Code.

HISTORY

1. New Section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For history of former Section 730, see Register 60, No. 8.

§ 731. Applications for Water Where an Existing Right Is Claimed.

(a) A person who claims an existing right to the use of water shall be granted a permit or license to appropriate no more water than is needed over that which is available under the existing right to meet the beneficial use requirements of the project. In implementing this requirement, the board will accept an application for an amount of water equal to the total reasonable requirements of a project where the existing right asserted for a common place of use has not been adjudicated or otherwise finally determined. Any permit or license issued by the board pursuant to such an application shall contain a condition which will limit the quantity of water appropriated under the permit or license to the face value of the permit or license less any water available under an existing right subsequently determined to exist for the same place of use in any adjudication or other legally binding proceeding.

(b) Where an applicant claims an existing right to the use of water within the proposed place of use, the applicant shall describe the nature, amount, season, points of diversion and place of use of such claim together with the priority asserted. If the existing right is evidenced by a court decree or other legally binding document, the applicant shall submit a copy of such document unless the board already has a copy in its records.

(c) Any person who obtains a permit or license for a particular place of use and thereafter transfers an existing water right for the same place

of use to another place of use without the prior approval of the board shall forfeit all rights under the permit or license.

(d) Any person who obtains a permit or license for a particular place of use without claiming an existing water right for the same place of use and who thereafter exercises a claimed existing right for that place of use without the prior approval of the board shall forfeit all rights under the permit or license.

(e) Any permit or license issued to a person who claims an existing water right for the same place of use shall contain a term requiring the permittee or licensee to take and use water under the existing right only in accordance with law. The permittee or licensee will then be subject to enforcement action by the board for violation of this permit term if the permittee or licensee takes water for there is no entitlement under the existing right in combination with the permit or license.

(f) Any person who has previously obtained a permit or license containing a term obligating the permittee or licensee to waive an existing right for so long as the permit or license remains in effect may have this term deleted upon agreement to be subject to the provisions of subsections (a) through (e) of this section.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 2, Article X, California Constitution; and Sections 100, 275, 1201, 1202, 1253, 1255, 1375, 1410, 1675 and 1701, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Renumbering and amendment of former Section 731 to Section 766, and renumbering and amendment of Section 653(b) to Section 731 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 81, No. 11.

§ 732. Relationship of Applicant and User.

(a) Filing for Service of a Subdivision. If the applicant is the owner of a subdivision and intends merely to construct and operate the diversion system pending the time that the purchasers of the lots can themselves take over and manage the diversion system, the conditions under which title to the water right shall pass to the purchasers must be clearly established.

(b) Establishment of Relationships. When the applicant will not use the water to be appropriated, but will distribute or supply it to others, the relationship between applicant and the water users must be clearly established.

(c) Jurisdiction of Public Utilities Commission. The board may require sufficient information to indicate whether a proposed distribution of water will be subject to the jurisdiction of the Public Utilities Commission. NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1253 and 1375, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
3. Renumbering and amendment of former Section 732 to Section 763, and renumbering and amendment of Sections 754, 755 and 756 to Sections 732 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 733. Underground Storage.

Applications proposing underground storage shall include the following information upon a form that will be supplied by the board:

(a) The location of each point where it is proposed to divert or redirect water from a natural channel to spreading grounds away from the stream, or to take water under control for direct percolation into the stream channel. All locations shall be described in the manner detailed in Section 715(c).

(b) A description of the physical works used to divert and convey the water and to accomplish the underground storage, including the headworks, conduits and spreading grounds; the capacities of the conduits and spreading grounds; the underground reservoirs, including the projected surface areas and capacities thereof; and the method and points of mea-

surement of the water diverted to and withdrawn from underground storage.

(c) In event an application proposes both surface diversion and underground storage, the appropriate paragraph of the regular form shall be completed regarding surface diversion and in addition the underground features shall be described in the special form as provided in this section.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260 and 1261, Water Code.

HISTORY

1. Amendment of subsection (f) filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19). For prior history, see Register 71, No. 48.
2. Amendment of subsection (a) filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9).
3. Repealer of subsection (f) filed 7-6-79; effective thirtieth day thereafter (Register 80, No. 3).
4. Renumber of subsections (g), (h), (i), (j), and (k) to (f), (g), (h), (i), and (j) filed 1-16-80 as procedural and organizational, effective thirtieth day thereafter (Register 80, No. 3). 5. Renumbering and amendment of former Section 733 to Section 761, and renumbering and amendment of Section 688 to Section 733 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 733.5. Witnesses and Exhibits.

NOTE: Authority cited: Section 185 and 1058, Water Code. Reference: Sections 183 and 1051, Water Code.

HISTORY

1. New section filed 7-6-79; effective thirtieth day thereafter (Register 79, No. 27).
2. Renumbering and amendment of Section 733.5 to Section 762 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 734. Applications Within the California Wild and Scenic Rivers System.

(a) No application which proposes an appropriation of water in connection with construction of a dam, reservoir, or other water impoundment facility on any river designated in Public Resources Code Section 5093.54 will be accepted for filing.

(b) An application which proposes an appropriation of water which could affect any river designated in Public Resources Code Section 5093.54, will be accepted for filing. The Secretary of the Resources Agency will be provided special notice of any such application.

No permit shall be issued if the board finds that the appropriation would impair the extraordinary scenic, recreational, fishery, or wildlife values of any such designated river.

(c) An application which proposes an appropriation of water in connection with construction of a water diversion facility on any river designated in Public Resources Code Section 5093.54, other than a dam, reservoir, or other water impoundment facility, will be accepted for filing; provided, no permit shall be issued on any such application unless the Secretary of the Resources Agency first determines (1) that such facility is needed to supply domestic water to the residents of the county or counties through which the river flows, and (2) that such facility will not adversely affect its free-flowing condition or natural character. Such determination shall be in addition to other findings which the board is required by law to make.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 5093.55, 5093.56 and 5093.61, Public Resources Code; and Section 1252, Water Code.

HISTORY

1. New Section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For history of former Section 734, see Registers 78, No. 9, 71 No. 43, and 60, No. 5.

§ 735. Napa River, Special.

(a) Budding grape vines and certain other crops in the Napa Valley may be severely damaged by spring frosts. During a frost, the high instantaneous demand for water for frost protection by numerous vineyardists and other water users frequently exceeds the supply in the Napa River stream system. This results in uncoordinated diversions and possible infringements upon other rights. Therefore, all diversions of water from the stream system between March 15 and May 15 determined to be significant by the board or a court of competent jurisdiction shall be considered unreasonably and a violation of Water Code Section 100 unless con-

trolled by a watermaster administering a board or court approved distribution program. Diversions for frost protection and irrigation during this period shall be restricted to: (1) replenishment of reservoirs filled prior to March 15 under an appropriate water right permit, or (2) diversions permitted by the court.

(b) The service area of the distribution program may be revised at any time by order of the board or the court. The board will retain jurisdiction to revise terms and conditions of all frost protection permits should future conditions warrant.

(c) Under this section diversion of water during the spring frost season from March 15 to May 15 to replenish water stored in reservoirs prior to the frost season is "regulation," as defined in Article 2, Section 657: Replenishment diversion must be to reservoirs for which a permit or license authorizing winter storage prior to the frost season has been issued.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 2, Article X, California Constitution; and Sections 100, 275 and 1051.5, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 7-6-79; effective thirtieth day thereafter (Register 79, No. 27).
3. Repealer of former Section 735, and renumbering and amendment of former Sections 659 and 660 to Section 735 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 79, No. 41.

§ 736. Petitions for Assignment or Release from Priority of Applications Filed Pursuant to Part 2, of Division 6, Sections 10500 et seq. of the Water Code.

(a) Petitions for assignment or release from priority of an application filed pursuant to Section 10500 of the Water Code need not be in any particular form.

(b) Petitions for assignment must be submitted in duplicate and, if the application is not complete, must include a proposed completed application which complies with the requirements set forth in Articles 1 through 7 and Article 10 of this subchapter, to the extent each is applicable.

(c) Petitions must be accompanied by the minimum filing fee required by Water Code Section 1548 or 1549.

(d) If the proposed completed application fails to conform with legal requirements, it will be returned to the petitioner with a statement of the defects.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 1260, 1548, 1549, 19594 and 10504.1, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 736 to Section 765, and renumbering and amendment of Section 800 to Section 736 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 9.

§ 736.1. Hearings in Response to Drought Emergency Conditions.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275 and Division 2, Water Code.

HISTORY

1. New section filed 1-31-77 as an emergency; effective upon filing (Register 77, No. 6).
2. Certificate of Compliance filed 4-20-77 (Register 77, No. 17).
3. Renumbering and amendment of Section 736.1 to Section 767 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 737. Time of Filing Petitions.

Two or more petitions for assignment or release from priority of the same application will be considered on their without regard to which was filed first.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 10504.01, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).

3. Renumbering and amendment of former Section 737 to Section 760, and renumbering and amendment of former Section 801 to Section 737 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.

§ 737.1. Reconsideration of Board Decisions and Orders.

HISTORY

1. Renumbering and amendment of Section 737.1 to Section 768 filed 1-16-87; effective thirtieth day thereafter (Register 87, N. 10). For prior history, see Register 75, No. 21.

§ 737.2. Petition for Reconsideration.

HISTORY

1. Renumbering and amendment of former Section 737.2 to Section 769 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 737.4. Board Action.

HISTORY

1. Renumbering and amendment of Section 737.4 to Section 770 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 737.5. Procedure Relating to Hearings.

HISTORY

1. Renumbering and amendment of Section 737.5 to Section 771 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 738. Protests to Petitions.

Protests to either a petition for assignment or release from priority or to a proposed completed application must be submitted within the time stated in the notice issued by the board or such further time as may be allowed for cause by the board.

NOTE: Additional authority cited: Section 1058, Water Code. Reference: Section 10504.01, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 738 to Section 791, and renumbering and amendment of Section 802 to Section 738 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.

§ 738.5. Nature of Action.

HISTORY

1. New section filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
2. Renumbering and amendment of former Section 738.5 to Section 792 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 739. Hearings of Petitions for Release from Priority.

Whenever practicable, the hearing of a petition for release from priority will be combined with the hearing of the application in favor of which the release is requested.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252, 10504.01, 10504.02 and 10504.1, Water Code.

HISTORY

1. New section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering from 738.5 and amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
4. Renumbering and amendment of former Section 739 to Section 793, and renumbering and amendment of Section 803 to Section 739 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.

§ 740. Maps and Data Required.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).

2. Renumbering from 739 and amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).

3. Renumbering and amendment of Section 740 to Section 714 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 741. Notice of Petition.

HISTORY

1. Renumbering from 740 and amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). For history of former Section 741, see Register 60, No. 5.
2. Amendment filed 1-28-76; effective thirtieth day thereafter (Register 76, No. 5).
3. Renumbering and amendment of Section 741 to Section 795 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 742. Procedure on Petitions.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 742 to Section 796 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 743. Changes Prior to Notice of an Application.

HISTORY

1. New section filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 743 to Section 797 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 744. Changes to Cover Incidental Uses of a Reservoir.

HISTORY

1. New section filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Renumbering and amendment of Section 744 to Section 798 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 9. Protests and Answers

§ 745. Protest Requirements.

Protests shall be submitted in writing with a duplicate copy to the applicant and shall substantially comply with the following requirements.

(a) Each protest shall include the name and address of the protestant and show that the protestant has read either the application or the related notice.

(b) If the protest is based on interference with a prior right, there shall be an allegation of specific injury to protestant which will result from the proposed appropriation. The protest shall state the basis of protestant's claim of right to use water and when the use began, the use which has been made in recent years, and present use. The location of protestant's point of diversion shall be described with sufficient accuracy so that the position thereof relative to the point of diversion proposed by applicant may be determined.

(c) The allegation that the proposed appropriation would not be within the board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law shall be accompanied by a statement of facts supporting the allegation.

(d) Protestant should call attention to any amendment of the application or other grounds for settlement which, if agreed upon, would result in withdrawal of the protest.

(e) The protest shall indicate the manner in which service upon the applicant of a duplicate copy of the protest has been made.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1330 and 1331, Water Code; and *National Audubon Society v. Superior Court of Alpine County*, 33 Cal.3d 419, 189 Cal.Rptr. 346, 658 P.2d 709 (1983).

HISTORY

1. Renumbering and amendment of Section 719 to Section 745 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 19.

§ 746. Claim of Right Without Compliance with Statutory Procedure.

A protest based upon a claim of interference with an alleged appropriate or prescriptive right which has not been adjudicated and which is based solely upon use of water commenced since December 19, 1914, without compliance with statutory procedure, will not be accepted.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1330 and 1331, Water Code; and *People v. Shirokow*, 26 Cal.3d 301, 162 Cal.Rptr. 30, 605 P.2d 859 (1980).

