

Article 3. Enlargement of Existing Works of Another

1800. If it appears to the board that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water under the Water Commission Act or this code, will not develop the full capacity of the stream at that point, and that the public good requires it, and the board specifically so finds after investigation and hearing of the persons interested, the board may permit any person to repair, improve, add to, supplement, or enlarge, at his own expense, any works already so built or constructed or in process of being so built or constructed under the provisions of this division, and to use the works jointly with the owners thereof.

1801. The repairing, improving, adding to, supplementing, or enlarging of works under this article, shall not materially interfere with the proper use thereof by the owner of the works nor materially injure the works.

Article 4. Joint Use of Capacity in Water Conveyance Facilities

(Added by Stats.1986, Ch. 918.)

1810. Notwithstanding any other provision of law, neither the state, nor any regional or local public agency may deny a bona fide transferor of water the use of a water conveyance facility which has unused capacity, for the period of time for which that capacity is available, if fair compensation is paid for that use, subject to the following:

(a) Any person or public agency that has a long-term water service contract with or the right to receive water from the owner of the conveyance facility shall have the right to use any unused capacity prior to any bona fide transferor.

(b) The commingling of transferred water does not result in a diminution of the beneficial uses or quality of the water in the facility, except that the transferor may, at the transferor's own expense, provide for treatment to prevent the diminution, and the transferred water is substantially the same quality as the water in the facility.

(c) Any person or public agency that has a water service contract with or the right to receive water from the owner of the conveyance facility who has an emergency need may utilize the unused capacity that was made available pursuant to this section for the duration of the emergency.

(d) This use of a water conveyance facility is to be made without injuring any legal user of water and without unreasonably affecting fish, wildlife, or other instream beneficial uses and without unreasonably affecting the overall economy or the environment of the county from which the water is being transferred.

1811. As used in this article, the following terms shall have the following meanings:

(a) "Bona fide transferor" means a person or public agency as defined in Section 20009 of the Government Code with a contract for sale of water which may be conditioned upon the acquisition of conveyance facility capacity to convey the water that is the subject of the contract.



(b) "Emergency" means a sudden occurrence such as a storm, flood, fire, or an unexpected equipment outage impairing the ability of a person or public agency to make water deliveries.

(c) "Fair compensation" means the reasonable charges incurred by the owner of the conveyance system, including capital, operation, maintenance, and replacement costs, increased costs from any necessitated purchase of supplemental power, and including reasonable credit for any offsetting benefits for the use of the conveyance system.

(d) "Replacement costs" mean the reasonable portion of costs associated with material acquisition for the correction of unrepairable wear or other deterioration of conveyance facility parts which have an anticipated life which is less than the conveyance facility repayment period and which costs are attributable to the proposed use.

(e) "Unused capacity" means space that is available within the operational limits of the conveyance system and which the owner is not using during the period for which the transfer is proposed and which space is sufficient to convey the quantity of water proposed to be transferred.

1812. The state, regional, or local public agency owning the water conveyance facility shall in a timely manner determine the following:

- (a) The amount and availability of unused capacity.
- (b) The terms and conditions, including operation and maintenance requirements and scheduling, quality requirements, term or use, priorities, and fair compensation.

1812.5. (a) The Legislature finds and declares all of the following:

(1) This section is an extraordinary measure being taken only because the proposed transfer of conserved water from the Imperial Irrigation District to the San Diego County Water Authority is a matter of statewide interest in that it addresses a significant need for water in the southern state through the conservation of water now being consumed there. The Legislature further finds and declares that this section is not to be regarded as setting a precedent for any other legislative action.

(2) California's use of Colorado River water is limited to its basic annual apportionment of 4.4 million acre-feet, plus one-half of any excess or surplus water from the Colorado River. However, California continues to use up to 5.3 million acre-feet by relying on surpluses and apportioned, but unused water within the Colorado River Basin, which is not a reliable water supply. The Secretary of the Interior has strongly urged California to develop a plan to enable it to live within its basic apportionment of 4.4 million acre-feet from the Colorado River.

(3) It is of vital state interest that every effort be made to ensure that the Colorado River Aqueduct continues to operate at its full capacity at fair and reasonable terms in order to minimize statewide disruptions from diminishing Colorado River supplies.

(4) Negotiations assisted by the director are underway in 1997 between the Metropolitan Water District of Southern California and the San Diego County Water Authority for the development of a long-term wheeling agreement whereby



the San Diego County Water Authority would use the Colorado River Aqueduct to wheel conserved water from the Imperial Irrigation District.

(b) The director shall assist the Colorado River Board and the six California water agencies that derive water from the Colorado River in developing a plan to ensure that California can live within its entitlement of 4.4 million acre-feet of water annually and to ensure that the needs of southern California for Colorado River water are met.

(c) (1) Notwithstanding any other provision of law, with regard to the proposed transfer of conserved water from the Imperial Irrigation District to the San Diego County Water Authority, using the Metropolitan Water District of Southern California's water conveyance facilities, including the Colorado River Aqueduct, if the San Diego County Water Authority and the Metropolitan Water District of Southern California have not reached an agreement in principle on the terms and conditions of the transfer of conserved water using the Metropolitan Water District of Southern California's water conveyance facilities on or before August 15, 1997, the director shall issue a formal recommendation within 30 days from that date, with regard to the appropriate terms and conditions of the transfer.

(2) The director, in issuing a recommendation regarding appropriate terms and conditions of the transfer, shall make those determinations prescribed by Section 1812.

(3) If the director's recommendations prescribed by Section 1812 are unacceptable to either the San Diego County Water Authority or the Metropolitan Water District of Southern California, that party may request a formal mediation process. If both parties agree to participate in the formal mediation process, the parties shall commence mediation within one month after the mediation request is made. If the parties cannot agree on a mediator, the director shall appoint a mediator or the director may serve as mediator. The San Diego County Water Authority and the Metropolitan Water District of Southern California shall reimburse the state for any General Fund money used in mediation entered into pursuant to this paragraph.

(d) No action taken pursuant to this section shall injure any legal user of water, and there shall be no shifting of costs for actions taken pursuant to this section to water users in any county in the State of California.

(e) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

(Added by Stats. 1997, Ch. 874.)

1813. In making the determinations required by this article, the respective public agency shall act in a reasonable manner consistent with the requirements of law to facilitate the voluntary sale, lease, or exchange of water and shall support its determinations by written findings. In any judicial action challenging any determination made under this article the court shall consider all relevant evidence, and the court shall give due consideration to the purposes and policies of this article. In any such case the court shall sustain the determination of the public agency if it finds that the determination is supported by substantial evidence.

1814. This article shall apply to only 70 percent of the unused capacity.

Note: Statutes of 1986, Chapter 918 also contains the following provision:

Sec. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

(Added by Stats.1986, Ch. 918.)

CHAPTER 12. ENFORCEMENT OF WATER RIGHTS

Article 1. Policy

1825. It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of existing permits and licenses to appropriate water and to prevent the unlawful diversion of water.

Article 2. Cease and Desist Orders

1831. When the board determines that any person holding a permit or license to appropriate water pursuant to this division is violating any term or condition of the permit or license, the board may issue a preliminary order to any such person to cease and desist from such violation. The preliminary cease and desist order shall require such person to comply forthwith or in accordance with a time schedule set by the board. The board may issue a preliminary cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

1832. Cease and desist orders of the board shall be effective upon the issuance thereof. The board may, after notice and opportunity for hearing, upon its own motion or upon receipt of an application from an aggrieved person, modify, revoke, or stay in whole or in part any preliminary order issued pursuant to this chapter. Copies of any cease and desist order shall be served personally or by registered mail on the person being charged and shall be sent to any other person who appeared at the hearing and requested a copy.

1833. At any time subsequent to the issuance of a preliminary cease and desist order or any modification thereof, the board may issue a final cease and desist order. No notice or opportunity for hearing is required for issuance of a final cease and desist order.

1834. (a) In the event that a violation of a term or condition of a permit or license is occurring or threatening to occur, the board shall give notice in writing to the person allegedly engaged in the violation of the term or condition. Such notice shall contain a statement of facts and information which would tend to show the proscribed action, and notification of the requirements of subdivision (b).

(b) Unless a written request for a hearing signed by or on behalf of the notified party is delivered to or received by mail by the board within 15 days

after receipt of the notice, the board may adopt the proposed preliminary cease and desist order without a hearing.

1835. As used in this chapter, "person" includes any city, county, district, the state, or any department or agency thereof, and the United States to the extent authorized by law.

1836. Nothing in this chapter shall preclude the board from issuing any order or taking any other action authorized pursuant to Sections 275 and 1052.

Article 3. Judicial Review

1840. (Repealed by Stats. 1996, Ch. 659)

Article 4. Enforcement

1845. (a) Upon the failure of any person to comply with any valid final cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

(b) Any person or entity who violates a valid final cease and desist order issued pursuant to this chapter may be liable for a sum not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(c) The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(d) All funds recovered pursuant to this section shall be transferred to the General Fund of the state.

(Amended by Stats. 1987, Ch. 760; Amended by Stats. 1996, Ch. 659.)

Article 5. Private Litigation

1850. Any factual or legal determinations made pursuant to a valid, final cease and desist order shall be conclusive and shall preclude any party to the order from raising such issues in any subsequent administrative proceeding.

1851. Nothing in this chapter shall be construed to limit or abridge the right of any person to bring an action for equitable or legal relief for harm caused by an unauthorized diversion or a violation of a term or condition of a permit or license. No such person shall be required to exhaust any administrative remedy provided by this chapter before bringing such an action.

PART 3. DETERMINATION OF WATER RIGHTS**CHAPTER 1.
REFERENCE BY COURTS OF THIS STATE****Article 1. Subjects of Reference**

2000. In any suit brought in any court of competent jurisdiction in this State for determination of rights to water, the court may order a reference to the board, as referee, of any or all issues involved in the suit.

2001. In any suit brought in any court of competent jurisdiction in this State for determination of rights to water, the court may refer the suit to the board for investigation of and report upon any or all of the physical facts involved.

Article 2. Report of Referee

2010. The board may base its report solely upon its own investigations or in addition thereto may hold hearings and take testimony.

2011. The report of the board as referee may contain such opinion upon the law and the facts as it deems proper in view of the issues submitted.

2012. The report shall set forth such findings of fact and conclusions of law as may be required by the court's order of reference.

2013. Before filing its report the board shall announce it in the form of a draft.

2014. The board shall mail notice of the draft, together with a copy of the draft, to the parties or their attorneys.

2015. Within 30 days after the date of the mailing of the draft, or within such further time as the court may for good cause allow, any party may file objections to it with the board.

2016. After the objections have been considered by the board or a hearing has been held thereon if deemed advisable by it, the board shall file its report as referee with the clerk of the court and give notice by mail of the filing of its report to the parties or their attorneys.

2017. The report of the board as referee is subject to review by the court upon exceptions thereto filed with the clerk of the court within 30 days after date of mailing notice of the filing of the report.

2018. No exception to the report shall be considered, except in the court's discretion or for good cause shown, unless it appears that the matter of the exception was presented to the board in the form of an objection.



2019. The report filed by the board is prima facie evidence of the physical facts therein found; but the court shall hear such evidence as may be offered by any party to rebut the report or the prima facie evidence.

2020. (a) At any time after filing of the report by the board as provided in Section 2016 the board, if it appears that underground water is being pumped in an amount which, if not restricted, would destroy or irreparably injure the waters of the basin due to ocean water intrusion before final judgment can be had, may, on notice, pursuant to the provisions of Section 527 of the Code of Civil Procedure, apply to the courts for a preliminary injunction, restricting the pumping of water of the basin so as to avoid irreparable injury to, or destruction of, the waters of the basin, and the court may issue the injunction, subject to the provisions of Section 2021, equitably restricting and apportioning the reduction in the pumping of water.

(b) The provisions of this section apply only to actions to determine rights to waters of underground basins located in the arid, southern coastal area defined by the exterior boundaries of the Counties of Santa Barbara, Ventura, Los Angeles, Orange, and San Diego.

Note: Stats.1953, Ch. 1690, also contains the following provisions:

Sec. 3. The water supplies in the underground basins in the arid, southern coastal area in this State, now being rapidly depleted by excessive pumping are threatened with irreparable injury or destruction by ocean water intrusion. This excessive pumping has been continued after the rights of users have been submitted to the courts for determination, and, because of the lengthy nature of such litigation, the water of such basins can be irreparably injured or destroyed before final judgment in such actions.

This act relates to actions brought by the users to determine rights to the waters of underground basins and is intended to facilitate the issuance of preliminary injunctions in such cases in order that the extraction of water be equitably reduced to the end that the waters of the basin can be saved for future use.

The Legislature finds and declares that the solution of the problems arising because of ocean water intrusion in the basins located in the arid southern coastal area of this State are unique to that area and are problems as to which a general law would not be applicable.

2021. Where a preliminary injunction has been granted pursuant to Section 2020, the final judgment shall equitably compensate in quantities of water for such variations as there may be between the rights of the parties to the use of water on which such preliminary injunction is based, and as such rights are determined in such final judgment.

(See note to Section 2020.)

Article 3. Expenses of Reference

2040. In acting pursuant to this chapter the board shall not be entitled to any fee for its services but shall be paid or reimbursed the total expense incurred by it, including salaries, wages, traveling expenses, and all costs of whatsoever character which are properly chargeable to the reference.



2041. If the funds available for the use by the board are inadequate to permit it to advance the expense of a reference, or if in its opinion the payment of the expense of any reference is not reasonably certain, the board shall refuse to undertake a reference unless and until adequate provision is made by the parties and approved by the court for the payment of the expenses.

2042. During the pendency of any reference, upon motion of the board and upon a hearing by the court after at least 10 days' notice to the parties, the court may order such interim or partial payments of the expense to be made by the parties as it deems proper and equitable under the circumstances.

2043. The total expense shall be equitably apportioned by the board against the parties to the suit, and a statement thereof and of the apportionment shall be sent by registered mail by the board to the parties and filed with the court.

2044. (Repealed by Stats.1963, Ch. 329.)

2045. Upon application in writing by any party aggrieved within 30 days after the statement of final expense and its apportionment has been mailed to the parties, the court shall after expiration of that period set a hearing for the determination of any objections to the expense of the reference or to the apportionment thereof. The clerk of the court shall, at least 10 days prior to the date of hearing, give notice thereof by mail to all parties.

2046. Any party failing to object to the expense of a reference or the apportionment thereof is conclusively deemed to have waived all objection thereto.

2047. If no objection is filed with the court within the prescribed period, the court upon ex parte application of the board shall enter a judgment against the parties in favor of the board in the amounts apportioned to them.

2048. Upon the hearing of objections to the expense or the apportionment thereof the court shall determine the expense and its apportionment as the court deems equitable and shall enter judgment against the parties in favor of the board in the amounts apportioned to them.

2049-2050. (Repealed by Stats.1963, Ch. 329.)

CHAPTER 2. REFERENCES IN FEDERAL COURTS

2075. In case suit is brought in a federal court for determination of rights to water within, or partially within, this State, the board may accept a reference of such suit as master or referee for the court.

2076. In acting under this chapter the board shall proceed according to the rules of practice and procedure of the court or as otherwise directed by the court.



CHAPTER 2.5. ADJUDICATIONS TO PROTECT THE QUALITY OF GROUND WATER

2100. After the department has submitted to the board recommendations for the protection of the quality of ground water pursuant to Section 12617.1 or 12923.1 of this code, or in reliance upon investigation by any governmental agency, the board may file an action in the superior court to restrict pumping, or to impose physical solutions, or both, to the extent necessary to prevent destruction of or irreparable injury to the quality of such water. In such action, all of the claimants to the use of the affected water known to the board, except claimants to the use of minor quantities of water as defined in Section 2102, shall be named as defendants. In any watershed or ground water basin wherein (a) all or substantially all of the rights to water have been adjudicated and the court has retained continuing jurisdiction arising from the adjudication, or (b) wherein such action is pending, any such proceedings by the board shall be undertaken only by intervention by the board in such existing action.

2101. (a) Before filing or intervening in any such action the board shall hold a public hearing on the necessity for restricting ground water pumping or for a physical solution in order to protect the quality of water from destruction or irreparable injury. The board shall serve notice of such hearing as provided in Section 6066 of the Government Code and shall mail a copy of such notice to each producer of ground water within the area proposed for investigation, to the extent that such producers of ground water are known to the board, at least 15 days prior to the date of such hearing, except that notice need not be mailed to producers of minor quantities of water as defined in Section 2102.

(b) In the event the board decides that the rights to the use of the ground water must be adjudicated in order to require the restriction of pumping or physical solution necessary to preserve it from destruction or irreparable injury to quality, the board shall first determine whether any local public agency overlying all or a part of the ground water basin will undertake such adjudication of water rights. If such local agency commences an adjudication, the board shall take no further action, except that the board may, through the Attorney General, become a party to such action.

(c) In the event no local agency commences such action within 90 days after notice of the decision of the board, the board shall file such action.

(Added by Stats. 1969, Ch. 482)

2102. As used in this article, "minor quantities of water" refers to the extraction by any person of not to exceed 10 acre-feet of ground water annually.

(Added by Stats. 1969, Ch. 482)

CHAPTER 3. STATUTORY ADJUDICATIONS

Article 1. General Provisions

2500. As used in this chapter, "stream system" includes stream, lake, or other body of water, and tributaries and contributory sources, but does not include an underground water supply other than a subterranean stream flowing through known and definite channels.

2500.5. (a) As used in this chapter with respect to the Scott River in Siskiyou County, "stream system" includes ground water supplies which are interconnected with the Scott River, but does not include any other underground water supply.

(b) The Legislature finds and declares that by reason of the geology and hydrology of the Scott River, it is necessary to include interconnected ground waters in any determination of the rights to the water of the Scott River as a foundation for a fair and effective judgment of such rights, and that it is necessary that the provisions of this section apply to the Scott River only.

(c) If this section is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter, or of any proceedings thereunder, but shall affect only the validity of the proceedings with respect to such interconnected ground water supplies.

2501. The board may determine, in the proceedings provided for in this chapter, all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right.

2502. If the board finds that the use by any persons under claim of right of only minor quantities of water, as defined in Section 2503, would have no material effect on the rights of other claimants, the board may exempt such persons from being subject to these proceedings as claimants or parties with respect to such minor quantities of water; provided, that any person so exempted may elect to continue to be subject to these proceedings by giving prompt notice to the board.

2503. As used in this chapter, "minor quantities of water" refers to the diversion or extraction by any person of not to exceed 10 acre-feet of water annually.

Article 2. Petition and Preliminary Proceedings

2525. Upon petition signed by one or more claimants to water of any stream system, requesting the determination of the rights of the various claimants to the water of that stream system, the board shall, if, upon investigation, it finds the facts and conditions are such that the public interest and necessity will be served by a determination of the water rights involved, enter an order granting the petition and make proper arrangements to proceed with the determination.

2526. As soon as practicable after granting the petition the board shall prepare and issue a notice setting forth the following:



- (a) The facts of the entry of the order and of the pendency of the proceedings;
- (b) That all claimants to rights to the use of water of the stream system are required to inform the board within 60 days from the date of the notice, or such further time as the board may allow, of their intention to file proof of claim;
- (c) The date prior to which all claimants to rights to the water of the stream system shall notify the board in writing of their intention to file proof of claim and the address to which all subsequent notices to the claimant relating to the proceedings may be sent;
- (d) A statement that all claimants will be required to make proof of their claims at a time to be fixed by the board after the conclusion of its investigation.

2527. The notice shall be published at least once a week for four consecutive weeks, commencing within 20 days of the date of issuance of the notice, in one or more newspapers of general circulation published in each county in which any part of the stream system is situated, and, within the same 20-day period, the notice shall be mailed to all persons known to the board who own land that appears to be riparian to the stream system or who divert water from the stream system.