HISTORY

1. Renumbering and amendment of Section 719.5 to Section 746 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 60, No. 5 and 55, No. 17.

§ 747. Time for Filing.

Protests shall be filed within the time stated in the notice of the application or such further time as may, for good cause, be allowed by the board.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1331 and 1331, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 747 to Section 775, and renumbering and amendment of Section 720 to Section 747 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 748. Service of Supplements and Correspondence.

A copy of any supplement to the protest or letter concerning the protest shall be served upon the opposing party.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1330, 1331, 1340, 1341, 1350 and 1352, Water Code.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 748 to Section 776, and renumbering and amendment of Section 721 to Section 748 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 76, No. 36.

§ 749. Rejection of Protest.

A protest will not be accepted if it fails substantially to comply with the requirements of Section 745, fails to state a valid ground of protest, or is based upon issues which are not within the jurisdiction of the board; provided, however, that the board will allow reasonable opportunity to correct a protest or to reach a settlement with the applicant. Since an upstream water user can take water before it reaches a downstream applicant, a protest based upon interference with a prior right of such upstream user normally will not be accepted.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1304 and 1331, Water Code.

HISTORY

1. Amendment filed 12-1-55, effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60 effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 749 to Section 777, and renumbering and amendment of Section 722 to Section 749 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 750. Abandonment of Protest.

Failure of a protestant to respond to correspondence from the board concerning the protest may be interpreted as an abandonment of interest therein. Should such failure occur, the board may, by certified mail, direct the protestant to respond. Failure to respond to such direction within 30 days from the date upon which the letter is received shall be deemed an abandonment of the protest and the protest shall be dismissed without further notice.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1304, 1331, 1331, 1340, 1341, 1342, 1351 and 1352, Water Code.

HISTORY

1. Renumbering and amendment of Section to Section 750 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 76, No. 36.

§ 751. Answers to Protests.

The applicant should file an answer to each protest. To facilitate resolution of protests, answers shall be filed not later than 15 days following notification of acceptance of the protest, unless additional time is allowed by the board. A copy of the answer shall be served on the protestant. A statement that protestant has been served shall be filed with the answer together with an indication of the manner of service.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252 and 1330, Water Code.

HISTORY

1. Renumbering and amendment of Section 724 to Section 752 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, NO. 6.

§ 752. Content of Answers.

If the applicant files an answer to a protest, the answer shall be responsive to the allegations contained in the protest. It should indicate the line of defense which will be presented and any possibilities for settlement of the protest which the applicant may suggest.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1252 and 1330, Water Code.

HISTORY

1. Renumbering and amendment of Section 724 to Section 752 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, No. 6.

§ 753. Extension of Time for Negotiation.

A request for extension of time within which to file a protest or answer thereto in order to enable negotiation of conflicting claims shall be accompanied by a showing of diligent good faith efforts to reach an agreement between the parties with reasonable prospects of success.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1220 and 1331, Water Code.

HISTORY

1. Renumbering and amendment of Section 720 to Section 753 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 754. Establishment of Relationship.

HISTORY

1. Amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of Section 754 to Section 762 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 10. Investigations

§ 755. Board May Conduct—Cooperation by Parties.

The board may, in its discretion, conduct a field investigation of the water and other resources affected by an application. The parties may be requested to confer and cooperate with the engineer and other representatives of the board designated to carry out such investigations.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183, 1051, 1250, and 1251, Water Code; and Sections 21082, 21082.2 and 21100, Public Resources Code.

HISTORY

1. Renumbering of former Section 760 to Section 755 and amendment filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 755 to Section 732, and renumbering and amendment of Section 728 to Section 755 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 756. Benefits and Detriments; Alternative Projects.

(a) Analysis. The board shall at the request of any party or on its own motion, to the extent practicable, identify and evaluate the benefits and

detriments, including but not limited to economic and environmental factors, of the present and prospective beneficial uses of the waters involved and alternative means of satisfying or protecting such uses, and make findings with respect thereto. For example, if releases of stored water may be required in connection with a project, any party may request that the board analyze the potential benefits and detriments, if any, of such releases. These benefits and detriments may be both economic and environmental. Some examples are possible enhancement or mitigation of flows and enhancement or mitigation of water quality downstream which may, in turn, result in economic benefit or economic mitigation to downstream water users and cause a reduction in economic benefit to direct users of project water by reducing the amount of water available for their use.

(b) Source of Information. The applicant may be required, and other parties may be requested, to provide such information as is determined necessary by the board to prepare the evaluation provided for by this section. The board will use the environmental documents prepared for the project and evidence received in any proceeding relative to the application as sources of information to the fullest extent possible.

(c) Time for Filing Request. Any request by a party that the board make the evaluation called for by this section must be received prior to the date of notice of hearing or notice that the board will conduct proceedings in lieu of hearing.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 100, 174, 275, 1242.5, 1243, 1251, 1253, 1256, 1257, 1258, 1391, 1394, 13000, 13001, 13050, 13140, 13141, 13142, 13170 and 13240, Water Code.

HISTORY

1. Renumbering of former Section 758 filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of former Section 756 to Section 732, and renumbering and amendment of Section 729 to Section 756 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 13.

§ 757. Filing for Service of a Subdivision (Leasing).

HISTORY

1. Repealer filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).

Article 11. Hearings and Proceedings in Lieu of Hearing

§ 760. Hearings on Water Right Applications and Other Water Right Matters.

Adjudicative hearings on water right applications and other water right matters shall be conducted in accordance with the procedures set forth in article 2 of chapter 1.5 of this division. Nothing in this section shall limit the Board's authority to conduct nonadjudicative informational hearings.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 1051, 1342, 1345, 1346, 1347, 1348, 1350, 1391 and 1394, Water Code.

HISTORY

1. New Article 17.1 (Section 760) filed 11-24-71; effective thirtieth day thereafter (Register 71, No. 48).
2. Renumbering and amendment of former Section 760 to Section 700, and renumbering and amendment of Section 737 to Section 760 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
3. Repealer and new section filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
4. Pursuant to Government Code section 11400.20(b)(2), interim regulations extended to 3-31-99 by filing of permanent regulations with OAL on 11-25-98. Adoption of permanent regulations disapproved by OAL 1-12-99; resubmitted by the State Water Resources Control Board on 3-10-99; and filed with the Secretary of State on 3-31-99, effective upon filing (Register 99, No. 14).

§ 761. Procedure at Hearings.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183, 1051, 1251 and 1353, Water Code.

HISTORY

1. New Article 17.2 (§§761, 762, 763) filed 3-23-73; effective thirtieth day thereafter (Register 73, No. 12). 2. Amendment of subsection (a) filed 3-27-75; effective thirtieth day thereafter (Register 75, No. 13).
2. Amendment of subsection (a) filed 1-28-77; effective thirtieth day thereafter (Register 77, No. 5).
3. Amendment filed 8-1-78; effective thirtieth day thereafter (Register 78, No. 31).
4. Renumbering and amendment of former Section 761 to Section 780, and renumbering and amendment of Section 733 to Section 761 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 80, No. 3.
5. Editorial correction amending numerical sequence of HISTORIES (Register 98, No. 13).
6. Repealer filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
7. Permanent repealer filed 3-31-99 (Register 99, No. 14).

§ 762. Witnesses and Exhibits.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183 and 1051, Water Code.

HISTORY

1. Renumbering and amendment of former Section 762 to Section 781, and renumbering and amendment of Section 735.5 to Section 762 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 79, No. 27 and 78, No. 12.
2. Repealer filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
3. Permanent repealer filed 3-31-99 (Register 99, No. 14).

§ 762.5. Passage of Water for Fish.

NOTE: Authority cited: Section 1058, Water Code. Reference: Chapter 6, Part 2, Division 2, Water Code.

HISTORY

1. New section filed 4-24-75; effective thirtieth day thereafter (Register 75, No. 17).
2. Renumbering and amendment of Section 762.5 to Section 782 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 763. Subpoenas.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Sections 183, 1080, 1082, 1083, 1084, 1085, 1086 and 1090, Water Code.

HISTORY

1. Amendment filed 2-28-75; effective thirtieth day thereafter (Register 75, No. 9). For prior history, see Register 73, No. 12.
2. Renumbering and amendment of former Section 763 to Section 783, and renumbering and amendment of Section 732 to Section 763 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
3. Repealer filed 3-26-98 as an interim regulation pursuant to Government Code section 11400.20; operative 3-26-98 (Register 98, No. 13). Interim regulations expire 12-31-98 unless earlier amended or repealed.
4. Permanent repealer filed 3-31-99 (Register 99, No. 14).

§ 763.5. Release of Stored Water.

NOTE: Authority cited: Section 1058, Water Code. Reference: Chapter 6, Part 2, Division 2, Water Code.

HISTORY

1. New section filed 3-27-75; effective thirtieth day thereafter (Register 75, No. 13).
2. Amendment of subsection (b) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
3. Renumbering and amendment of Section 763.5 to Section 784 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 764. Combined Hearings.

The board may hold a hearing to obtain evidence necessary to allow it to adopt or amend a water quality control plan pursuant to Water Code Section 13170 in combination with a hearing regarding a specific water right application or petition for a change, or in connection with a hearing regarding an exercise of the board's reserved jurisdiction. Whenever the board decides to hold a combined hearing and to make only one record for the combined proceeding, the board's hearing shall meet all of the requirements of Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 179, 179.6 and 183, Water Code.

HISTORY

1. New Article 17.3 (Sections 764, 764.5–764.8) filed 1–25–74; effective thirtieth day thereafter (Register 74, No. 4).
2. Amendment filed 6–26–75; effective thirtieth day thereafter (Register 75, No. 26).
3. Renumbering and amendment of former Section 764 to Section 820, and new Section 764 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 764.5. Investigation of Complaints.

HISTORY

1. Renumbering and amendment of Section 764.5 to Section 821 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 764.6. Action by the Board.

HISTORY

1. Renumbering and amendment of Section 764.6 to Section 822 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 764.7. Action on the Board's Own Motion.

HISTORY

1. Renumbering and amendment of Section 764.7 to Section 823 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 764.8. Licenses.

HISTORY

1. Repealer filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 764.9. Policy.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, Chapter 2.5, Division 1 and Part 2, Division 2, Water Code.

HISTORY

1. New section filed 1–28–77; effective thirtieth day thereafter (Register 77, No. 5).
2. Renumbering and amendment of Section 764.9 to Section 855 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 764.10. Investigations.

NOTE: Authority cited: Section 1058, Water Code.

HISTORY

1. New Article 17.4 (Sections 764.10–764.13) filed 5–22–75; effective thirtieth day thereafter (Register 75, No. 21).
2. Amendment filed 6–24–77; effective thirtieth day thereafter (Register 77, No. 26).
3. Renumbering and amendment of Section 764.10 to Section 856 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 764.11. Notifications and Orders.

HISTORY

1. Amendment filed 6–24–77; effective thirtieth day thereafter (Register 77, No. 26). For prior history, see Register 75, No. 21.
2. Renumbering and amendment of Section 764.11 to Section 857 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 764.12. Noncompliance with Order: Revocation of Entitlement.

HISTORY

1. Amendment filed 6–24–77; effective thirtieth day thereafter (Register 77, No. 26).
2. Change without regulatory effect repealing section filed 3–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 13).

§ 764.13. Noncompliance with Order: Enforcement by Attorney General.

HISTORY

1. Amendment filed 6–24–77; effective thirtieth day thereafter (Register 77, No. 26).
2. Change without regulatory effect repealing section filed 3–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 13).

§ 764.14. Alternative Procedure.

The procedures established in this article shall be construed as alternative to, and not exclusive of, the procedures established in Chapter 5 of Title 23, California Administrative Code, in accordance with Section 4007 therein.

NOTE: Authority cited: Sections 185 and 1058, Water Code. Reference: Section 275, Water Code.

HISTORY

1. New section filed 7–6–79; effective thirtieth day thereafter (Register 79, No. 27).

§ 764.20. Conservation and Protection of Water Within the Sacramento–San Joaquin Delta and Its Tributary Streams.

NOTE: Additional authority cited: Sections 100, 275, 13000–13001 and 13140, Water Code. Reference: Chapters 1 and 3, Division 7, Water Code.

HISTORY

1. Repealer filed 2–9–78 as an emergency; effective upon filing (Register 78, No. 6). For prior history, see Register 77, Nos. 24, 33 and 51.
2. Certificate of Compliance as to 2–9–78 repealer filed 4–14–78 (Register 78, No. 15).

§ 765. Hearings to Be Held Promptly.

Protested applications will be heard as promptly as practicable in light of all the circumstances. Requests for inordinate delay of hearings or in conducting stipulated proceedings in lieu of hearing will be denied.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 179.6, 183 and 1051, Water Code.