2528. Whenever proceedings are instituted for the determination of rights to water, it is the duty of all claimants interested therein and having notice thereof as provided in this chapter, to notify the board of their intention to file proof of claim and to appear and submit proof of their respective claims at the time and in the manner required by this chapter.

2529. (a) Within 60 days after the date by which claimants to rights to the water of the stream system are required to notify the board in writing of their intention to file proof of claim, the board shall prepare and file for record, in the office of the county recorder of each county in which any part of the stream system is situated, a notice setting forth all of the following facts:

- (1) The order has been entered and the proceedings are pending.
- (2) Information regarding the status of the proceedings may be obtained from the board.
- (3) The proceedings will result in a determination of the rights to water of the stream system.
- (4) Any claimant who fails to appear and submit proof of his or her claim as provided in this chapter shall be held to have forfeited all rights to water previously claimed by him or her on the stream system, other than as provided in the decree, unless entitled to relief under the laws of this state.
- (5) At the conclusion of the proceedings, the superior court will enter a decree determining the water rights appurtenant to each parcel identified in the notice, including the specific parcel against which this notice appears, and the decree may accord the claimant for that parcel water rights which are different from those he or she has claimed.

(b) The notice shall identify the current owners of each parcel that appears to be riparian to the stream system or to which water is diverted from the stream, and shall be recorded in a manner so that anyone researching the title of a parcel will find the notice.

(c) If the board subsequently identifies an additional parcel or parcels which appear to be riparian to the stream system or to which water is diverted from the stream, the board shall prepare and file for record a supplementary notice identifying the current owners of the additional parcels. The supplementary notice shall be recorded in the same manner as the original notice.

Article 3. Investigation of Stream System

2550. As soon as practicable after granting the petition, the board shall begin an investigation of the stream system, of the diversion of water, of all beneficial uses being made of the water, and of the water supply available for those uses, and shall gather such other data and information as may be essential to the proper determination of the water rights in the stream system.

2551. During the investigation the representatives of the board shall, after 30 days' notice in writing to each person who has given notice of intent to file proof of claim, conduct a detailed field investigation of such person's use of water, and shall determine the acreage under irrigation or otherwise define the place of use and purpose of use, determine the location and capacity of such person's diversion works and conduits conveying water from the stream system, and the amount of water diverted and reasonably required to satisfy the uses being made. It shall be the duty of each claimant to be present at some time during the detailed field investigation either in person or by an agent who is authorized to sign the proof of claim.

2552. Each claimant shall have available at the detailed field investigation all pertinent information on the extent and nature of the claimant's water use and basis of water right, so as to expedite the investigation and facilitate the completion of the proof of claim.

2553. Immediately upon conclusion of the detailed field investigation, the claimant or the claimant's representative shall be provided, by registered mail, a blank form of proof of claim and a copy of the factual determinations of the representatives of the board for use in preparing the proof of claim.

2554. During the investigation of the stream system, the board shall also conduct detailed field investigations of projects of all water users known to the board who have not filed a notice of intent to file proof of claim. Such investigations shall be in accordance with Section 2551, except that the water users need not be notified in advance of the investigation.

2555. Water users not present during conduct of the detailed field investigation and those not filing notice of intent shall, insofar as they are known, be supplied a copy of the factual determinations of the representative of the board and a blank form of proof of claim and shall be allowed to file proof of claim after completion of the detailed investigation of their project by the representatives of the board on the same basis as persons who were present and who filed timely notices of intent.



Article 4. Proof of Claim

2575. The proof of claim shall be filed with the board on the form provided by the board and shall include all of the following:

- (a) The name and post office address of the claimant.
- (b) The nature of the right on which the claim is based, the date upon which it was initiated, and the purpose of use.
- (c) A description of any works of diversion or distribution and the date such works were constructed.
- (d) The character of the soil and the location, area, and kind of crops irrigated, if any; the season of use; and the amount of water required and diverted.
- (e) The number of people served water, if any.
- (f) Such other facts as the board requires to show the extent and nature of the right and compliance with the law in acquiring it.

2576. Each claimant shall certify to the proof of claim statements under oath or penalty of perjury.

2577. Any person not submitting a proof of claim to the board or to representatives of the board by the conclusion of the investigation shall be notified in writing that such person's rights will be entered in the preliminary order of determination by the board based on the measurements and information gathered during the investigation unless a claim is submitted within 30 days of such notification.

2578. (Repealed by Stats.1965, Ch. 53.)

Article 5. Report and Preliminary Order of Determination

2600. After all field investigations have been completed and the time for filing proofs of claims has expired, the board shall prepare a report describing the water supply and abstracting the claim of water right of each claimant.

2601. The report shall note separately any material differences between the claims and the factual determinations made by the representatives of the board during the investigation.

2602. The report shall include a map showing the stream system, diversion points, conduits, areas of water use and the type of use, owner's names, and such other information as the board deems necessary.

2603. The report shall include a preliminary order of determination determining and establishing the several rights to the water of the stream system, giving appropriate consideration to claims at variance with the measurements and determinations of the representatives of the board.

2604. A copy of the report shall be sent by registered mail to each claimant and to each person not filing a claim appearing in the report as a water user. It shall be accompanied by a notice setting a day at least 60 days thereafter, prior to which such persons may file objections to any portion of the report, including the preliminary order of determination.

Article 6. Objections to the Report

2625. The notice shall also set a time and place reasonably convenient to the claimants when and where the proofs of claim and measurements and other data collected by the board during the proceedings will be open and available for inspection by all interested persons. The period of inspection shall be fixed by the board but shall be not less than five days.

2626. A representative of the board shall be present at the time and place designated in the notice, and shall permit, during the period of inspection, any person interested to inspect such evidence and proofs of claim as have been filed.

2627. The period of inspection shall be concluded at least 30 days prior to the expiration of the time allowed claimants for filing objections to the report and preliminary order of determination.

2628. The objections shall be in writing and shall state with reasonable certainty the grounds of the objection.

2629. (Repealed by Stats.1976, Ch. 545.)

Article 7. Hearing of Objections

2650. Within 10 days after the close of the period for filing objections, the board shall mail copies of the objections to the claimant or water user against whom the objections are directed and shall notify by registered mail the persons whose rights are significantly affected to appear before it at a time and place specified and at such time and place the objections will be heard. The time specified shall be as soon as practicable but not less than 15 days from the date of the mailing of the notice of hearing.

2651. The board may adjourn hearings of objections from time to time upon reasonable notice to all parties in interest.

2652. The costs of taking testimony at a hearing on an objection shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness, and the parties shall share equally for that part of the examination directed by the representative of the board.

2653. One copy of the transcript of testimony taken at the hearing shall be furnished to the board at the cost of the parties.

(Added by Stats.1976, Ch. 545.)

2654-2659. (Repealed by Stats.1976, Ch. 545.)



Article 8. Order of Determination

2700. As soon as practicable after the hearing of objections or the expiration of the time for filing objections if no objections are filed, the board shall adopt an order determining and establishing the several rights to the water of the stream system.

2701. A notice of adoption of the order of determination and a copy of the order shall be sent by registered mail to each claimant and to each person whose rights are determined in the order.

2702. (a) The board may order a reconsideration of all or part of an order of determination on the board's own motion or on petition of any party affected by the order. The petition shall be filed within 30 days after the notice required by Section 2701 is sent. The authority of the board to order a reconsideration on its own motion shall expire 30 days after the board has adopted the order. The board shall order or deny reconsideration on a petition for reconsideration within 90 days after the notice required by Section 2701 is sent.

(b) The order of determination may be reconsidered by the board on all the pertinent parts of the record and any arguments as may be permitted, or a further hearing may be held, upon notice to all affected parties, for the purpose of receiving additional evidence that the board may, for cause, allow. The order on reconsideration has the same force and effect as an original order.

(Added by Stats. 1984, Ch. 1654; Amended by Stats. 1990, Ch. 230.)

2703. (Renumbered Section 2701 and Amended by Stats. 1976, Ch. 545.)

Article 9. Hearing and Decree of Court

2725-2728. (Repealed by Stats. 1965, Ch. 53.)

2750. As soon as practicable after adoption of the order of determination, issuance of an order on reconsideration, or issuance of an order denying reconsideration, whichever is later, a certified copy of the order, together with the original evidence and transcript of testimony filed with or taken before the board and certified by it, shall be filed with the clerk of the superior court of the county in which the stream system, or some part thereof, is situated.

2751. Upon the filing of the certified copy of the order of determination and the evidence and transcript, the board shall procure an order from the court setting a time for hearing.

2752. The clerk of the court shall immediately furnish the board with a certified copy of the order setting the time for hearing.

2753. Upon receiving the certified copy of the order setting the time for hearing, the board shall immediately mail a copy of the order by registered mail to each known party in interest at his last known place of residence.



2754. The board shall cause the order to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which the stream system or any part thereof is situated.

2755. The board shall file with the clerk of the court proof of service by registered mail and by publication.

2756. Service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of the hearing.

2757. At least 10 days prior to the day set for hearing, each party in interest who is aggrieved or dissatisfied with the order of determination may file with the clerk of the court notice of exceptions to the order of determination.

2758. The notice of exceptions shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief.

2759. A copy of each notice of exception shall be sent by registered mail at least 10 days prior to the hearing to the board and to each person who was an adverse party to any issue raised by the exception at a hearing of the board.

2760. The order of determination, the statements or claims of claimants, and the exceptions made to the order of determination constitute the pleadings.

2761. The court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding.

2762. If no exceptions are filed, then on the day set for the hearing, on motion of the board, the court shall enter a decree affirming the order of determination.

2763. On the day set for hearing all parties in interest who have filed notices of exceptions shall appear in person, or by counsel, and the court shall hear the matter or set the time for hearing, and shall continue the hearing until all exceptions are disposed of.

2763.5. (a) No exception to the order of determination shall be considered, except in the court's discretion for good cause shown, unless the matter of the exception was presented to the board in the form of an objection. Good cause includes, but is not limited to, the existence of newly discovered relevant evidence which, in the exercise of reasonable diligence, could not have been presented to the board during the board's proceedings.

(b) This section does not apply to persons to whom the board did not mail either (1) written notice of the board meeting at which the petition pursuant to Section 2525 is to be considered as an item of business, or (2) written notice of the pendency of the proceedings pursuant to Section 2526.

(Added by Stats. 1985, Ch. 572.)



2764. All proceedings on the hearing shall be as nearly as may be in accordance with the rules governing civil actions.

2765. Whenever in the judgment of the court the State is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in the action shall be served upon the Attorney General who shall represent the State therein.

2766. For further information on any subject in controversy the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony on the subject.

2767. The court may take additional evidence on any issue and may, if necessary, refer the case for such further evidence to be taken by the board as the court may direct, and may require a further determination by the board.

2768. After the hearing, the court shall enter a decree determining the right of all persons involved in the proceeding.

2769. The decree shall in every case declare as to the water right adjudged to each party, the priority, amount, season of use, purpose of use, point of diversion, and place of use of the water; and as to water used for irrigation, the decree shall also declare the specific tracts of land to which it is appurtenant, together with such other factors as may be necessary to define the right.

2770. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just.

2771. Appeals from the decree may be taken by the board or any party in interest, in the same manner and with the same effect as in civil cases.

2772. A certified copy of the decree shall be prepared by the clerk of the court, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the board.

2773. The decree is conclusive as to the rights of all existing claimants upon the stream system lawfully embraced in the determination.

2774. When a decree has been entered, any claimant who has failed to appear and submit proof of his claim as provided in this chapter shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream system embraced in the proceedings, and shall be held to have forfeited all rights to water theretofore claimed by him on the stream system, other than as provided in the decree, unless entitled to relief under the laws of this State.

Article 10. Intervention

2780. Any claimant who, prior to entry of the order of determination by the board, had no actual knowledge or notice of the pendency of the proceedings may, at least 10 days prior to the date set for hearing by the court or within such further time prior to the decree as the court may allow, intervene in the proceedings by filing with the court an exception to the order of determination and a proof of claim which shall contain all the matters required by this chapter of claimants who have been served with notice of the proceeding.

2781. Upon filing his exception and proof of claim, the intervenor shall make application to the court for an order prescribing the time and manner of service of the exception and proof upon other claimants and the time within which contests of the proof may be filed with the court and served upon the intervenor.

2782. After expiration of the time fixed by the court for filing contests, the court shall proceed to hear and determine the exception and proof of intervenor and any contest thereto in accordance as near as may be with Article 9 (commencing with Section 2750).

2783. The court may refer the matter for such further evidence to be taken by the board as the court may direct, and may require a further determination by the board, in which event the board shall be entitled to reimbursement for expenses incurred by it in the manner provided in Article 13 (commencing with Section 2850) of this chapter.

Article 11. Proceedings When Appropriation Incomplete at Time of Determination

2800. (Repealed by Stats.1965, Ch. 53.)

2801. All persons claiming rights under an incomplete appropriation, when notified as provided in this chapter, shall appear and submit their proofs of claim in accordance with this chapter, or they shall be deemed and held to be in default and to have abandoned or to have no right, title, or interest in or to the water of the stream system, other than as the person may be found to be entitled by the board based on available information and data.

2802. In determining rights based on an incomplete appropriation initiated according to law prior to December 19, 1914, and since prosecuted with reasonable diligence in accordance with Section 1416 of the Civil Code, the board shall prescribe such reasonable time for the completion of the appropriation and the application of the water to a beneficial use as will enable the claimant acting in good faith and with due diligence to complete the appropriation.

2803. The order of determination shall provide that within the time prescribed for completion of the appropriation, or such further time as the court may allow,



the claimant shall submit to the court proof of completion and the amount of water actually applied to beneficial use.

2804-2805. (Repealed by Stats. 1965, Ch. 53.)

2806. The court shall have authority to thereafter hear and determine proof offered as to the completion of any such right.

2807. Time for completion may be extended from time to time by the court upon motion made prior to the expiration of the limit of time fixed therefor.

2808. Notice of motion for an extension of time for completion shall be filed not more than 90 days prior to the expiration of the time limit.

2809. The clerk of the court shall post notice of hearing of the motion at the courthouse where the hearing is to be held and at least 10 days prior to the hearing.

2810. The court may refer the matter of the motion to the board for its report and recommendation thereon.

2811. Upon receipt of the report and recommendation of the board or, if the board fails to file its report and recommendations within 90 days after the reference, upon the expiration of that period, the court shall grant such an extension of time as there is, in its discretion, good and sufficient cause for, or shall deny the motion.

2812. In event of denial of a motion for the extension of time for completion the applicant may within 10 days after notice by the clerk of the denial, file notice of intention to offer proof of completion.

2813. Any claimant desiring to offer proof of completion shall file a notice of intention to offer such proof with the clerk of the court.

2814. The clerk shall post notice of the time for hearing the proof at the courthouse where the hearing is to be held and at least 10 days prior to the hearing.

2815. Upon submission of proof of completion after entry of the decree of the court, the court shall enter a supplemental decree determining the right before it and in event of failure, after entry of the decree of the court, to submit proof within the time allowed or to move for and secure an extension of time to do so the court shall enter a supplemental decree denying the right involved.

2816. All persons claiming rights under incomplete appropriations who fail to complete their appropriations within the limit of time fixed by the board in its order of determination, or within such further time granted upon motion made prior to the expiration of the time limit as the court finds equitable and just, shall

be deemed to have abandoned their rights of appropriation insofar as the same remain incomplete, and such appropriators shall be deemed and held to have no right, title or interest in or to the water of the stream system insofar as their appropriations have not been completed.

2817. Appeals from any action of the court under this article may be taken by the board or any party in interest in the same manner and with the same effect as in civil cases.

2818. This article shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations.

2819. Incomplete appropriations initiated by application under the provisions of the Water Commission Act or this code shall be included in the decree but shall continue to be administered by the board as in other cases. Upon issuance of a license by the board and completion of court review of the board's action under Article 3 (commencing with Section 1126) of Chapter 4 of Part 1, if court review is sought, and upon motion of the licensee or the board, the court shall enter a supplemental decree confirming the right in accordance with the license. Any change authorized by the board pursuant to Chapter 10 (commencing with Section 1700), Part 2, of this division, shall in like manner be the subject of a supplemental decree.

(Amended by Stats.1996, Ch. 659.)

2820. After revocation by the board of a permit or license relating to a right included in the decree and upon completion of court review of the board's action under Article 3 (commencing with Section 1126) of Chapter 4 of Part 1, if court review is sought, the court shall, upon motion of the board or any interested party, enter a supplemental decree denying the right involved.

(Amended by Stats.1996, Ch. 659.)

Article 12. Service of Copy of Decree

2825. The board shall furnish to each claimant whose rights are decreed a copy of the decree and a notice of the entry thereof.

2826. Upon entry of a supplemental decree establishing or modifying a right, the board shall furnish to each claimant who could be significantly affected, at his last known address, a copy of the supplemental decree and a notice of entry thereof.

Article 13. Expenses of Determination

2850. At the time of submission of proofs, the board shall collect from each claimant a fee of ten dollars (\$10) for each proof filed by the claimant.



2851. At the time of, or as soon as practicable after the mailing of, its order of determination the board shall compute the entire expense it has incurred in performing the duties prescribed in this chapter, including salaries, wages, traveling expenses, and all costs of whatever character which are properly chargeable to the proceeding.

2852. If the total amount of expense exceeds the total amount received from claimants at the time of submission of proofs, the excess expense shall be equitably apportioned by the board against the parties to the proceeding.

2853. A statement setting forth the expense and the apportionments thereof against the respective parties shall be sent by registered mail by the board to each of the parties and filed with the court.

2854. (Repealed by Stats.1955, Ch. 629.)

2855. Upon application in writing by any party aggrieved within 30 days after the statement of expense and the apportionment thereof has been mailed to the parties, the court shall after expiration of said period set for hearing the determination of any objections to the expense or to the apportionments thereof.

2856. The clerk of the court shall, at least 10 days prior to the date of hearing, give notice thereof by mail to all parties.

2857. If no objection is filed with the court within the prescribed periods the court upon ex parte application of the board shall enter a judgment against the parties in favor of the Board in the amounts apportioned to them.

2858. Any party failing to object to the expense or the apportionments thereof waives all objections thereto.

2859. Upon the hearing of objections to the expense or the apportionments thereof the court shall determine the expense and its apportionment as the court deems equitable and shall enter judgment against the parties in favor of the board in the amounts apportioned to them.

2860-2861.(Repealed by Stats.1963, Ch. 329.)

2862. All money paid to or collected by the board, as provided in this article, shall be paid, at least once each month, accompanied by a detailed statement thereof, into the Water Resources Control Board Revolving Fund, which fund is continued in existence.

2863. All or any part of the money in the Water Resources Control Board Revolving Fund may be drawn from the State Treasury upon the approval of the Department of Finance without the submission of receipts, vouchers, or itemized

statements, and used by the board in paying costs of making determinations of water rights as provided in this part.

2864. If the funds available for use by the board are inadequate to enable it to undertake the expense of any proceeding under this chapter or if in its judgment reimbursement for the expense of any such proceeding is not reasonably certain, it may refuse to proceed with its investigation and to undertake the proceeding, unless and until such provision is made by persons interested as may be satisfactory to the board and deemed by it sufficient to secure reimbursement or payment to it for its expenses.

2865. (Repealed by Stats.1963, Ch. 330.)

2866. The Department of Finance shall, from time to time, review the status of the Water Resources Control Board Revolving Fund to determine whether there are excess amounts of money therein not needed to carry out the provisions of this chapter. If the Department of Finance determines there are such excess amounts of money in the fund, it shall notify the State Controller and the State Controller shall transfer such excess amounts of money to the General Fund.