HISTORY

1. Amendment filed 3–10–60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 765 to Section 830, and renumbering and amendment of Section 736 to Section 765 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 766. Failure to Appear—Effect.

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the board within five days thereafter. The lack of such showing of good cause may, in the discretion of the board, be interpreted as an abandonment of interest in the application.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183 and 1352, Water Code.

HISTORY

1. Amendment filed 3–10–60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 766 to Section 831, and renumbering and amendment of Section 731 to Section 766 filed 1–16–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, No. 6.

§ 767. Hearings in Response to Drought Emergency Conditions.

(a) Any hearing held to consider the taking of action in response to drought emergency conditions shall receive calendar priority over other matters pending hearing before the board.

(b) The board shall give notice of any hearing to consider action in response to drought emergency conditions at least seven days prior to the hearing. The provisions of Section 761(f) of the article, relating to submitting proposed exhibits and qualifications of expert witnesses, shall not apply to any such hearing. The time for submitting such materials shall be as specified in the hearing notice.

(c) In addition to any other issues specified in the hearing notice as issues upon which the parties should submit information, the parties to any such hearing shall address the following issues: (1) Existence of a bona fide drought emergency, including information to enable evaluation of the seriousness of the emergency; (2) water conservation measures which have been implemented in the area being served; and (3) availability of alternative sources of water supply, including reclaimed water.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, 1425, 1427, 1428, 1430 and 1431, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). (Ed. Note—Similar to former Section 766.)
2. Renumbering and amendment of former Section 767 to Section 832, and renumbering and amendment of Section 736.1 to Section 767 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 17.

Article 12. Reconsideration and Amendments of Board Water Right Decision and Orders

§ 768. Reconsideration of Board Decisions and Orders.

No later than thirty (30) days after adoption by the board of a decision or order, any person interested in any application, permit or license affected by the decision or order may petition the board for reconsideration of the matter upon any of the following causes:

- (a) Irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing;
- (b) The decision or order is not supported by substantial evidence;
- (c) There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced;
- (d) Error in law.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1357 and 1358, Water Code.

HISTORY

1. Repealer of former Section 768, and renumbering and amendment of Section 737.1 to Section 768 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 769. Petition for Reconsideration.

(a) Any petition for reconsideration of a decision or order shall be submitted in writing and shall contain the following:

- (1) Name and address of the petitioner.
- (2) The specific board action of which petitioner requests reconsideration.

- (3) The date on which the order or decision was made by the board.
- (4) The reason the action was inappropriate or improper.
- (5) The specific action which petitioner requests.
- (6) A statement that copies of the petition and any accompanying materials have been sent to all interested parties.

(b) If reconsideration is requested based in whole or in part on Section 768, the petition shall include an affidavit or declaration under penalty of perjury stating that additional evidence is available that was not presented to the board and the reason it was not presented. A general statement of the nature of the evidence and of the facts to be proved shall also be included.

(c) The petition shall be accompanied by a statement of points and authorities in support of legal issues raised in the petition.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1357, 1358 and 1359, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 769 to Section 833, and renumbering and amendment of Section 737.2 to Section 769 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 770. Board Action.

(a) The board may:

- (1) Refuse to reconsider the decision or order if the petition fails to raise substantial issues related to the causes for reconsideration set out in Section 7668; or
- (2) After review of the records, including any hearing transcript and any material submitted in support of the petition:
 - (A) Deny the petition upon a finding that the decision or order was appropriate and proper; or
 - (B) Set aside or modify the decision or order; or
 - (C) Take other appropriate action.

Before taking final action, the board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both.

[The next page is 65.]

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183, 1357, 1358 and 1359, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 770 to Section 834, and renumbering and amendment of Section 737.4 to Section 770 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 771. Procedure Relating to Hearings.

The provisions of Article 11 of the subchapter insofar as they are applicable shall govern hearings under this article.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183, 1051, 1080, 1357, 1358 and 1359, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of former Section 771 to Section 835, and renumbering and amendment of Section 737.5 to Section 771 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 21.

§ 772. Issuance of Separate Permits and Licenses.

HISTORY

1. New section filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
2. Renumbering and amendment of Section 772 to Section 836 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 13. Right of Access

§ 775. Right of Access Over Lands Not Owned by Applicant.

When the applicant will need to occupy property or to use existing works not owned by him, it will generally be sufficient for the applicant to state in writing that the consent of the owner has been obtained, provided there is not denial. When the owner will not consent, the board may require satisfactory evidence of the applicant's ability through condemnation proceedings or otherwise to secure the necessary right of access before the application will be approved. For good cause shown, the board may allow reasonable time for the applicant to negotiate with the owner for the necessary right of access.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1252, 1253, 1257 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of Section 747 to Section 775 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 776. Where Public Agency Permission or Approval is Required.

If the proposed project will require a permit, license, or approval from another public agency or officer and it become evident that regardless of the action taken by the board, such permit, license, or approval could not be secured from the proper agency, the application will be rejected.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1255, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). (Ed. Note—Similar to former Section 778.)
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Renumbering and amendment of former Section 776 to Section 840, and renumbering and amendment of Section 748 to Section 776 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 776.5. Requests for Extension of Time Under Permit.

HISTORY

1. New section filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Repealer filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).

§ 777. Right of Access over Lands Where Title Is Disputed.

The board will not undertake to determine title to land or the right to occupy or use land or other property. A dispute concerning applicant's title or right to occupy or use land or other property necessary for consummation of the proposed appropriation is not cause for denial of an application. A protest based solely upon such disputed title or right will ordinarily be rejected as not presenting an issue within the board's jurisdiction; provided that the board may temporarily defer action on an application pending judicial determination of applicant's title or right to occupy or use property when in the board's judgment such action is justified.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1250, Water Code.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). (Ed. Note—Similar to former Section 776.)
2. Renumbering and amendment of former Section 777 to Section 841, and renumbering and amendment of Section 749 to Section 777 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 778. Request for Extension of Time Under Permits.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). (Ed. Note—Similar to former Section 776.5.)
2. Renumbering and amendment of Section 778 to Section 842 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 778.5. Notice of Petitions and Protests.

HISTORY

1. New section filed 5-9-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Amendment of subsection (a) filed 1-28-76; effective thirtieth day thereafter (Register 76, No. 5).
3. Renumbering and amendment of Section 778.5 to Section 843 filed 1-16-87 effective thirtieth day thereafter (Register 87, No. 10).

§ 779. Cause for Extension of Time.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Amendment filed 3-19-64; effective thirtieth day thereafter (Register 64, No. 6).
3. Amendment filed 12-24-71; effective thirtieth day thereafter (Register 71, No. 48).
4. Editorial correction (Register 72, No. 27).
5. Renumbering and amendment of Section 779 to Section 844 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 14. Standard Permit Terms and Conditions

§ 780. Standard Permit Terms.

The board maintains a list of Standard Permit Terms, applicable portions of which are included in all permits. Copies of the Standard Permit Terms are available upon request. In addition to the applicable standard terms which are included in each permit, the following terms shall be included in every water right permit issued by the board, and shall be included in every existing permit as a condition for granting an extension of time to commence or to complete construction work or to apply the water to full beneficial use:

(a) Continuing Authority. Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the board may be exercised by imposing specific requirements over and above those contained in this permit with

a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phytoplankton growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(b) (1) Water Quality Objectives. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(c) Automatic Approval of Permits. Permits approved in accordance with the provisions of Government Code Section 65956 which provides for automatic approval of development applications under certain conditions shall contain terms (a) and (b) of this section and all other applicable Standard Permit Terms, and the season of diversion authorized by the permit shall be consistent with past decisions of the board concerning availability of unappropriated water in the watershed in question.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 100, 106, 275, 1243.5, 1250, 1252, 1253, 1391, 1394, and Division 7, Water Code; *National Audubon Society v. Superior Court of Alpine County* 33 Cal.3d 419, 189 Cal.Rptr. 346, 658 P.2d 709 (1983); and Section 2, Article X, California Constitution.

HISTORY

1. Renumbering and amendment of Section 766 to Section 780 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 78, No. 31.

§ 781. Public Access for Fishing.

In compliance with Fish and Game Code Section 5943, all permits for storage of water on a stream naturally frequented by fish shall require the permittee to accord to the public, for the purpose of fishing, reasonable right of access to the waters impounded by the dam under the permit during the open season for the taking of fish, subject to the regulations of the Fish and Game Commission and, for domestic water supply reservoirs, subject to applicable public health requirements contained in Title 17 of the California Administrative Code.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1253, Water Code.

HISTORY

1. New section filed 8-24-73; effective thirtieth day thereafter (Register 73, No. 34).
2. Renumbering and amendment of former Section 781 to Section 845, and renumbering and amendment of Section 762 to Section 781 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 73, No. 12.

§ 782. Passage of Water for Fish.

In compliance with Section 5937 of the Fish and Game Code, all permits for diversion of water from a stream by means of a dam which do not contain a more specific provision for the protection of fish shall require the permittee to allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that during a period of low flow in the stream, upon approval of the Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1390 and 1394, Water Code.

HISTORY

1. New Article 20 (§782) filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5). (Ed. Note—Similar to former Section 779.)
2. Renumbering and amendment of former Section 782 to Section 847, and renumbering and amendment of Section 762.5 to Section 782 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 17.

§ 783. Waste Discharge Requirements.

When the permittee is or will be required to file a report of waste discharge pursuant to Section 13260 of the Water Code, the permit shall contain the following term: No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, _____ Region, pursuant to Water Code Section 13260, and the regional board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the regional board or state board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a regional board or the state board. A discharge to groundwater without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260: (1) The regional board issues a waiver pursuant to Section 13269, or (2) The regional board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to the groundwater of water resulting from the irrigation of crops.

HISTORY

1. New section filed 1-28-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Renumbering and amendment of former Section 783 to Section 848, and renumbering and amendment of Section 763 to Section 783 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 75, No. 9 and 73, No. 12.

§ 784. Release of Stored Water.

(a) In exercising its discretionary authority respecting applications to appropriate water, including prescribing or modifying permit terms and conditions, the board may require releases of water diverted and stored whenever such releases are determined by the board to be in the public interest or are needed to protect public trust uses of water, if such requirement is reasonable under Article X, Section 2 of the California Constitution.

(b) Notwithstanding subsection (a) of this section, after a permit has been issued and construction has commenced or substantial financial commitment for construction has been undertaken by the permittee, the board will not require a release or bypass of water authorized to be appropriated by such permit unless the permittee agrees to such bypass or release or unless the board at the time the permit was issued expressly reserved jurisdiction to require such bypass or release. This subsection shall not apply to the continuing authority of the board to regulate appro-

priations of water so as to conform with Section 780 of this subchapter, or to revoke permits as provided in Article 5, Chapter 6, Part 2, Division 2 of the California Water Code. This subsection shall not apply to actions required to implement the provisions of Article 3 (commencing with Section 11460) of Chapter 3, Part 3, Division 6, or Part 4.5 (commencing with Section 12200) of Division 6 of the California Water Code.

(c) Before requiring releases of water pursuant to subsection (a) of this section over the objection of the applicant or permittee, the board will hold a hearing and make findings with respect thereto. The hearing will be limited to a consideration of (1) the basis of any recommendation of the Department of Fish and Game pursuant to Water Code Section 1243; (2) whether such releases are necessary to maintain or enhance beneficial uses or to meet water quality objectives in the relevant water quality control plan; (3) the probable effect of releases upon the applicant's proposed project; (4) evidence to assist in the preparation of dry and critical year relief provisions related to releases; and (5) any other issues which may be relevant to the appropriateness of a release requirement.

(d) The quantity of water required to be released from storage shall be reduced in dry and critical years as defined by the board on a basis determined by the board to be equitable after considering and balancing the effect of reduced quantity upon downstream conditions and upon permittee's project.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 100, 174, 275, 2142.5, 1253, 1256, 1257, 1258, 1391, 13000, 13001, 13050, 13140, 13141, 13142, 13170 and 13240, Water Code; and *National Audubon Society v. Superior Court of Alpine County*, 33 Cal.3d 419, 189 Cal.Rptr. 346, 658 P.2d 709 (1983).

HISTORY

1. Renumbering and amendment of Section 763.5 to Section 783 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 75, No. 40.

§ 785. Surface Diversion or Storage.

HISTORY

1. New Article 20 (§§785 and 786) filed 12-1-55; effective thirtieth day thereafter (Register 55, No. 17).
2. Renumbering to Article 21 and amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
3. Renumbering and amendment of Section 785 to Section 846 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 786. Underground Storage.

HISTORY

1. Amendment filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 786 to Section 846 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 790. Revocation Hearings.

HISTORY

1. New Article 22 (§§ 790, 791, 792) filed 3-10-60; effective thirtieth day thereafter (Register 60, No. 5).
2. Renumbering and amendment of Section 790 to Section 850 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 15. Changes in Point of Diversion, Place of Use, or Purpose of Use

§ 791. Change Petitions.