CHAPTER 4. MODIFICATION OF DECREES

2900. In rendering its decree for the determination of rights to water, whether in suits referred to the board under the provisions of Chapter 1 of this part or in adjudications under the provisions of Chapter 3 of this part, the court may provide that the board or any party affected by the decree may, at any time within three years from entry thereof, apply to the court for a modification of the decree insofar only as the decree determines quantities of water, and after hearing the motion and any competent and admissible evidence offered in support of or against the motion the court may modify the decree by increasing or decreasing the quantities of water therein allowed.

PART 5. RECORDATION OF WATER EXTRACTIONS AND DIVERSIONS

4999. The Legislature finds and declares that by reason of the combination of light rainfall, concentrated population, the transition of considerable areas of land from agricultural use to urban use, and a similar dependence on ground water supplies which prevails in the Counties of Riverside, San Bernardino, Los Angeles, and Ventura, together with the fact that most such underground water supplies are overdrawn, it is necessary that the provisions of this part apply to said counties only.

Note: Stats.1955, Ch.1869, contains the following provision:

Sec. 3. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of



the remaining portions of this act; and the Legislature would have enacted each section, subsection and sentence hereof independent of each other section, subsection and sentence; and would have enacted such remaining portions and each of them irrespective of such holding of unconstitutionality as any portion which may be held unconstitutional.

(Amended by Stats. 1959, Ch.526)

5000. As used in this Part 5, the following terms shall have the respective meanings stated below, viz:

(a) "Ground water" means water beneath the surface of the ground whether or not flowing through known and definite channels.

(b) "Surface water" means water on the surface of the ground.

(c) "Four counties" means the Counties of Riverside, San Bernardino, Los Angeles, and Ventura.

(d) "Person" means all persons whether natural or artificial, including the United States of America, the State of California, and all political subdivisions, districts, municipalities and public agencies of or in either the State or the United States.

(e) "Sources" means any point of diversion or extraction of water and includes among other things wells, tunnels, and headworks.

5001. Each person who, after 1955, extracts ground water in excess of 25 acre-feet in any year shall file with the board on or before March 1st of the succeeding year a "Notice of Extraction and Diversion of Water" (hereinafter called "notice") in the form provided in Section 5002; provided, however, that no notice need be filed with respect to, and there shall not be required to be included in any such notice, (a) information concerning the extraction or diversion of water from a source from which less than 10 acre-feet has been taken during such year, (b) information concerning a taking or diversion of surface water for the purpose of generating electrical energy and other nonconsumptive uses, and for incidental uses in connection therewith, or (c) information concerning extractions or diversions of water which are included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have extracted or diverted water and give the general place of use and the quantity of water which has been extracted or diverted from each source.

5002. Each notice shall be on a form provided by the board. The first notice filed by any person shall state:

(a) The name of the person extracting ground water or diverting surface water.

(b) The quantity of water taken and the method of measurement used by such person or his predecessor in interest in each preceding year from each surface or ground water source; provided, that if the period of such taking exceeds 10 years, such person is not required to state such quantities for any period greater than the preceding 10 calendar years.

(c) The location (sufficient for identification) of each surface or ground water source through or by means of which water has been taken, and if any

person or persons other than the person filing said notice claims any interest in such source or the right to extract water therefrom, the name or names, so far as known, of such other person or persons.

(d) A general description of the area in which such water has been used.

(e) Any other facts which the board may require by general regulation and which tend to prove the facts required by this section to be stated, the origin of water supplying any ground water source mentioned in the notice, water levels in any such source, or the extent of any ground water basin from which such water is withdrawn.

(f) Any person diverting only surface water and not more than 25 acre-feet of ground water in any year need not file such notice for such year.

Notices, other than the first notice filed, shall state, in addition to the name of the person extracting or diverting such water:

First: The quantity of water taken from each surface and ground water source from which such person received any water in the preceding calendar year.

Second: Location of each such surface and ground water source through or by means of which water has been taken in such preceding year. This may be stated, so far as applicable, by reference to the water sources described in the original notice.

Third: If such person diverts surface water in excess of three miner's inches, such person shall further state in said notice the period or periods of such diversion, and the maximum and minimum flows so diverted in each period.

Fourth: Any other facts which the board may require by general regulation, and which tend to prove facts required by this subdivision to be stated, the origin of water supplying any surface or ground water source mentioned in the notice, water levels or flow in any such source, or the extent or origin of the water source supplying the ground water supply from which such water is extracted.

5003. No prescriptive right which might otherwise accrue to extract ground water shall arise or accrue to, nor shall any statute of limitations operate in regard to such ground water in the four counties or any of them after the year 1956 in favor of any person required to file such notice of extraction and diversion of water, until such person shall file with the board the first "Notice of Extraction and Diversion of Water" substantially in the form mentioned in Section 5002; and as to each person who fails to file such notice by the end of the year 1957, it shall be deemed for the period from that time until the first notice of such person is filed, that no claim of right to the extraction of ground water from any such source in the four counties has been made by such person, and that water so extracted by such person from such ground water source during such period has not been devoted to or used for any beneficial use. The beneficial use of water from any ground water source within the four counties in any year by such person shall be deemed not to exceed the quantity reported in the notice filed for such year.

5004. After the year 1959, failure to file with the board a notice for any calendar year within six months after the close of such calendar year shall be deemed equivalent for all purposes to nonuse for such year of any ground water within



the four counties by each person failing to so file a notice within said period; provided, that this section and Section 5003 shall not apply to any person whose aggregate extractions of ground water in any year does not exceed 25 acre-feet nor to any extractions of ground water with respect to which no notice is required to be filed under this part.

5005. Except as specified in Section 5004, failure to file the notice or delay in filing the same shall not cause the loss of rights to ground water which existed on January 1, 1956.

5006. Each notice shall be sworn to and shall be accompanied by a filing fee which shall be fixed by the board. Such filing fees shall be fixed so as to be sufficient on the average to pay the administrative expenses of the board in listing and processing notices of the character presented, and may be graduated in accordance with the number of water sources from which extractions or diversions are shown.

5007. Any person may apply to the board to investigate the facts stated in any specified notice so filed and to state in writing its determination of the facts found by it upon such investigation. The cost of such investigation and determination shall be paid by such applicant by such deposits or in such payments as may be fixed by the board. In the event the board makes a determination which differs in any material respect from the facts contained in the notice, then, prior to making its final determination, the board shall notify both the person filing said notice and the person requesting a determination of facts of its proposed findings, and shall invite either party to submit further information prior to making its final determination, and no such final determination shall be made until sixty (60) days after the parties have been so notified of the board's proposed determination.

In any action or proceeding hereafter pending in which the facts, or any of them, contained in the notices so filed are material, such notices shall not be evidence of any fact stated therein, but such determination by the board shall be prima facie evidence of said facts.

5008. The making of any wilful misstatement in any notice shall be a misdemeanor, punishable by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not to exceed six months, or both.

PART 5.1. STATEMENTS OF WATER DIVERSIONS AND USE

5100. As used in this part:

(a) "Person" means all persons whether natural or artificial, including the United States of America, State of California, and all political subdivisions, districts, municipalities and public agencies.

(b) "Diversion" means taking water by gravity or pumping from a surface stream or subterranean stream flowing through a known and definite



channel, or other body of surface water, into a canal, pipeline or other conduit, and includes impoundment of water in a reservoir.

5101. Each person who, after December 31, 1965, diverts water shall file with the board, prior to July 1 of the succeeding year, a statement of his diversion and use; provided, however, that no statement need be filed if the diversion is any of the following:

- (a) From a spring which does not flow off the property on which it is located.
- (b) Covered by an application, permit or license to appropriate water on file with the board.
- (c) Included in a notice filed pursuant to Part 5 (commencing with Section 4999) of this division.
- (d) Regulated by a watermaster appointed by the department.
- (e) Reported by the department in its hydrologic data bulletins.
- (f) Included in the consumptive use data for the delta lowlands published by the department in its hydrologic data bulletins.
- (g) Included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have diverted water and give the general place of use and the quantity of water which has been diverted from each source.
- (h) For use in compliance with the provisions of Article 2.5 (commencing with Section 1226) of Chapter 1 of Part 2 of this division.

5102. The statement may be filed either by the person who is diverting water or, on his behalf, by an agency which he designates and which maintains a record of the water diverted. A separate statement shall be filed for each point of diversion.

5103. Each statement shall be typewritten or legibly written in ink on a form provided by the board and shall include:

- (a) The name and address of the person who diverted water and of the person filing the statement.
- (b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.
- (c) The place of diversion. If a public land survey has been made, location of diversion works shall be described to the nearest 40-acre subdivision. If not, it shall be described by reference to nearest local landmarks or other recorded surveys.
- (d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year. Those who maintain water-measuring devices and keep monthly records of water diversions shall state the quantity of water diverted by months during the preceding calendar year. Others shall state the acreage of each crop irrigated, the average number of people served with water, the average number of stock watered, and the nature and extent of any other use during the preceding calendar year, or such



other equivalent information tending to indicate the quantity of water used as may be prescribed by the board.

(e) The purpose of use.

(f) A general description of the area in which the water was used.

If the water was used on an area within the 1/16 section containing the point of diversion, a statement to that effect will suffice; otherwise a description or sketch of the general area of use shall be given.

(g) The year in which the diversion was commenced as near as is known.

5104. (a) Supplemental statements shall be filed at three-year intervals, prior to July 1 of the year next succeeding the end of each three-year interval. They shall contain the quantity of water diverted and the rate of diversion by months in each of the preceding three calendar years and any change in the other information contained in the preceding statement.

(b) If there is a change in the name or address of the person diverting the water, a supplemental statement shall be filed with the board that includes the change in name or address.

(Amended by Stats. 1996, Ch. 667)

5105. Upon failure of any person to file a statement required by this part, the board may, at the expense of such person, investigate and determine in writing the facts required by either Sections 5103 or 5104, provided the board first gives such person written notice of its intention to investigate and determine the facts and 60 days in which to file the statement without penalty.

5106. (a) Neither the statements submitted under this part nor the determination of facts by the board pursuant to Section 5105 shall establish or constitute evidence of a right to divert or use water.

(b) (1) The board may rely on the names and addresses included in statements submitted under this part for the purpose of determining the names and addresses of persons who are to receive notices with regard to proceedings before the board.

(2) Notwithstanding paragraph (1), any person may submit, in writing, a request to the board to provide notification to a different address, and the board shall provide the notification to that address.

(3) If the board provides notice to persons who file statements under this part, the notice shall not be determined to be inadequate on the basis that notice was not received by a person, other than a party to whom the board's action is directed, who fails to file a statement required to be filed under this part.

(4) This subdivision does not affect the requirement in Section 2527 to provide notice to all persons who own land that appears to be riparian to the stream system. (c) In any proceeding before the board to determine whether an application for a permit to appropriate water should be approved, any statement submitted under this part or determination by the board pursuant to Section 5105 is evidence of the facts stated therein.

(Amended by Stats. 1997, Ch. 323)

5107. (a) The making of any willful misstatement pursuant to this part is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not to exceed six months, or both.

(b) Any person who makes a material misstatement pursuant to this part may be liable civilly as provided in subdivision (c).

(c) Civil liability may be administratively imposed by the board pursuant to Section 1055 in an amount not to exceed five hundred dollars (\$500) for each violation. In determining the appropriate amount, the board shall consider all relevant circumstances, including, but not limited to, all of the following factors:

- (1) The extent of harm caused by the violation.
- (2) The nature and persistence of the violation.
- (3) The length of time over which the violation occurs.
- (4) Any corrective action undertaken by the violator.

(Amended by Stats. 1996, Ch. 667)

5108. Statements filed pursuant to this part shall be for informational purposes only, and neither the failure to file a statement nor any error in the information filed shall have any legal consequences whatsoever other than those specified in this part.

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES

PART 1.5. THE CALIFORNIA WATER PLAN

10004. (a) The plan for the orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state which is set forth and described in Bulletin No. 1 of the State Water Resources Board entitled "Water Resources of California," Bulletin No. 2 of the State Water Resources Board entitled, "Water Utilization and Requirements of California," and Bulletin No. 3 of the department entitled, "The California Water Plan," with any necessary amendments, supplements, and additions to the plan, shall be known as "The California Water Plan."

(b) (1) The department shall update The California Water Plan every five years. The department shall report the amendments, supplements, and additions included in the updates of The California Water Plan, together with a summary of the department's conclusions and recommendations, to the Legislature in the session in which the updated plan is issued.

(2) The department shall release a preliminary draft of The California Water Plan, as updated, upon request, to interested persons and entities throughout the state for their review and comments. The department shall provide these persons and entities an opportunity to present written or oral comments on the preliminary draft. The department shall consider these comments in the preparation of the final publication of The California Water Plan, as updated.

(Added by Stats. 1959, Ch. 2053; Amended by Stats. 1991, Ch. 620.)



10005. (a) It is hereby declared that the people of the state have a primary interest in the orderly and coordinated control, protection, conservation, development, and utilization of the water resources of the state by all individuals and entities and that it is the policy of the state that The California Water Plan, with any necessary amendments, supplements, and additions to the plan, is accepted as the master plan which guides the orderly and coordinated control, protection, conservation, development, management and efficient utilization of the water resources of the state.

(b) The declaration set forth in subdivision (a) does not constitute approval for the construction of specific projects or routes for transfer of water, or for financial assistance, by the state, without further legislative action, nor shall the declaration be construed as a prohibition of the development of the water resources of the state by any entity.

(Added by Stats.1959, Ch. 2053; Amended by Stats.1991, Ch 620.)

10005.1. The department or, at the department's request, the California Water Commission, shall conduct a series of hearings with interested persons, organizations, local, state, and federal agencies, and representatives of the diverse geographical areas and interests of the state.

(Added by Stats.1991, Ch. 620.)

10005.2. Prior to holding a hearing pursuant to Section 10005.1, the department shall give notice by mail of the hearing to persons and entities which have requested notice and have provided their name and address to the department.

(Added by Stats.1991, Ch. 620.)

10006. The provisions of this part do not repeal or modify any of the provisions of Part 3 of this division.¹

(Added by Stats.1959, Ch. 2053.)

¹See Section 11100 et. seq.

10007. Notwithstanding anything contained in this part, all applications heretofore filed by the Department of Finance or by the Department of Water Resources under Part 2 of Division 6¹ shall remain valid and shall retain and have the status and priority accorded to such applications as now or hereafter provided in said Part 2.

(Added by Stats.1959, Ch. 2053.)

¹See, section 10500 et seq.

10008. The Legislature hereby finds and declares that agreements which provide for the transfer of water from the federal Central Valley Project to public entities supplying water for domestic or irrigation use offer potential benefits to California's hard-pressed farmers and to California's water-dependent urban areas.

It is the intent of the Legislature that these contracts be entered into for the purposes of strengthening California's economy, serving the public, and protecting the environment.

The director shall continue to pursue negotiations with the United States Bureau of Reclamation to contract for the interim rights to stored water from the federal Central Valley Project for use in the State Water Resources Development System by state water supply contractors.

(Added by Stats.1986, Ch. 1241.)

10009. The director shall pursue discussions with the United States Bureau of Reclamation to permit persons and public entities which have entitlements to water from the federal Central Valley Project, to enter into legally binding contracts with any public entity which supplies water for domestic use, irrigation use, or environmental protection in this state for the transfer of federal water entitlements during times of shortage.

(Added by Stats.1986, Ch. 1241.)

10010. The director shall report to the Legislature during the department's annual budget hearings on the status of the discussions specified in Sections 10008 and 10009. The director shall recommend legislation to facilitate the execution of mutually acceptable contracts which will not degrade the environment.

If the department is unable to secure the consent of the United States Bureau of Reclamation for the transfer of federal water entitlements as specified in Sections 10008 and 10009 by 1992, the director shall make a final report to the Legislature during the department's 1993 annual budget hearings. The report shall include the reasons the discussions were unsuccessful and recommended legislative actions.

(Added by Stats.1986, Ch. 1241.)

Note: Statutes of 1986, Chapter 1241 also contains the following provision:

Sec. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that negotiations with the United States Bureau of Reclamation to permit more efficient use of federal water entitlements to meet the pressing water needs of California's citizens may be pursued at the earliest possible time, it is necessary that this act take effect immediately.

10011. (a) In preparing the California Water Plan, the director shall conduct at least one public hearing within the boundaries of the Sacramento-San Joaquin Delta, and shall solicit the comments of water agencies within the delta, agricultural groups representative of delta agricultural activity, environmental groups concerned with protecting delta wildlife habitat, and groups representative of those who utilize water exported from the delta.

(b) The California Water Plan shall include a discussion of various alternatives, including their advantages and disadvantages, for improving and protecting the current uses and configuration of the Sacramento-San Joaquin Delta.

(c) Subdivisions (a) and (b) shall be implemented only to the extent money is appropriated in the annual Budget Act to carry out this section.

(Added by Stats.1992, Ch. 953.)



**PART 2. APPROPRIATION OF WATER BY
DEPARTMENT OF WATER RESOURCES**

10500. The department shall make and file applications for any water which in its judgment is or may be required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the state.

Any application filed pursuant to this part shall be made and filed pursuant to Part 2 (commencing with Section 1200) of Division 2 of this code and the rules and regulations of the State Water Resources Control Board relating to the appropriation of water insofar as applicable thereto.

Applications filed pursuant to this part shall have priority, as of the date of filing, over any application made and filed subsequent thereto. The statutory requirements of Part 2 (commencing at Section 1200) of Division 2 relating to diligence shall not apply to applications filed under this part, except as otherwise provided in Section 10504.

(Added by Stats.1943, Ch. 370; Amended by Stats.1983, Ch. 481.)

10501-10503.(Repealed by Stats.1953, Ch. 1522.)

10504. All applications made and filed pursuant to Section 10500 shall be transferred to the State Water Resources Control Board and held by the board for the purposes of this part. The board may release from priority or assign any portion of any application filed under this part when the release or assignment is for the purpose of development not in conflict with such general or coordinated plan or with water quality objectives established pursuant to law. The assignee of any such application whether heretofore or hereafter assigned, is subject to all the requirements of diligence as provided in Part 2 (commencing with Section 1200) of Division 2 of this code. "Assignee" as used herein includes, but is not limited to, state agencies, commissions and departments, and the United States of America or any of its departments or agencies.

(Added by Stats.1943, Ch. 370; Amended by Stats.1967, Ch. 284.)

10504.01. Each petition for assignment of all or a portion of an application filed pursuant to this part, which application has not been completed in accordance with law and the regulations of the board, shall include as a part thereof a proposed completed application consistent with the requested assignment, and describing petitioner's proposed project. As soon as practicable after the receipt of such petition the board shall issue and deliver a notice of the petition and proposed completed application in accordance with Article 1 (commencing with Section 1300), Chapter 3, Part 2, Division 2 of this code and shall also deliver a copy of the notice to the department and to the board of supervisors of each county in which the water originates and in which the water is to be used. Further procedure with respect to each such petition shall be in accordance with Chapters 3 (commencing with Section 1300), 4 (commencing with Section 1330) and 5 (commencing with Section 1340), Part 2, Division 2 of this code relating to notice,



protests, hearing, and action on applications for permits to appropriate water. The hearing shall be for the purpose of determining whether the application should be assigned pursuant to Sections 10504 and 10505 and whether the proposed completed application submitted by the petitioner should be approved in whole or in part. When the board's determination is favorable to the petitioner, it shall assign all or a portion of the application to the petitioner, accept and approve the assigned portion, and issue a permit as in other cases provided by law. Any portion of the application which is not assigned shall remain with the board subject to further disposition by it pursuant to the provisions of this part.