(a) After notice of an application to appropriate water has been given pursuant to Article 3, changes in point of diversion, place of use, or purpose of use as stated in the application, permit, or license may be allowed only upon petition and provided that the petitioner establishes that the proposed change(s) will neither in effect initiate a new right not injure any other legal user of water.

(b) Upon petition under Water Code Section 1740, the board may approve changes in point of diversion, place of use or purpose of use in a water right determined by a court decree issued pursuant to Water Code Section 2500 et seq. after January 1, 1981. The petitioner shall provide

the same factual basis for a temporary, long-term, or permanent change in a water right determined under Water Code Section 2500 et seq. as would be required for a temporary, long-term, or permanent change under a permit or license.

(c) See Sections 686, 730 and 799 regarding the addition of generation of power as a purpose of use. The fee required by Water Code Section 1547 or 1547.1 must be submitted before a petition for change will be accepted for filing.

(d) For purposes of Article 15 and 16, "petition" shall be deemed to include the notice or notification provided by the water right holder under Water Code Sections 1726 and 1727.

(e) The procedures set forth in Articles 15, 16, 16.5 and 17 shall be followed as nearly as possible when filing and processing petitions for changes in permits or licenses other than changes in point of diversion, place of use, and purpose of use.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1547, 1547.1, 1701, 1702, 1725, 1726, 1727, 1735 and 1740, Water Code.

HISTORY

1. Renumbering and amendment of former section 791 to section 851, and renumbering and amendment of Section 738 to Section 791 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.
2. Amendment of section and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 792. Nature of Approval Action.

(a) Prior to issuance of a permit, a petition for change shall set forth amendments to the application or be accompanied by an amended application reflecting the proposed change(s). Thereafter consideration of the application will be based upon the amended application.

(1) If the petition is filed prior to issuance of the notice of application (See Article 3), amendments to the application shall be reflected in the application notice.

(2) If the petition is filed after issuance of the notice of application and prior to issuance of a permit, the application shall be renoticed using the procedures in Article 3.

(b) A proposed change in an existing permit or license, or a proposed change pursuant to Water Code Section 1740 in a water right determined by a court decree issued pursuant to Water Code Section 2500 et seq. after January 1, 1981, may be approved in an order. Any order approving a change will consist of an order designating the new point of diversion, place of use or purpose of use, and any terms and conditions, to be attached to the permit or license as a part thereof. At its option, the board may issue an amended permit or license. For temporary changes, the terms and conditions shall be those necessary to avoid or mitigate adverse impacts that would result from the transfer or to ensure reasonable and beneficial use of water by the transferee during the period of the transfer.

(c) Any order approving a change under Articles 15, 16, 16.5, or 17 shall (1) identify existing rights and current uses of water, (2) designate the amount(s) of water involved in the change, (3) designate the quantities of current and new or temporary beneficial uses of water, (4) designate the existing and new or temporary point(s) of diversion, places(s) of use, and purpose(s) of use, (5) include any required statutory findings, and (6) include any terms and conditions to which approval of the change is subject. Any order approving a change under Articles 15, 16.5, or 17 shall include compliance with any applicable requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1435, 1438(a), 1547, 1547.1, 1701, 1702, 1705, 1725, 1726, 1727, 1735 and 1740, Water Code.

HISTORY

1. Renumbering and amendment of former section 792 to section 852, and renumbering and amendment of Section 738.5 to Section 792 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Registers 64, No. 6 and 60, No. 5.
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 793. Filing Fee When Multiple Changes or Rights Involved.

With respect to a single application, permit, license, or other water right upon which a change petition is filed, a petition or petitions for more than one change shall be considered a single petition insofar as the filing fee is concerned, provided the changes are of such nature that action on them can be taken simultaneously. A petition involving changes to more than one application, permit or license or other water right upon which a change petition is filed shall be deemed a separate petition for each and applicable fees will be required for each. Fees based on water quantity shall be calculated using the quantity of water or water rights subject to the petition.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1436, 1526, 1547 and 1547.1, Water Code.

HISTORY

1. Renumbering and amendment of section 739 to section 793 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 64, No. 6.
2. Amendment of section and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 794. Petition Information and Map Requirements.

(a) A petition for change(s) submitted by a permittee or licensee, or submitted pursuant to Water Code Section 1740 by a holder of a water right determined under Water Code Section 2500 et seq. after January 1, 1981 shall identify the amount(s) and holder(s) of the right(s) involved and shall include the following information and map(s):

- (1) The amount(s) of water which would have been diverted, consumptively used, or stored under the water right in the absence of the proposed change(s), (a) during the period for which the change is requested, or (b) in a maximum year if the change is permanent;
- (2) The amount(s) of water proposed for change, transfer or exchange;
- (3) The existing and the proposed purpose(s) of use of water;
- (4) The existing and the proposed point(s) of diversion and rediversion, and the existing and proposed location(s) of any return flow;
- (5) The existing and the proposed place(s) of use of the water for various purposes of use;
- (6) The existing and the proposed diversion, release and return flow schedules if stored water is involved or if the streamflow regime will be changed;
- (7) Any changes in property ownership(s) involved, and the point(s) of diversion and place(s) of use of other known users of water who may be affected by the proposed change(s);
- (8) Information identifying any effects of the proposed change(s) on fish, wildlife, and other instream beneficial uses;
- (9) Information identifying any effects of the proposed change(s) on other known users of water, including identification in quantitative terms of any projected change in water quantity, water quality, timing of diversion or use, consumptive use of the water, reduction in return flows, or reduction in the availability of water within the streams affected by the proposed change(s);
- (10) The parties involved in the proposed change, transfer or exchange;
- (11) Map(s) prepared in accordance with Article 7 which describe the proposed change(s), delineate any additional information required by Items (4), (5), and (7) above, and show the hydrologic basin of origin and the streams which could be affected by the proposed change(s).
- (12) The proposed place(s) of use for irrigation may be listed as net acreage(s) within gross area(s) shown on a map submitted with the petition.

(b) Water right holders proposing a change in point of diversion, place of use or purpose of use shall provide preliminary information and map(s) required by subdivision (a) to, and shall request consultation with, the Department of Fish and Game and the appropriate Regional Water Quality Control Board regarding the potential effects of the proposed change(s) on water quality, fish, wildlife, and other instream beneficial uses.

(c) Before approval of a change petition, any water right holder petitioning for a change in point of diversion, place of use or purpose of use shall provide to the board all comments of the Department of Fish and Game and the Regional Water Quality Control Board in response to the request for consultation required by subsection (b).

(d) The petition for change(s) will not be accepted for filing unless it contains all of the information required by subdivision (a) and proof that a copy of the petition has been served on the Department of Fish and Game.

NOTE: Authority cited: Sections 1058, 1436 and 1726, Water Code. Reference: Sections 1435, 1436, 1437, 1438(a), 1702, 1726, 1727 and 1740, Water Code.

HISTORY

1. Repealer and new section filed 12-13-93; operative 1-12-94 (Register 93, No. 51). For prior history, see Register 87, No. 10.

§ 795. Notice of Change Petitions.

(a) After a petition has been filed for change(s) in point of diversion, place of use, or purpose of use, the petitioner shall cause notice to be given or published if and as required by the board. The board's notice requirements shall be based on the potential effects of the proposed change(s) on legal users of water and on fish, wildlife, and other instream beneficial uses of water. The board will not ordinarily require that notice be given or published in cases where the proposed change(s) do not have the potential to impair the water supply of other legal users of water or instream beneficial uses, except that in all cases the petitioner shall notify the Department of Fish and Game in writing of the proposed change(s). Examples of petitions for which notice will not ordinarily be required, include the following:

- (1) Petition for a change in point of diversion which does not change the point relative to diversion points of others and tributary sources on the same stream;
- (2) Petition for a change of place of irrigation use from one parcel to another provided that the return flow is unchanged;
- (3) Petition for a change in purpose of which would add clearly incidental uses to, or substitute incidental uses for, permitted or licensed uses which are themselves incidental to the principal use of water stored in a reservoir. For the purpose of this section, incidental uses are limited to the following beneficial uses of water: stockwatering; fire protection; non-commercial recreation; non-commercial wildlife preservation or enhancement; generation of power; non-industrial dust control; or soil conservation.

(b) At any time any person may file with the board a written request to receive notice of the filing of change petitions. Thereafter the board shall mail or deliver a copy of each such notice to the person filing the request, including a statement of the time within which any protest, comment, or objection must be filed.

NOTE: Authority cited: Section 1058 and 1726, Water Code. Reference: Sections 106.7, 110, 1250.5, 1312, 1491, 1703, 1704, 1736 and 1740, Water Code.

HISTORY

1. Renumbering and amendment of section 741 to section 795 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 76, No. 5.
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 796. Protest Procedure on Change Petitions.

The provisions of Articles 9, 10, and 11, insofar as they are applicable, shall govern protests, answers to protests, investigations, and hearings of petitions for change(s) under Articles 15 and 17, including minor protested petitions for change. The procedures for notification of and objection to temporary changes due to transfer or exchange of water or water rights, or temporary urgency changes are provided in Articles 16 and 16.5 respectively.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1438, 1703, 1704, 1704.1, 1704.2, 1704.3, 1725, 1736 and 1740, Water Code.

HISTORY

1. Renumbering and amendment of section 742 to section 796 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 797. Changes Prior to Notice of an Application.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1701, Water Code.

HISTORY

1. Renumbering and amendment of section 742 to section 796 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.
2. Repealer filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 798. Changes to Cover Incidental Uses of a Reservoir.

When an applicant, permittee or licensee proposes incidental use of a reservoir for stockwatering, fire protection, recreation, fish culture, or other similar purposes which consume a minimal quantity of water and

(a) such purposes are not listed in the application, permit or license, or

(b) the reservoir is not described as a place of use, or

(c) the reservoir covers land not included in the described place of use, then no petition need be filed to correct such an omission, provided that the board finds that no person would be adversely affected by such corrections. The board may make such corrections at any time such omissions are discovered.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1700, 1701 and 1702, Water Code.

HISTORY

1. Renumbering and amendment of Section 744 to Section 798 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 67, No. 49.

§ 799. Petition for Change to Add a Power Plant to Existing Works.

(a) Persons having a permit or license for the use of water may petition the board to add generation of power to the permit or license as a beneficial use when the water can be used for the generation of power without changing the streamflow regime. The criteria that shall be considered in determining whether there would be a change in the streamflow regime include, but are not limited to, the following: (1) Will the rate and volume of flow be changed? (2) Will the water temperature be changed? (3) Will there be changes in the concentration of dissolved oxygen or turbidity? (4) Will there be changes in the timing of water releases from any existing water diversion or storage facility? (5) Will there be a change in the point of discharge or will any additional section of watercourse be bypassed?

(b) See Section 730 concerning when a new application must be filed.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 106.7, 110, 1250.5, 1381, 1394, 1396, 1397, 1490, 1491, 1611, 1700, 1701, 1702, 1703, 1704, 1704.1, 1704.2, 1704.3, 1704.4, 1705, 1705.5 and 1706, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

Article 16. Temporary Changes Due to Transfer or Exchange of Water or Water Rights

§ 800. Temporary Changes.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1726 and 1727, Water Code.

HISTORY

1. New article 23 (sections 800 through 803) filed 10-25-65; effective thirtieth day thereafter (Register 65, No. 20).
2. Amendment of subsection (c) filed 3-3-78 as procedural and organizational; effective upon filing (Register 78, No. 9).
3. Renumbering and amendment of former section 800 to section 736, and new section 800 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
4. Amendment of article heading and repealer of section filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 801. Notice of Temporary Change.

The petition for temporary change submitted by the water right holder under Water Code Section 1726 shall include the information required by Section 794.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1726, Water Code.

HISTORY

1. Renumbering and amendment of former section 801 to section 737, and new section 801 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.
2. Amendment filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 802. Map Requirements.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1726, Water Code.

HISTORY

1. Renumbering and amendment of former section 802 to section 738, and new section 802 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.
2. Repealer filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 803. Action by the Board Regarding Temporary Changes.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1725 and 1727, Water Code.

HISTORY

1. Renumbering and amendment of former section 803 to section 739, and new section 803 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 65, No. 20.
2. Repealer filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 804. Public Notice and Objections to Proposed Temporary Changes.

(a) Within ten days after the receipt of a petition meeting the requirements of Section 801, the board will send notice of the petition or contact all legal users of water known to the board who may be affected by the proposed temporary change(s).

(b) Any interested person may file an objection to the proposed change(s) with the board not later than 15 days after the date of the notice required by subsection (a). The objection shall indicate the manner in which service upon the applicant of a duplicate copy of the protest has been made.

(c) The board shall give prompt consideration to any objection, and may hold a hearing thereon, after notice to all interested persons known to the board.

(d) Notice of hearing on a proposed temporary change may be given by mailing notice to the water right holder, the Department of Fish and Game and persons known to the board who might be affected by the proposed change, not less than 20 days before the date of hearing by certified mail or personal delivery.

(e) Any order approving a temporary change under this Article shall meet the requirements of section 792(c).

NOTE: Authority cited: Sections 1058, 1438(a) and 1726, Water Code. Reference: Sections 1725, 1726 and 1727, Water Code.

HISTORY

1. New section filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

Article 16.5. Temporary Urgency Changes

§ 805. Petition for Temporary Urgency Change.

(a) A petition for a temporary urgency change will not be accepted for filing until the minimum fee required by Water Code Section 1436 is received and the applicable information specified by Section 794 has been submitted to the board.

(b) Prior to issuance of any temporary urgency change order pursuant to Water Code Section 1435, there shall be compliance with any applicable requirements of Division 13 (commencing with Section 21000) of the Public Resources Code, payment of any additional fees, and submittal to the board of any additional information or maps necessary to make the findings required by Water Code Section 1435.

NOTE: Authority cited: Sections 1058, 1436 and 1438(a), Water Code. Reference: Sections 1435, 1436 and 1437, Water Code.

HISTORY

1. New article 16.5 and section filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 806. Notification of and Objections to Temporary Urgency Changes.

(a) As soon as practicable after receipt of a petition meeting the information and map requirements of Section 794 and compliance with Water Code Section 1437 the board shall cause notice to be given pursuant to Water Code Sections 1438(b) and 1438(c).

(b) Any interested person may file an objection to the petition with the board prior to adoption of a board order or validation of any temporary urgency change order. The objection shall indicate the manner in which service upon the applicant of a duplicate copy of the protest has been made.

(c) Any objections to a temporary urgency change petition will be heard by the board during its validation meeting or at a hearing after notice to all interested persons known to the board.

NOTE: Authority cited: Sections 1058, 1436 and 1438(a), Water Code. Reference: Sections 1435, 1437 and 1438, Water Code.

HISTORY

1. New section filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

Article 17. Changes Involving a Long-term Transfer of Water or Water Right

§ 811. Long Term Transfer.

(a) A permittee, licensee, or holder of a water right determined under a court decree issued pursuant to Water Code Section 2500 et seq. after January 1, 1981 who is filing a petition pursuant to Water Code Section 1740, may petition the board for a long-term transfer of water or water rights involving change(s) in point of diversion, place of use, or purpose of use specified in the permit, license, or water right for any period of time in excess of one year.

(b) Any long-term transfer requested under Water Code Section 1735 shall be subject to the applicable requirements of Articles 15 and 16 and any applicable requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1735, 1736 and 1740, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of article heading, section and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 812. Petition for Long-term Transfer.

A petition for a long-term transfer of water or water rights will not be accepted for filing until the fee required by Water Code Section 1547.1 and the information and maps specified in Section 794 have been submitted to the board.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1547.1, 1735, 1736 and 1740, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 813. Map Requirements.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1735, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Repealer filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 814. Notice of Long-term Petitions.

After a completed petition has been filed for a long-term transfer of water or water rights involving a change in point of diversion, place of use or purpose of use, the board shall give notice to the Department of Fish and Game, all persons requesting notice of change petitions, and all legal users of water known to the board who may be affected by the proposed change. A hearing will be held upon request of the petitioner or a protestant.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1736 and 1740, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 815. Protest Procedure on Long-term Transfer Petitions.

The provisions of Article 9, 10 and 11 insofar as they are applicable, shall govern protests, answers, investigations, and hearings of petitions under this Article.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1735, 1736 and 1740, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

§ 816. Action of the Board Regarding Long-term Transfers.

If the board determines that a long-term transfer of water or water rights as described in Section 811 is appropriate, and meets the requirements of Water Code Section 1736, an order will be issued in accordance with Section 792 authorizing the long-term transfer, subject to appropriate terms and conditions for the period requested or such lesser period found by the board to be appropriate.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1735, 1736 and 1740, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of section heading, text and NOTE filed 12-13-93; operative 1-12-94 (Register 93, No. 51).

Article 18. Enforcement of Terms and Conditions

§ 820. Complaints of Violations.

Any person affected by a violation of any term or condition of a permit or license may file a complaint with the board. The complaint shall contain the following:

- (a) Name and address of the complainant.
- (b) The nature and location of the alleged violation.
- (c) The manner in which the complainant was affected.
- (d) A statement of whether complainant is required by Part 5.1 (commencing with Section 5100) of Division 2 of the Water Code to file with the board a statement of his water diversion and use, and if complainant is so required, a statement:
 - (1) That complainant has filed with the board a statement of water diversion and use; or
 - (2) Setting forth the reason for complainant's failure to file such a statement of water diversion and use.
- (e) The specific action which complainant requests.

Any person may complain of a violation of a condition intended for the benefit of the public.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1391, 1393 and 1394, Water Code.

HISTORY

1. Renumbering and amendment of Section to Section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 821. Investigation of Complaints.

If, after investigation, the board's Staff finds that a violation of the terms and conditions of a permit or license has occurred which might be cause for enforcement action by the board, the matter may be referred to the board for hearing in accordance with the provisions of Water Code Sections 1410 et seq., 1675 et seq. or 1825 et seq. If the board's staff finds that no such violation has occurred, the complainant will be notified and no further action will be taken unless the complainant requests a hearing, in which event the board will determine whether to hold a hearing based on information supplied by the complainant and the staff.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1051, 1391, 1393, 1394, 1610 and 1611, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.5 to Section 821 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 822. Action by the Board.

After notice in accordance with Water Code Sections 1410 and 1410.1, 1675 and 1675.1, or 1831 and 1834 and hearing if a hearing is requested, if the board finds that a violation has occurred, it may revoke the permit or license or take such other action as appears appropriate under the circumstances.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1391 and 1611, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.6 to Section 822 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

§ 823. Action on the Board's Own Motion.

The board may on its own motion investigate possible violations of permit or license terms or conditions and proceed in accordance with Section 822.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1051, 1391, 1393, 1394, 1610 and 1611, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.7 to Section 823 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 4.

Article 19. Changes of Ownership and of Address-Notices

§ 830. Procedure on Change of Address.

Parties interested in applications, permits, and licenses shall promptly advise the board of changes of address. Whenever a notice is required by law or these regulations to be sent to a party, such notice will be mailed to the party at the most recent address supplied to the board by or on behalf of such party unless a different procedure is expressly required by law.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1302, 1303, 1304, 1320, 1321 and 1322, Water Code.

HISTORY

1. Renumbering and amendment of Section 765 to Section 830 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 831. Notice to Board of Changes in Ownership.

When rights under an application, permit, or license are transferred, a statement to that effect, signed by the previous owner, shall be filed immediately with the board, referring to the number of the application and stating the name and address of the new owner. Thereafter, notices and correspondence concerning the application, permit, or license will be sent to the new owner designated in such statement.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 766 to Section 831 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 832. Contests As to Ownership.

The board will not undertake to determine contests as to ownership of rights initiated by applications to appropriate water. The board will ordinarily accept any claim asserted to ownership of an application, permit or license unless the record title holder, or an asserted successor in interest, objects. When a contest develops as to ownership the board will not ordinarily change its record until the matter is either determined by a court or adjusted to the mutual satisfaction of the parties, unless evidence of continued occupation, use, or control justifies a different course.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 767 to Section 832 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 833. Presumption Based on Ownership of Place of Use.

When an application, permit, or license stands upon the records of the board in the name of the owner of the place of use the right will be considered appurtenant to the land unless there is evidence to the contrary. It will generally be presumed that the water right passes with a transfer of the land unless expressly excepted.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 769 to Section 833 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 834. Presumption That Water Right Passes upon Foreclosure Sale.

It will be presumed that a water right, upon a foreclosure sale of the land where the water is used, passes with the land whether the water right was initiated before or after the lien was established, unless there is a showing that the water right is not appurtenance or incident to the real property.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 770 to Section 834 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 835. Presumption upon Termination of an Option or Lease Relative to Real Property.

In the case of an option to purchase or a lease of land, it will be presumed, unless there is a showing to the contrary, that any water right initiated by the optionee or the lessee is personal and that such water right does not belong to the owner of the real property where use of the water is made, upon forfeiture, abandonment, or expiration of the option or lease.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and 1252, Water Code.

HISTORY

1. Renumbering and amendment of Section 771 to Section 835 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 836. Issuance of Separate Permits and Licenses.

(a) When the place of use described in an application, permit, or license is divided into two or more ownerships and each of the owners succeeds to a separate interest in the application, permit or license, the board may issue separate permits or licenses covering the interest held by each owner. The separate permits or licenses shall replace any existing permit or license previously issued for the same use and shall contain the same terms to the extent they are applicable. The existing permit or license will

then be revoked. The priority of the rights will not be affected and each of the permits or licenses will bear the same number as the replaced instrument plus a distinguishing letter designation.

(b) Issuance of separate permits and licenses in accordance with subsection (a) shall not be construed as a determination by the board that the water right has necessarily been fully maintained by continuous beneficial use and by observance of the law and provisions of the permit or license.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1380 and 1382 and 1610, Water Code.

HISTORY

1. Renumbering and amendment of Section 722 to Section 836 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 67, No. 49.

Article 20. Diligence Required—Extensions of Time

§ 840. Reasonable Promptness Required.

An application will be denied when it appears after hearing or a pro-

ceeding in lieu of hearing that (a) the applicant does not intend to initiate construction of the works required for the contemplated use of water within a reasonable time and thereafter diligently prosecute the construction and use of water to completion, or (b) the applicant will not be able to proceed within a reasonable time, either because of absence of a feasible plan, lack of the required financial resources, or other cause.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1255, Water Code.

HISTORY

1. Renumbering and amendment of Section 776 to Section 840 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 4, No. 6.

§ 841. Time for Completion.

In determining the period of time to be allowed to build diversion works and apply the water to full beneficial use, the particular conditions surrounding each case will govern. In every case the matter must be

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pressed with due diligence considering the size of the project and the obstacles to be overcome.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1252 and 1260, Water Code.

HISTORY

1. Renumbering and amendment of Section 777 to Section 841 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 842. Requests for Extension of Time Under Permits.

A request for extension of time within which to commence or complete construction work or apply the water to full beneficial use may be submitted upon forms supplied by the board. The fee required by Water Code Section 1546 must be submitted before such requests will be considered.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1252, 1398 and 1546, Water Code.

HISTORY

1. Renumbering and amendment of Section 778 to Section 842 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 843. Notice of Petitions and Protests.

(a) After filing a petition for an extension of time under a permit, the petitioner, in case the board so requires, shall cause notice thereof to be given or published in such manner as may be prescribed by the board.

(1) The board will not ordinarily require that the petitioner cause notice to be given or published where the permitted project meets each of the following criteria:

(A) Construction of the project has commenced or a substantial financial commitment for construction or for land acquisition has been undertaken; and

(B) the project is not in an area where there is unusual competition for or interest in water; and

(C) the project is not a large multi-stage project which may be behind schedule.

(b) At any time any person may request in writing special notice of the filing of petitions for extension of time. Thereafter the board shall mail a copy of each such notice to such person, together with a statement of the time within which any protest must be filed. (c) Protests to a petition may be filed within the time fixed by the board, which shall be stated in the notice, or such further time as the board may, for good cause, allow. Protests shall be submitted in writing with a copy to the petitioner and shall include the following information:

(1) The name and address of the protestant.

(2) The reasons for protestant's objection to the petition and any conditions on which the objection could be satisfied.

(3) If protestant claims a right to the use of water affected by the permit, the basis of the claim and protestant's use of water shall be described.

The board may require such other information as it deems necessary to resolve the issues, with or without a hearing.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1300, 1320, 1330, 1331, 1398 and 1546, Water Code.

HISTORY

1. Renumbering and amendment of Section 778.5 to Section 843 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 76, No. 5.

§ 844. Cause for Extension of Time.

An extension of time within which to complete an application, to commence or complete construction work or apply water to full beneficial use will be granted only upon such conditions as the board determines to be in the public interest and upon a showing to the board's satisfaction that due diligence has been exercised, that failure to comply with previous time requirements has been occasioned by obstacles which could not reasonably be avoided, and that satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay. The

board may, in its discretion, require a hearing upon notice to the permittee and such other parties as the board may prescribe.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 2, Article X, California Constitution; Sections 100, 104, 105, 275, 1250, 1253, 1255, 1257, 1394, 1395, 1396, 1397, 1398, 1410, 1546, 1675, Water Code; Sections 21000, 21065 and 21081, Public Resources Code; *Johnson Rancho County Water District v. State Water Rights Board*, 235 Cal.App.2d 863, 45 Cal.Rptr. 589 (1965); and *National Audubon Society v. Superior Court of Alpine County*, 33 Cal.3d 419, 189 Cal.Rptr. 345, 658 P.2d 709 (1983).