Two or more petitions for assignment of the same or related applications may be consolidated for purposes of hearing and determination with each other and with other applications, in the discretion of the board.

(Added by Stats.1965, Ch. 989.)

10504.02. Procedure with respect to petitions for assignment of all or a portion of applications filed pursuant to this part, which applications have been completed in accordance with law and the regulations of the board, shall be in accordance with the provisions of Section 10504.01 insofar as they are applicable.

(Added by Stats.1965, Ch. 989.)

10504.1. Before any application made and filed pursuant to Section 10500 is assigned or released from priority, the State Water Resources Control Board shall hold a public hearing. Written notice of the time and place of the hearing shall be mailed, at least 45 days prior to the date set for the hearing, to the board of supervisors of each county in the area in which the water originates and in the area or areas in which the water is to be used. Any interested persons may appear at the hearing and present their views and objections as to the proposed action.

(Added by Stats.1959, Ch. 2099; Amended by Stats.1967, Ch. 284.)

10504.2. (Repealed by Stats.1965, Ch. 989.)

10504.5. In order to insure that projects will be constructed in accordance with a general or coordinated plan for the development of water:

(a) The recipient of a release from priority or assignment under this part shall, before making any changes determined by the State Water Resources Control Board to be substantial in the project in furtherance of which the release or assignment was made, submit such changes to the State Water Resources Control Board for its approval. The board shall approve any such change only if it determines that such change will not conflict with the general or coordinated plan or with water quality objectives established pursuant to law. All permits and licenses issued pursuant to applications so released or assigned shall contain terms conditioning such permits and licenses upon compliance with this subdivision.

(b) The holder of applications that have been assigned, or in favor of which a release from priority has been made, shall submit any proposed amendments to such applications to the State Water Resources Control Board.



The board shall approve such amendments only if it determines that the amendments will not conflict with the general or coordinated plan or with water quality objectives established pursuant to law. The board shall notify the holder of the application of its approval or disapproval.

(Added by Stats.1959, Ch. 2101; Amended by Stats.1965, Ch. 989.)

10505. No priority under this part shall be released nor assignment made of any application that will, in the judgement of the board, deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.

(Added by Stats.1943, Ch. 370; Amended by Stats.1965, Ch. 989.)

10505.5. Every application heretofore or hereafter made and filed pursuant to Section 10500, and held by the State Water Resources Control Board, shall be amended to provide, and any permit hereafter issued pursuant to such an application, and any license issued pursuant to such a permit, shall provide, that the application, permit, or license shall not authorize the use of any water outside of the county of origin which is necessary for the development of the county.

(Added by Stats.1969, Ch. 1359.)

10506. Every state department or state officer, upon request of the department, shall furnish any service or assistance in the investigation of the need or feasibility of all or any part of such general or coordinated plan and the cost of construction, operation, and maintenance thereof, of the financing of construction and rates or returns that may be required to operate and maintain all or any part of the plan, of the amortization of bonded or other indebtedness that may be placed on all or any part of the plan for the cost of construction thereof, and shall render any other service which the department deems necessary for the maintenance of any priority in the State for the purposes of all or any part or unit of the plan and the future development and completion of it in the public interest.

(Added by Stats.1943, Ch. 370; Amended by Stats.1957, Ch. 1932.)

10507. (Repealed by Stats. 1996, Ch. 659.)

PART 2.6. URBAN WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATION AND POLICY

10610. This part shall be known and may be cited as the "Urban Water Management Planning Act."

10610.2. The Legislature finds and declares as follows:

- (a) The waters of the state are a limited and renewable resource subject to ever-increasing demands.
- (b) The conservation and efficient use of urban water supplies are of

statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.

(c) A long-term, reliable supply of water is essential to protect the productivity of California's businesses and economic climate.

(d) As part of its long-range planning activities, every urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry water years.

(e) This part is intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.

(Amended by Stats.1996, Ch. 124.)

10610.4. The Legislature finds and declares that it is the policy of the state as follows:

(a) The management of urban water demands and efficient use of water shall be actively pursued to protect both the people of the state and their water resources.

(b) The management of urban water demands and efficient use of urban water supplies shall be a guiding criterion in public decisions.

(c) Urban water suppliers shall be required to develop water management plans to actively pursue the efficient use of available supplies.

(Amended by Stats.1995, Ch. 854.)

CHAPTER 2. DEFINITIONS

10611. Unless the context otherwise requires, the definitions of this chapter govern the construction of this part.

10611.5. "Demand management" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

(Amended by Stats.1995, Ch. 854.)

10612. "Customer" means a purchaser of water from a water supplier who uses the water for municipal purposes, including residential, commercial, governmental, and industrial uses.

10613. "Efficient use" means those management measures that result in the most effective use of water so as to prevent its waste or unreasonable use or unreasonable method of use.

10614. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of such an entity.



10615. "Plan" means an urban water management plan prepared pursuant to this part. A plan shall describe and evaluate sources of supply, reasonable and practical efficient uses, reclamation and demand management activities. The components of the plan may vary according to an individual community or area's characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water demand management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

(Amended by Stats.1995, Ch. 854.)

10616. "Public agency" means any board, commission, county, city and county, city, regional agency, district, or other public entity.

10616.5. "Recycled water" means the reclamation and reuse of wastewater for beneficial use.

(Added by Stats.1995, Ch. 854.)

10617. "Urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. This part applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

(Amended by Stats.1996, Ch. 1023.)

CHAPTER 3. URBAN WATER MANAGEMENT PLANS

Article 1. General Provisions

10620. (a) Every urban water supplier shall prepare and adopt an urban water management plan in the manner set forth in Article 3 (commencing with Section 10640).

(b) Every person that becomes an urban water supplier shall adopt an urban water management plan within one year after it has become an urban water supplier.

(c) An urban water supplier indirectly providing water shall not include planning elements in its water management plan as provided in Article 2 (commencing with Section 10630) that would be applicable to urban water suppliers or public agencies directly providing water, or to their customers, without the consent of those suppliers or public agencies.

(d) (1) An urban water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide urban water management planning where those plans will reduce preparation costs and contribute to the achievement of conservation and efficient water use.

(2) Each urban water supplier shall coordinate the preparation of its plan with other appropriate agencies in the area, including other water suppliers that share a common source, water management agencies, and relevant public agencies, to the extent practicable.

(e) The urban water supplier may prepare the plan with its own staff, by contract, or in cooperation with other governmental agencies.

(Amended by Stats.1995, Ch. 854.)

10621. (a) Each urban water supplier shall update its plan at least once every five years on or before December 31, in years ending in five and zero.

(b) The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

(Added by Stats.1983, Ch. 1009; Amended by Stats.1991, Ch.938.; Amended by Stats.1995, Ch. 854.)

Article 2. Contents of Plans

10630. It is the intention of the Legislature, in enacting this part, to permit levels of water management planning commensurate with the numbers of customers served and the volume of water supplied.

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments as described in subdivision (a).

(c) Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

- (1) An average water year.
- (2) A single dry water year.
- (3) Multiple dry water years.

For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to replace that source with alternative sources or water demand management measures, to the extent practicable.

(d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e) (1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use sectors including, but not necessarily limited to, all of the following uses:



- (A) Single-family residential.
 - (B) Multifamily.
 - (C) Commercial.
 - (D) Industrial.
 - (E) Institutional and governmental.
 - (F) Landscape.
 - (G) Sales to other agencies.
 - (H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.
 - (I) Agricultural.
- (2) The water use projections shall be in the same five-year increments as described in subdivision (a).
- (f) Provide a description of the supplier's water demand management measures. This description shall include all of the following:
- (1) A description of each water demand management measure that is currently being implemented, or scheduled for implementation, including the steps necessary to implement any proposed measures, including, but not limited to, all of the following:
 - (A) Interior and exterior water audits and incentive programs for single-family residential, multifamily residential, governmental, and institutional customers.
 - (B) Enforcement of plumbing fixture efficiency standards and programs to retrofit less efficient fixtures.
 - (C) Distribution system water audits, leak detection, and repair.
 - (D) Metering with commodity rates for all new connections and retrofit of existing connections.
 - (E) Large landscape water audits and incentives.
 - (F) Landscape water conservation requirements for new and existing commercial, industrial, institutional, governmental, and multifamily developments.
 - (G) Public information.
 - (H) School education.
 - (I) Commercial and industrial water conservation.
 - (J) New commercial and industrial water use review.
 - (K) Conservation pricing for water service and conservation pricing for sewer service, where the urban water supplier also provides sewer service.
 - (L) Landscape water conservation for new and existing single-family homes.
 - (M) Water waste prohibitions.
 - (N) Water conservation coordinator.
 - (O) Financial incentives to encourage water conservation.
 - (P) Ultra-low-flush toilet replacement.
 - (2) A schedule of implementation for all water demand management measures proposed or described in the plan.
 - (3) A description of the methods, if any, that the supplier will use to evaluate the effectiveness of water demand management measures implemented or described under the plan.
 - (4) An estimate, if available, of existing conservation savings on water

use within the supplier's service area, and the effect of such savings on the supplier's ability to further reduce demand.

(g) An evaluation of each water demand management measure listed in paragraph (1) of subdivision (f) that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration shall be given to water demand management measures, or combination of measures, which offer lower incremental costs than expanded or additional water supplies. This evaluation shall do all of the following:

(1) Take into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

(2) Include a cost-benefit analysis, identifying total benefits and total costs.

(3) Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.

(4) Include a description of the water supplier's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

(h) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

(Amended by Stats.1993, Ch. 589; Amended by Stats.1994, Ch. 366; Amended by Stats.1995, Ch. 854.)

10632. The plan shall provide an urban water shortage contingency analysis which includes each of the following elements which are within the authority of the urban water supplier:

(a) Stages of action to be undertaken by the urban water supplier in response to water supply shortages, including up to a 50 percent reduction in water supply, and an outline of specific water supply conditions which are applicable to each stage.

(b) An estimate of the minimum water supply available during each of the next three water years based on the driest three-year historic sequence for the agency's water supply.