HISTORY

1. Renumbering and amendment of Section 779 to Section 844 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 72, No. 27.

§ 845. Withholding Issuance of Permit.

(a) When approval of an application will be conditional upon the applicant undertaking certain measures, issuance of the permit shall be withheld until the applicant has notified the board that the conditions have been met.

(b) The board may cancel any application and refuse to issue a permit if the applicant fails to comply with the conditions or to notify the board of his compliance within a reasonable time. The board first gives the applicant written notice of the proposed action and 30 days in which to comply and to notify the board of compliance or to request a hearing.

(c) After a permit is issued subject to continual compliance with one or more specified conditions, permittee shall certify under penalty of perjury at such intervals as specified in the permit or as the board may specify that each condition is being met. If permittee fails to so certify or if it is discovered that permittee is not complying with a specified condition, the board may revoke the permit, provided the board gives the permittee written notice of such possible revocation and 30 days in which to comply and to notify the board of his compliance or to request a hearing.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1250, 1255, 1391, 1393, 1394, 1395, 1396, 1397, 1398, 1410 and 1412, Water Code.

HISTORY

1. Renumbering and amendment of Section 781 to Section 845 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 73, No. 34.

§ 846. Measuring Devices and Statements.

After issuance of a permit for surface diversion or storage or underground storage the permittee may be required to establish suitable measuring and recording devices and to obtain and furnish to the board such records as may be needed to determine with reasonable accuracy:

the quantity of water beneficially used; or

the quantity of water placed in storage and the quantity later recovered under the provisions of the permit. Permittee may also be required to determine and submit a written statement of the quantities beneficially used.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 2, Article X, California Constitution; and Sections 100, 275 and 1240, Water Code.

HISTORY

1. Renumbering and amendment of Sections 785 and 786 to Section 846 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 847. Progress Report.

Prior to issuance of license, annual progress reports shall be filed promptly by permittee upon forms provided by the board. After the issuance of license, reports shall be made when requested by the board upon the forms provided.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1395, 1396 and 1397, Water Code.

HISTORY

1. Renumbering and amendment of Section 782 to Section 847 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 848. Contents.

(a) In addition to such other information as may be required, all reports shall contain permittee's or licensee's evaluation of the current potential for using reclaimed water or reusing water to satisfy all or part of the water needed.

(b) If the terms of the permit or license require water conservation measures, the extent of implementation of such measures shall be reported.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, Water Code; and Section 2, Article X, California Constitution.

HISTORY

1. Renumbering and amendment of Section 783 to Section 848 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 5.

Article 21. Revocation of Permits and Licenses

§ 850. Revocation Hearings.

When it appears to the board that a permittee may have failed to commence or complete construction work or beneficial use of water with due diligence in accordance with terms of the permit, the regulations of the board and the law, or that a permittee or licensee may have ceased beneficial use of water, or that he may have failed to observe any of the terms or conditions of the permit or license, the board may consider revocation of the permit or license. The board will notify the permittee or licensee of the proposed revocation. The notice will state the reasons for the proposed revocation and provide an opportunity for hearing upon request of the permittee or licensee. If the case of a permit, a request for extension of time may also be considered at such hearing. Nothing in this section shall be construed as limiting the board's authority to take action pursuant to Water Code Section 1831.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1410 and 1411, Water Code.

HISTORY

1. Renumbering and amendment of Section 790 to Section 850 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 851. Notice of Hearing.

At least 10 days prior to hearing, a notice specifying the time, place, and purpose of such hearing and grounds for possible revocation shall be sent by registered or certified mail to the permittee or licensee. The notice shall constitute a sufficient statement of the issues to be heard.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1410, Water Code.

HISTORY

1. Renumbering and amendment of Section 791 to Section 851 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

§ 852. Procedure Relating to Hearings.

The provisions of Article 14 of this subchapter insofar as they are applicable shall govern hearings under this article.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1410, 1411, 1412, 1413, 1414 and 1415, Water Code.

HISTORY

1. Renumbering and amendment of Section 792 to Section 852 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 60, No. 5.

Article 22. Prevention of Waste and Unreasonable Use

§ 855. Policy and Definition.

(a) In investigating any uses of water and making the determinations required by this article, the board shall give particular consideration to the reasonableness of use of reclaimed water or reuse of water.

(b) As used in this article, "misuse of water" or "misuse" means any waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 100, 275, 1240, 1251, 1253 and 1257, Water Code; and Section 2, Article X, California Constitution.

HISTORY

1. Renumbering and amendment of Section 764.9 to Section 855 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 5.

§ 856. Investigations.

The board staff shall investigate an allegation of misuse of water:

- (1) when an interested person shows good cause, or
- (2) when the board itself believes that a misuse may exist.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 100, 183, 275 and 1051, Water Code; and Section 2, Article X, California Constitution.

HISTORY

1. Renumbering and amendment of Section 764.10 to Section 856 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 26.

§ 857. Notifications, Hearings and Orders.

(a) If the investigation indicates that a misuse of water has occurred, the board staff shall notify interested persons and allow a reasonable period of time in which to terminate such misuse or demonstrate to the satisfaction of the board staff that misuse has not occurred.

(b) At the end of the time set by the board staff, and upon application of any interested person or upon its own motion, the board may hold a hearing to determine if misuse has occurred or continues to occur.

(c) If the misuse is alleged to have occurred or to continue to occur in connection with exercise of rights evidenced by a permit or license issued by the board, the board shall notice the hearing as a permit revocation hearing pursuant to Water Code Section 1410.1, or as a license revocation hearing pursuant to Water Code Section 1675.1, as appropriate; or as a preliminary cease and desist order hearing pursuant to Water Code Section 1834.

(d) The board may issue an order requiring prevention or termination thereof.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 100, 275, 183, 1051, 1401, 1675.1 and 1834, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.11 to Section 857 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 26.

§ 858. Noncompliance with Order Regarding Misuse Under Water Right Entitlement.

If a permittee or licensee does not comply with any order issued pursuant to Section 857 within such reasonable period of time as allowed by the board, or such extension thereof as may for good cause be allowed by the board, and if such order includes a finding that waste, unreasonable use, method of use, or method of diversion has occurred in connection with exercise of a right evidenced by a permit or license issued by the board, a revocation action may be commenced by the board:

(a) If the hearing has been noticed as a permit or license revocation hearing, and if the board finds that misuse has occurred or continues to occur, the board may order the permit or license revoked or impose appropriate additional or amended terms or conditions on the entitlement to prevent recurrence of the misuse;

(b) If the hearing pursuant to Section 857 has been noticed as a preliminary cease and desist order hearing, and if the board finds that misuse has occurred or continues to occur, the board may issue a preliminary cease and desist order.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1410, 1675 and 1831, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.12 to Section 858 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 26.

§ 859. Noncompliance with Other Order.

If a person other than a permittee or licensee does not comply with any order issued pursuant to Section 857 within such reasonable period of time as allowed by the board, or such extension thereof as may for good cause be allowed, and if such order includes a finding that such person has misused or continues to misuse water, the board may request appropriate legal action by the Attorney General.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.13 to Section 859 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 26.

§ 860. Alternative Procedure.

The procedure established in this article shall be construed as alternative to, and not exclusive of, the procedures established in Chapter 5 of Title 23, California Administrative Code, in accordance with Section 4007 therein.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 275, Water Code.

HISTORY

1. Renumbering and amendment of Section 764.14 to Section 860 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 79, No. 27.

Article 23. Stream Systems Declared to Be Fully Appropriated

§ 870. Purpose of this Article.

By Order WR 89-25, adopted on November 16, 1989, pursuant to Water Code Sections 1205 through 1207, the board initially declared various stream systems in this state to be fully appropriated either year-round or during specified months. Order WR 89-25 included a listing of these stream systems and specified the seasons during which water is unavailable for appropriation therefrom. The purpose of this article is to provide procedures (1) for revoking or revising the status of stream systems declared to be fully appropriated by the initial declaration or any revised declaration, (2) for adding stream systems to the initial or any revised declaration, and (3) for public participation in the process through which a declaration is changed.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1205, 1206 and 1207, Water Code.

HISTORY

1. New article 23 and section filed 4-7-93; operative 5-7-93 (Register 93, No. 15).

§ 871. Revocation or Revision of a Declaration.

(a) The board may, upon its own motion or upon petition of any interested person, revoke or revise a declaration, as hereinafter provided.

(b) Upon recommendation of the Chief, Division of Water Rights, and following notice and hearing, the board may adopt an order revoking the fully-appropriated status of a stream system which has previously been declared fully appropriated, or revising any condition specified in a declaration upon which applications to appropriate unappropriated water will be accepted for filing and registrations of small domestic use appropriations will be accepted. The Chief's recommendation for revocation or revision may be based upon any relevant factor, including but not limited to a change in circumstances from those considered in a previous water right decision determining that no water remains available for appropriation, or upon reasonable cause derived from hydrologic data, water usage data, or other relevant information acquired by the Division of Water Rights in the course of any investigation conducted by it.

(c) Any person may petition the board to revoke or revise the fully appropriated status of a stream system included in a declaration. The Chief, Division of Water Rights, shall give notice of receipt of any such petition to all persons known by the Chief to be interested in the fully-appropriated status of the stream system.

(1) The petition shall include hydrologic data, water usage data, or other relevant information based upon which the Chief, Division of Water Rights, may determine that reasonable cause exists to conduct a hearing on the question whether the fully appropriated status of the stream system should be revoked or revised.

(2) The petition may also be accompanied, depending upon the magnitude of the proposed appropriation, either (A) by a proposed application

to appropriate unappropriated water, or (B) by a proposed registration of small domestic use, notwithstanding that the proposed application or registration is unacceptable because it proposes appropriation from a stream system declared to be fully appropriated and does not meet existing conditions for acceptance. Any such proposed application or registration should be complete pursuant to the law and the rules of the board, except that it shall not be accompanied by a fee.

(3) A proposed application or registration submitted pursuant to subsection (c)(2) will not be accepted but will be retained by the board. Should the board thereafter act in response to the petition to change the declaration in a manner which would make the proposed application or registration acceptable, the proposed application or registration will, if otherwise complete pursuant to the law and the rules of the board, be accepted upon timely payment of the minimum filing fee required by law. A proposed application or registration accepted pursuant to this subsection shall be assigned a priority superior to that assigned to any subsequently retained or accepted application or registration, respectively, proposing to appropriate from a source included in the earlier proposed application or registration; provided that, in proceeding upon competing applications accepted because of a change in the declaration pursuant to this section, the board will implement all provisions of law governing approval and rejection of applications including, but not limited to, Water Code Section 1255 relating to public interest.

(4) If the Chief determines that the petition shows reasonable cause to conduct a hearing on the question whether the declaration should be changed, the Chief shall notice a hearing on the issue. The board may thereafter adopt an order changing the declaration or declining to do so.

(5) If the Chief determines that the petition does not show reasonable cause to conduct a hearing on the question whether the declaration should be changed, the Chief shall notify the petitioner, and all persons given notice pursuant to subsection (c) of this section, of such determination. The petitioner may, within 30 days of the date of the notice, file a request that the board review the Chief's determination. Following receipt of any such request timely filed, the board will review the Chief's determination. The board's review shall be limited to the information provided by petitioner to the Chief, pursuant to subsection (c)(1) of this section. Following its review, the board may affirm the Chief's determination, direct the Chief to reconsider the determination, or direct the Chief to notice a hearing on the question whether the declaration should be changed.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1205, 1206, 1207 and 1228.2, Water Code.

HISTORY

1. New section filed 4-7-93; operative 5-7-93 (Register 93, No. 15).

§ 872. Addition of Stream Systems to the Declaration.

(a) The board may order that a stream system be added to the declaration, and the order may specify conditions upon which applications will nevertheless be accepted for filing. Any such order shall contain a finding that the supply of water in the stream system is being fully applied to beneficial uses and that a previous water right decision has determined that no water remains available for appropriation.

(b) For the purposes of this section, the term "water right decision" shall mean (1) any decision, order, resolution, staff analysis of a minor protested application, or similar document issued by the board based on evidence taken at an adjudicatory proceeding or investigation, including but not limited to a decision issued pursuant to subsection (c); (2) any final order, judgment, decree, decision, opinion, writ, or similar document issued by a court of this state or of the United States; or (3) any statute of this state or of the United States; provided that, in any case, the water right decision contains findings of fact or conclusions of law, or both, relevant to the question of availability of unappropriated water in the stream system at issue.

(c) The annual report of the Chief, Division of Water Rights, made pursuant to Water Code Section 1228.2(c), shall identify any stream system or systems which the Chief has reasonable cause to believe may become fully appropriated within the next reporting period. Any person believing

that any stream system or systems should be declared to be fully appropriated may furnish information to the Chief, Division of Water Rights, to show that reasonable cause exists to conduct further hearing on the matter. Following issuance of the annual report, the Chief may notice a hearing or hearings to determine whether water remains available for appropriation from any such identified stream system or systems. Following the hearing, the board may issue a decision determining that no water remains available for appropriation. The board may thereafter adopt an order declaring that any such stream system is fully appropriated, pursuant to Water Code Section 1205.

(d) Any person may file a request for special notice of the annual report made by the Chief, Division of Water Rights, pursuant to Water Code Section 1228.2(c). The Chief shall mail a copy of the annual report to all persons filing such request.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1205, 1206, 1207 and 1228.2, Water Code.

HISTORY

1. New section filed 4-7-93; operative 5-7-93 (Register 93, No. 15).

§ 873. Applications Pending at Time of Revision or Addition.

(a) Whenever the board adopts an order revising any conditions specified in a declaration or declaring an additional stream system to be fully appropriated, the Chief, Division of Water Rights, shall review all pending applications, except applications identified in subsection (e), to appropriate unappropriated water from a stream system affected by any such revision or declaration.

(b) Applications determined by the Chief to be consistent with a revised or additional declaration shall be processed normally. In the case of applications determined by the Chief to be inconsistent in any material respect with the conditions of the revised declaration, the Chief shall provide the applicant a notice, entitled "Notice of Potential Cancellation of Water Right Application". The notice shall specify the following elements:

(1) The manner in which the application is inconsistent with the revised declaration.

(2) A reasonable time within which the applicant may withdraw the application.

(3) A reasonable time within which the applicant may amend the application to make it consistent with the conditions of the declaration. An application so amended shall be processed normally.

(4) A reasonable time within which the applicant may provide information to show that the appropriation proposed by the application is entitled to the benefit of any area-of-origin protection principle. Any such information shall be provided in a form which complies with the formal requirements for information presented in an application to appropriate unappropriated water.

(5) A reasonable time within which the applicant may provide information to show that hydrologic circumstances have changed within the stream system declared to be fully appropriated, or that other circumstances exist which justify the continued processing of the application. Such information shall be in sufficient detail to support a prima facie finding that unappropriated water is available to supply the applicant. Any such information shall be provided in a form which complies with the formal requirements for information presented in an application to appropriate unappropriated water.

(c) If an applicant fails to respond to the Notice of Potential Cancellation of Water Right Application within the time specified therein, the Chief shall order cancellation of the application.

(d) If an applicant responds to the Notice of Potential Cancellation of Water Right Application within the specified time by providing information pursuant to subsection (b)(4), the Chief shall provide the board with a recommendation concerning disposition of the application. The recommendation shall be in the form of a proposed order which the board shall thereafter consider and act upon.

(e) The following classes of applications shall not be reviewed for consistency with a revised declaration and shall be processed normally:

(1) Applications filed by the Department of Water Resources or its predecessors pursuant to Water Code Section 10500 and held by the board.

(2) Proposed completed applications accompanying petitions for assignment of all or a portion of any application held by the board pursuant to Water Code Section 10504.

(3) Any application in favor of which a petition for release from priority of an application filed pursuant to Water Code Section 10500 is pending before the board.

(4) Protested applications, other than minor applications within the meaning of Water Code Section 1345 *et seq.*, which have been noticed for hearing as of the date of adoption of the board's order.

(5) Protested applications, other than minor applications within the meaning of Water Code Section 1345 *et seq.*, upon which the parties have stipulated to proceeding in lieu of hearing pursuant to section 760(a) as of the date of adoption of the board's order.

(6) Protested minor applications, within the meaning of Water Code Section 1345 *et seq.*, with respect to which the Division of Water Rights has substantially commenced a field investigation as of the date of the board's order.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1205, 1206, 1207 and 1228.2, Water Code.

HISTORY

1. New section filed 4-7-93; operative 5-7-93 (Register 93, No. 15).

§ 874. Notice of Hearings and Hearing Rules of Procedure.

(a) The Chief, Division of Water Rights, shall give notice of any hearing scheduled pursuant to this article in accordance with Water Code Section 1207 and shall in addition mail notice at least 60 days prior to the date of the hearing to all persons interested in any pending application to appropriate unappropriated water from any stream which is the subject of the hearing.

(b) Hearings pursuant to this article shall be governed by sections 761, 762, and 763, except that any person who observes the pre-hearing submittal requirements specified in the hearing notice shall be recognized as an interested party.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1205, 1206, 1207 and 1228.2, Water Code.

HISTORY

1. New section filed 4-7-93; operative 5-7-93 (Register 93, No. 15).

Chapter 2.5. Water Rights for Stockponds

Article 1. Definitions

§ 880. Board.

"Board" when used in this subchapter means the State Water Resources Control Board.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1003.5 and 1226.1, Water Code.

HISTORY

1. Renumbering and amendment of Section 900 to Section 880 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history of Subchapter 2.5 (Sections 900-926, not consecutive), see Register 74, No. 48.

§ 881. Stockpond.

"Stockpond" when used in this subchapter means a pond having a capacity not in excess of 10 acre-feet that is used primarily for watering livestock.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1226.1, Water Code.

HISTORY

1. Renumbering and amendment of Section 901 to Section 881 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Article 2. Claims of Water Rights and Applications for Certification

§ 885. Forms.

A claim of water right for a stockpond and application for certification of the right pursuant to Article 2.5 (commencing with Section 1226) of Chapter 1 of Part 2 of Division 2 of the Water Code shall be filed in duplicate with the board upon a printed form furnished by the board.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226, 1226.1 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 905 to Section 885 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 886. Refusal to Accept Claims.

A claim which does not contain the required information, illegible or which is not accompanied by the required filing fee will be returned to the sender as unacceptable.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.1, 1226.2 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 906 to Section 886 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 887. Number of Claims Required.

A separate claim must be filed for each stockpond.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.1 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 907 to Section 887 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 888. Penalty for Perjury.

All claims shall be certified as true under penalty of perjury in accordance with Section 2015.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.1 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 908 to Section 888 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Article 3. Fees

§ 890. Fees.

Each claim shall be accompanied by a filing fee of ten dollars (\$10.00).

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 910 to Section 890 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Article 4. Notice of Claims and Protests

§ 895. Notices.

The board shall issue and deliver a notice of each claim to the board of supervisors of the county wherein the stockpond is located and to each person who has filed with the board a written request for notices and may send a notice of any claim to water users in the vicinity of the stockpond who in its judgment might be affected by the use of water as set forth in the claim.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.1 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 915 to Section 895 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 896. Protests.

Any person affected may, within the time allowed in the notice or such further time as the board may allow, file with the board a written protest to the claim. The protestant shall send a copy of the protest to the claimant.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1225, 1226, 1226.1 and 1330, Water Code.

HISTORY

1. Renumbering and amendment of Section 916 to Section 896 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 897. Content of Protests.

A protest shall state the name and address of the protestant, the location of his point of diversion of water with respect to the claimant's stockpond, the grounds for protest, and that a copy of the protest has been mailed or delivered to the claimant.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1225, 1226, 1226.1, 1330 and 1331, Water Code.

HISTORY

1. Renumbering and amendment of Section 917 to Section 897 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 898. Ground for Protest.

The only ground for a protest is that the claim contains a misstatement of a material fact. Material facts are: (1) The date of construction of the stockpond, (2) its capacity on January 1, 1975, (3) the primary purpose for which it was constructed and is used in watering livestock, and (4) that it was not the subject of water rights litigation between private parties prior to January 1, 1974.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1225, 1226, 1226.1, 1330 and 1331, Water Code.

HISTORY

1. Renumbering and amendment of Section 918 to Section 898 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Article 5. Investigation, Hearing, and Certification of Claims

§ 900. Investigation.

Upon receipt of a claim, the board will conduct such investigation as in its judgment is necessary to certify the water right. Such investigation may, but need not, include an inspection of the stockpond.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1051, 1225, 1226 and 1251, Water Code.

HISTORY

1. New Subchapter 2.5 (Sections 900-926, not consecutive) filed 11-27-74; designated effective 1-1-75 (Register 74, No. 48).
2. Renumbering and amendment of former Section 900 to Section 880, and renumbering amendment of Section 920 to Section 900 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 901. Hearing.

When requested by a claimant or protestant, the board will hold a hearing to determine any material fact which is in dispute. The board may hold a hearing on its own motion. The provisions of Subchapter 2, Article 11, insofar as they are applicable, shall govern hearings regarding claims filed under this subchapter.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 1226.4, Water Code.

HISTORY

1. Renumbering and amendment of former Section 901 to Section 881, and renumbering and amendment of Section 921 to Section 901 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 902. Certification.

The board will issue a certification of the water right if it appears that the material facts stated in the claim are true and entitle the claimant to a water right for the stockpond. The water right shall be subject to all prior rights.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.1, 1226.2 and 1226.3, Water Code.

HISTORY

1. Renumbering and amendment of Section 922 to Section 902 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 908. Penalty for Perjury.

HISTORY

1. Renumbering and amendment of Section 908 to Section 888 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 910. Fees.

HISTORY

1. Renumbering and amendment of Section 910 to Section 890 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 47, No. 48.

§ 915. Notices.

HISTORY

1. Renumbering and amendment of Section 915 to Section 895 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 916. Protests.

HISTORY

1. Renumbering and amendment of Section 916 to Section 896 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 917. Contents of Protests.

HISTORY

1. Renumbering and amendment of Section 917 to Section 897 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 49.

§ 918. Ground for Protest.

HISTORY

1. Renumbering and amendment of Section 918 to Section 897 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 920. Investigation.

HISTORY

1. Renumbering and amendment of Section 920 to Section 900 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 921. Hearing.

HISTORY

1. Renumbering and amendment of Section 921 to Section 901 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 922. Certification.

HISTORY

1. Renumbering and amendment of Section 922 to Section 902 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Article 6. Continued Use of the Stockpond and Revocation of the Certification

§ 905. Continued Use of the Stockpond.

At such other times as the board determines to be appropriate, the board will request certificate holders to furnish a statement under penalty of perjury that the water is continuing to be used primarily for stockwatering.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.4 and 1241, Water Code.

HISTORY

1. Renumbering and amendment of former Section 905 to Section 885, and renumbering and amendment of Section 925 to Section 905 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 906. Revocation of the Certification.

The board may, after notice to the certificate holder and opportunity for hearing, revoke any certification upon a finding that the water has ceased to be used primarily for stockwatering.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1226.4 and 1241, Water Code.

HISTORY

1. Renumbering and amendment of former Section 906 to Section 886, and renumbering and amendment of Section 926 to Section 906 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

§ 907. Number of Claims Required.

HISTORY

1. Renumbering and amendment of Section 907 to Section 887 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

[The next page is 75.]

§ 925. Continued Use of the Stockpond.

HISTORY

1. Renumbering and amendment of Section 925 to Section 905 filed 1-16-87; effective thirtieth day thereafter (Register 8, No. 10). For prior history, see Register 74, No. 48.

§ 926. Revocation of the Certification.

HISTORY

1. Renumbering and amendment of Section 926 to Section 905 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 74, No. 48.

Chapter 3. Determination of Right to the Use of Water

Article 1. Definitions

§ 940. Board.

"Board" when used in this subchapter means the State Water Resources Control Board.

NOTE: Authority cited: Section 1058, Water Code.

HISTORY

1. Repealer of Sections 950 through 983, 989, 992, 993 and 996; new Sections 940 and 950 through 969 filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 2. Adjudications Under Water Code Sections 2500 Through 2900

§ 945. Petition.

A petition requesting a determination of the rights to water from a stream system, pursuant to Water Code Section 2525, shall be submitted to the board and shall contain the following:

- (a) The petitioner's name and address.
- (b) A description of the stream system of which the determination of all rights to water is sought.
- (c) A statement of the nature of the right or rights claimed by the petitioner.
- (d) A statement of facts and conditions showing why the public interest and necessity will be served by a determination of all rights to water of the stream system.
- (e) Petitioner's signature.

If a petition is signed by more than one petitioner, the information required by (a) and (c) above shall be provided as to each petitioner.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 2501 and 2525, Water Code.

HISTORY

1. Renumbering and amendment of Section 950 to Section 945 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history of Section 950, see Registers 67, No. 49 and 56, No. 12.

§ 946. Public Interest and Necessity.

In making its determination pursuant to Water Code Section 2525 that the public interest and necessity will be served by a determination of the water rights involved, the board will consider, together with other relevant facts and conditions, the following:

- (a) The degree to which the waters of the stream system are fully used.
- (b) Existence of uncertainty as to the relative priorities of rights to the use of waters of the stream system.

(c) Unsuitability of less comprehensive measures, such as private litigation or agreements, to achieve certainty of rights to the use of waters of the stream system.

(d) Need for a system-wide decree or watermaster service, or both, to assure fair and efficient allocation of the waters of the stream system.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 2525, Water Code.

HISTORY

1. New section filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 947. Proof of Claim of Water Right.

(a) Proofs of claims shall be typewritten or legibly written in ink upon forms furnished by the board. The proofs shall be certified as true under penalty of perjury in accordance with Section 2105.5 of the Code of Civil Procedure.

(b) A separate proof shall be filed for each purpose of use, including public trust use, except that water for incidental domestic, stock watering and recreational use may be claimed in the same proof with any other use, and except that public trust uses must be claimed in a single proof.

(c) A separate proof shall be filed for each diversion from the stream, except where one or more supplemental diversions are used as a convenience to convey water from the same source, under the same claim of right, to the same place of use.

(d) Whenever a claim is based upon a pending application, permit or license to appropriate water, pursuant to the Water Commission Act or the Water Code, a single proof of claim may be submitted.

(e) Where water is supplied by a public agency or private business or non-profit association, the required proofs shall be filed by the agency or association covering all water diverted by such entity from the source. Those supplied with water need not submit separate proofs, but may do so if they claim separate rights.

(f) Where a water right is held by two or more parties and the interests in said water right have been divided among the respective parties, each party shall file a separate proof covering his individual interest in the water right.

(g) Where a water right is held by two or more parties and the interests in said water right are undivided, one proof may be filed to cover the claim of the several parties.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 2501, 2526, 2528, 2553, 2555, 2575 and 2576, Water Code; and *National Audubon Society v. Superior Court of Alpine County*, 33 Cal.3d 419, 189 Cal.Rptr. 346, 658 P.2d 709 (1983).

HISTORY

1. Renumbering and amendment of Sections 951-957 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 67, No. 49.

§ 948. Signature of Deponent Claimant.

The proof shall be signed by the claimant or authorized agent. The board shall presume that any person other than a claimant, who signs a proof of claim is an authorized agent. The presumption is overcome if the board may be charged with actual knowledge that the person signing has no authority to do so.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 2553, 2554, 2555, 2575 and 2576, Water Code.

HISTORY

1. Renumbering and amendment of Section 961 to Section 948 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 949. Objections.

Objections to the board's report, abstract of claims or water right, or preliminary order of determination shall be submitted in writing and shall state the specific objections and the grounds upon which the objections are based.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 2604 and 2628, Water Code.

HISTORY

1. Renumbering and amendment of Section 962 to Section 949 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 77, No. 10.

§ 950. Other Applicable Regulations.

The following provisions of Article 11 of Subchapter 2 apply to hearings held in connection with adjudication of water rights, except that all references to "applicants," "petitioners" or "protestants" shall be read as referring to claimants, other holders or rights included in the preliminary order of determination and objectors in the adjudication proceeding: Section 761, Procedure at Hearings; Section 762, Witnesses and Exhibits; Section 763, Subpoenas; Section 766, Failure to Appear.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 183, 1051 and 2650, Water Code.

HISTORY

1. Renumbering and amendment of former Section 988 to Section 950 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment filed 12-7-67 as procedural and organizational; effective upon filing (Register 67, No. 49).
3. Renumbering and amendment of former Section 950 to Section 945, and new section 950 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 951. Inspection of Records.

No proofs or documents relating thereto shall be taken from the custody of the board prior to filing same with the clerk of the superior court, as provided in Section 2750 of the Water Code. Access to the same, and inspection thereof, will be permitted during regular office hours.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 2625, 2626 and 2750, Water Code.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49). For prior history, see Register 56, No. 12.
2. Renumbering and amendment of former Section 951 to Section 947, and renumbering and amendment of Section 969 to Section 951 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 952. Separate Proof for Each Purpose of Use.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective thirtieth day thereafter (Register 67, No. 49). For prior history, see Register 56, No. 12.
2. Renumbering and amendment of former Section 952 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 953. Separate Proof for Each Diversion.

HISTORY

1. Renumbering and amendment of Section 953 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 954. Single Proof for Claim Initiated Under the Water Commission Act or Water Code.

HISTORY

1. Renumbering and amendment of Section 954 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 955. Claims to Water Supplied by District or Water Company.

HISTORY

1. Renumbering and amendment of Section 955 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 956. Divided Interests.

HISTORY

1. Renumbering and amendment of Section 956 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 957. Undivided Interests.

HISTORY

1. Renumbering and amendment of Section 957 to Section 947 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 958. General Requirements for Proofs of Claims.

HISTORY

1. New section (renumbered from former Section 990(a) amended) filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment of subsections (b) and (c) filed 4-25-72; effective thirtieth day thereafter (Register 72, No. 18).
3. Repealer filed 3-4-77; effective thirtieth day thereafter (Register 77, No. 10).

§ 959. Specific Requirements for Irrigation Proofs.

HISTORY

1. New section (renumbered from former Section 990(b), (c) and (d), amended) filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Repealer and new section filed 4-25-72; effective thirtieth day thereafter (Register 72, No. 18).
4. Repealer filed 3-4-77; effective thirtieth day thereafter (Register 77, No. 10).

§ 960. Uses Other Than Irrigation.

HISTORY

1. Amendment of subsection (b) filed 4-25-72; effective thirtieth day thereafter (Register 72, No. 18). For prior history, see Register 56, No. 12.
2. Repealer filed 3-4-77; effective thirtieth day thereafter (Register 77, No. 10).

§ 961. Signature of Deponent.

HISTORY

1. Renumbering and amendment of Section 961 to Section 948 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 962. Objections.

HISTORY

1. New section (renumbered from former Section 991 amended) filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Amendment filed 3-4-77; effective thirtieth day thereafter (Register 77, No. 10).
4. Renumbering and amendment of Section 962 to Section 749 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 963. Subpoenas.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49). For prior history, see Register 56, No. 12.
2. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
3. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 964. Procedure at Hearings.

HISTORY

1. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 56, No. 12.

§ 965. Official Notice.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49). For prior history, see Register 56, No. 12.
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 966. Evidence by Reference.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49). For prior history, see Register 56, No. 12.
2. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 967. Oral Arguments and Briefs.

HISTORY

1. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49). For prior history, see Register 56, No. 12.

2. Repealer filed 1-16-87, effective thirtieth day thereafter (Register 87, No. 10).

§ 968. Attorneys or Agents.

HISTORY

1. New section (renumbered from former Section 994 amended) filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Repealer filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 969. Inspection of Records.

HISTORY

1. New section (renumbered from former Section 995 amended) filed 6-12-56; effective thirtieth day thereafter (Register 56, No. 12).
2. Amendment filed 12-7-67 as organizational and procedural; effective upon filing (Register 67, No. 49).
3. Renumbering and amendment of Section 961 to Section 951 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Chapter 4. Recordation of Water Extractions and Diversions

Article 1. Notices of Water Extractions and Diversions

§ 1000. Use of Forms.

Notices filed with the board pursuant to Part 5, Division 2, of the Water Code shall be submitted upon forms furnished by the board.

NOTE: Authority cited: Sections 1052 and 1058, and 5002 and 5008, Water Code. Issuing agency: State Water Rights Board. Additional authority and reference cited: Sections 5006 and 5007, Water Code.

HISTORY

1. New Subchapter 4 (§§1000, 1001, 1002, 1006, 1010, 1011, 1015, 1020, 1021 and 1022) filed 10-18-56; effective thirtieth day thereafter (Register 56, No. 19).
2. Repealer of Sections 1000, 1001, 1005, 1006 1010, 1011 and 1015, and new Sections 1000, 1001 and 1002, filed 12-27-57; effective thirtieth day thereafter (Register 58, No. 1).
3. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1001. Separate Notices.

A separate First Notice and Annual Notice shall be filed for each well or surface diversion.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 5101, 5102 and 5104, Water Code.

HISTORY

1. New Note filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1002. Contents of Notices.

The notices shall contain the available information required by the forms provided by the board and shall be prepared in accordance with the instructions contained therein.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5103, Water Code.

HISTORY

1. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 2. Fees

§ 1010. Filing Fees.

Notices of ground water extraction or surface water diversions shall be accompanied by a filing fee required by Water Code Section 5006.

NOTE: Authority cited: Sections 1058 and 5006, Water Code. Reference: Section 5006, Water Code.

HISTORY

1. Renumbering from Section 1020, and amendment filed 12-27-57; effective thirtieth day thereafter (Register 58, No. 1).

2. Amendment filed 11-25-59; effective thirtieth day thereafter (Register 59, No. 20).

3. Amendment filed 5-24-74; designated effective 7-1-74 (Register 74, No. 21).

4. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1011. Effect of Failure to Pay Filing Fees.

Notices not accompanied by the required fees will not be accepted for filing.

NOTE: Authority cited: Sections 1058 and 5006, Water Code. Reference: Section 5006, Water Code.

HISTORY

1. Renumbering from Section 1021 filed 12-27-57; effective thirtieth day thereafter (Register 58, No. 1).
2. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1012. Investigation Charges.

Requests for investigations and determinations under Section 5007 of the Water Code shall be accompanied by a payment of twenty-five dollars (\$25). The board will then estimate the total cost of the investigation and determination, and will send a statement thereof to the applicant, any part of such estimate in excess of twenty-five dollars (\$25) must be paid before the investigation is commenced. The estimated total cost of the investigation and determination shall not be exceeded by more than 20 percent without prior notice to the applicant and until his written consent to proceed is obtained and such further payment as the board requires is received.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5007, Water Code.

HISTORY

1. Renumbering from Section 1022 filed 12-27-57; effective thirtieth day thereafter (Register 58, No. 1).
2. Amendment filed 10-25-65; effective thirtieth day thereafter (Register 65, No. 20).
3. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Article 3. Investigation and Determination of Facts

§ 1020. Notice of Investigation.

After a request for an investigation and determination of facts pursuant to Section 5007 of the Water Code has been received and the estimated cost has been paid, all persons known to have a direct interest in the matter will be notified of the pendency of the investigation and that they are allowed 30 days within which to submit relevant information concerning the facts to be determined.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5007, Water Code.

HISTORY

1. New Article 3 (Sections 1020 through 1023) filed 10-25-65; effective thirtieth day thereafter (Register 65, No. 20).
2. Amendment filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1021. Service of Proposed Findings.

After the board's investigation has been completed, a copy of the proposed findings will be mailed to the person who filed the notice, the person who requested the investigation, and any other person who has submitted information. The proposed findings will be accompanied by a notice that objections to them may be filed within 60 days. The board will specify the persons on whom a copy of any objections shall be served.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5007, Water Code.

HISTORY

1. New noted filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1022. Hearing.

If deemed advisable by the board, a hearing will be held to determine any facts which are in dispute. The provisions of Subchapter 2, Article

11, insofar as they are applicable, shall govern hearings held pursuant to this subchapter.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5007, Water Code.

HISTORY

- 1. Renumbering and amendment of former Section 1022 to Section 1023, and new Section 1022 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1023. Further Procedure.

After the time for filing objections has expired, and after any necessary hearing has been held, a draft of the board's finding and determinations will be prepared and mailed to interested persons who have appeared in the proceeding together with a notice of the time when final action will be taken, which time will not be less than 30 days from the date of mailing the notice. Exceptions to the draft may be filed and served on opposing parties prior to the time stated in the notice and will be considered by the board in making its final determination. The board may cause such further investigation to be made as it deems necessary and for such purpose may defer making its final determination.

NOTE: Authority cited: Section 1058, Water Code. Reference: Section 5007, Water Code.

HISTORY

- 1. Renumbering and amendment of former Section 1023 to Section 1024, and renumbering and amendment of Section 1022 to Section 1023 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

§ 1024. Shortening of Time.

The board may for cause and consistent with Section 5007 of the Water Code shorten any of the times stated in this article.

NOTE: Authority cited: Section 1058, Water Code. Reference: Sections 1020, 1021, 1022 and 1023, Water Code.

HISTORY

- 1. Renumbering and amendment of former Section 1023 to Section 1024 filed 1-16-87; effective thirtieth day thereafter (Register 87, No. 10).

Chapter 4.5. Procedures for Protecting Instream Beneficial Uses

NOTE: Authority cited: Sections 185, 1058 and 1252, Water Code. Reference: Sections 174, 183, 275, 1051, 1243, 1243.5, 1253, 1255, 1257, 13140, 13142 and 13170, Water Code; and Sections 21000, et seq., Public Resources Code.

HISTORY

- 1. New Subchapter 4.5 (Articles 1-3, Sections 1050-1060, not consecutive) filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
- 2. Repealer of Subchapter 4.5 (Sections 1050-1060, not consecutive) filed 9-27-85; effective thirtieth day thereafter (Register 85, No. 40).