(c) Actions to be undertaken by the urban water supplier to prepare for, and implement during, a catastrophic interruption of water supplies including, but not limited to, a regional power outage, an earthquake, or other disaster.

(d) Additional, mandatory prohibitions against specific water use practices during water shortages, including, but not limited to, prohibiting the use of potable water for street cleaning.

(e) Consumption reduction methods in the most restrictive stages. Each urban water supplier may use any type of consumption reduction methods in its water shortage contingency analysis that would reduce water use, are appropriate for its area, and have the ability to achieve a water use reduction consistent with up to a 50 percent reduction in water supply.



(f) Penalties or charges for excessive use, where applicable.

(g) An analysis of the impacts of each of the actions and conditions described in subdivisions (a) to (f), inclusive, on the revenues and expenditures of the urban water supplier, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments.

(h) A draft water shortage contingency resolution or ordinance.

(i) A mechanism for determining actual reductions in water use pursuant to the urban water shortage contingency analysis.

(Added by Stats. 1983, Ch. 1009; Amended by Stats. 1994, Ch. 366.; Amended by Stats. 1995, Ch. 854.)

10633. The plan shall provide, to the extent available, information on recycled water and its potential for use as a water source in the service area of the urban water supplier. To the extent practicable, the preparation of the plan shall be coordinated with local water, wastewater, groundwater, and planning agencies and shall include all of the following:

(a) A description of the wastewater collection and treatment systems in the supplier's service area, including a quantification of the amount of wastewater collected and treated and the methods of wastewater disposal.

(b) A description of the recycled water currently being used in the supplier's service area, including, but not limited to, the type, place, and quantity of use.

(c) A description and quantification of the potential uses of recycled water, including, but not limited to, agricultural irrigation, landscape irrigation, wildlife habitat enhancement, wetlands, industrial reuse, groundwater recharge, and other appropriate uses, and a determination with regard to the technical and economic feasibility of serving those uses.

(d) The projected use of recycled water within the supplier's service area at the end of 5, 10, 15, and 20 years.

(e) A description of actions, including financial incentives, which may be taken to encourage the use of recycled water, and the projected results of these actions in terms of acre-feet of recycled water used per year.

(f) A plan for optimizing the use of recycled water in the supplier's service area, including actions to facilitate the installation of dual distribution systems and to promote recirculating uses.

(Amended by Stats. 1995, Ch. 854.)

10635. (a) Every urban water supplier shall include, as part of its urban water management plan, an assessment of the reliability of its water service to its customers during normal, dry, and multiple dry water years. This water supply and demand assessment shall compare the total water supply sources available to the water supplier with the total projected water use over the next 20 years, in five-year increments, for a normal water year, a single dry water year, and multiple dry water years. The water service reliability assessment shall be based upon the information compiled pursuant to Section 10631, including available data from state, regional, or local agency population projections within the service area of the urban water supplier.

(b) The urban water supplier shall provide that portion of its urban water management plan prepared pursuant to this article to any city or county within which it provides water supplies no later than 60 days after the submission of its urban water management plan.

(c) Nothing in this article is intended to create a right or entitlement to water service or any specific level of water service.

(d) Nothing in this article is intended to change existing law concerning an urban water supplier's obligation to provide water service to its existing customers or to any potential future customers.

(Amended by Stats.1996, Ch. 124.)

Article 3. Adoption and Implementation of Plans

10640. Every urban water supplier required to prepare a plan pursuant to this part shall prepare its plan pursuant to Article 2 (commencing with Section 10630).

The supplier shall likewise periodically review the plan as required by Section 10621, and any amendments or changes required as a result of that review shall be adopted pursuant to this article.

10641. An urban water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water demand management methods and techniques.

(Amended by Stats.1995, Ch. 854.)

10642. Each urban water supplier shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the service area prior to and during the preparation of the plan. Prior to adopting a plan, the urban water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

(Amended by Stats.1995, Ch. 854.)

10643. An urban water supplier shall implement its plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan.

10644. (a) An urban water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department within 30 days after adoption.

(b) The department shall prepare and submit to the Legislature, on or before December 31, in the years ending in six and one, a report summarizing the status of the plans adopted pursuant to this part. The report prepared by the department shall identify the outstanding elements of the individual plans. The department shall provide a copy of the report to each urban water supplier that has filed its plan with the department. The department shall also prepare reports and provide data for any legislative hearings designed to consider the effectiveness of plans submitted pursuant to this part.

(Amended by Stats.1992, Ch. 711; Amended by Stats.1995, Ch. 854.)



10645. Not later than 30 days after filing a copy of its plan with the department, the urban water supplier and the department shall make the plan available for public review during normal business hours.

(Added by Stats.1990, Ch. 355.)

CHAPTER 4. MISCELLANEOUS PROVISIONS

10650. Any actions or proceedings to attack, review, set aside, void, or annul the acts or decisions of an urban water supplier on the grounds of noncompliance with this part shall be commenced as follows:

(a) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part.

(b) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be commenced within 90 days after filing of the plan or amendment thereto pursuant to Section 10644 or the taking of that action.

(Added by Stats.1983, Ch. 1009; Amended by Stats.1995, Ch. 854.)

10651. In any action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an urban water supplier on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the supplier has not proceeded in a manner required by law or if the action by the water supplier is not supported by substantial evidence.

(Added by Stats.1983, Ch. 1009.)

10652. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans pursuant to this part or to the implementation of actions taken pursuant to Section 10632. Nothing in this part shall be interpreted as exempting from the California Environmental Quality Act any project that would significantly affect water supplies for fish and wildlife, or any project for implementation of the plan, other than projects implementing Section 10632, or any project for expanded or additional water supplies.

(Added by Stats. 1983, Ch. 1009; Amended by Stats.1991-92, Ch. 13; Amended by Stats. 1995, Ch. 854.)

10653. The adoption of a plan shall satisfy any requirements of state law, regulation, or order, including those of the State Water Resources Control Board and the Public Utilities Commission, for the preparation of water management plans or conservation plans; provided, that if the State Water Resources Control Board or the Public Utilities Commission requires additional information concerning water conservation to implement its existing authority, nothing in this part shall be deemed to limit the board or the commission in obtaining that information. The requirements of this part shall be satisfied by any urban water demand management plan prepared to meet federal laws or regulations after the effective date of this part, and which substantially meets the requirements of this

part, or by any existing urban water management plan which includes the contents of a plan required under this part.

(Added by Stats.1983, Ch. 1009; Amended by Stats.1995, Ch. 854.)

10654. An urban water supplier may recover in its rates the costs incurred in preparing its plan and implementing the reasonable water conservation measures included in the plan. Any best water management practice that is included in the plan that is identified in the "Memorandum of Understanding Regarding Urban Water Conservation in California" is deemed to be reasonable for the purposes of this section.

(Amended by Stats. 1994, Ch. 609.)

10655. If any provision of this part or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

(Added by Stats. 1983, Ch. 1009.)

10656. An urban water supplier that does not prepare, adopt, and submit its urban water management plan to the department in accordance with this part, is ineligible to receive drought assistance from the state until the urban water management plan is submitted pursuant to Article 3 (commencing with Section 10640) of Chapter 3.

(Added by Stats.1991-92, Ch. 13; Amended by Stats.1995, Ch. 854.)

PART 2.75. GROUNDWATER RESOURCES

CHAPTER 1. GENERAL PROVISIONS

10750. The Legislature finds and declares that groundwater is a valuable natural resource in California, and should be managed to ensure both its safe production and its quality. It is the intent of the Legislature to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions.

(Added by Stats.1992, Ch. 947.)

10750.2. (a) Subject to subdivision (b), this part applies to all groundwater basins in the state.

(b) This part does not apply to any portion of a groundwater basin that is subject to groundwater management by a local agency or a watermaster pursuant to other provisions of law or a court order, judgment, or decree, unless the local agency or watermaster agrees to the application of this part.

(Added by Stats.1992, Ch. 947.)

10750.4. Nothing in this part requires a local agency overlying a groundwater basin to adopt or implement a groundwater management plan or groundwater management program pursuant to this part.

(Added by Stats.1992, Ch. 947.)



10750.6. Nothing in this part affects the authority of a local agency or a watermaster to manage groundwater pursuant to other provisions of law or a court order, judgment, or decree.

(Added by Stats.1992, Ch. 947.)

10750.7. (a) A local agency may not manage groundwater pursuant to this part within the service area of another local agency, a water corporation regulated by the Public Utilities Commission, or a mutual water company without the agreement of that other entity.

(b) This section applies only to groundwater basins that are not critically overdrafted.

(Added by Stats.1992, Ch. 947.)

10750.8. (a) A local agency may not manage groundwater pursuant to this part within the service area of another local agency without the agreement of that other entity.

(b) This section applies only to groundwater basins that are critically overdrafted.

(Added by Stats.1992, Ch. 947.)

10750.9. (a) A local agency that commences procedures, prior to January 1, 1993, to adopt an ordinance or resolution to establish a program for the management of groundwater pursuant to Part 2.75 (commencing with Section 10750), as added by Chapter 903 of the Statutes of 1991, may proceed to adopt the ordinance or resolution pursuant to Part 2.75, and the completion of those procedures is deemed to meet the requirements of this part.

(b) A local agency that has adopted an ordinance or resolution pursuant to Part 2.75 (commencing with Section 10750), as added by Chapter 903 of the Statutes of 1991, may amend its groundwater management program by ordinance or resolution of the governing body of the local agency to include any of the plan components set forth in Section 10753.7.

(Added by Stats.1992, Ch. 947; Amended by Stats.1993, Ch. 320.)

10750.10. This part is in addition to, and not a limitation on, the authority granted to a local agency pursuant to other provisions of law.

(Added by Stats.1992, Ch. 947.)

10751. (Repealed by Stats.1992, Ch. 947.)

CHAPTER 2. DEFINITIONS

10752. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Groundwater" means all water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water which flows in known and definite channels.

(b) "Groundwater basin" means any basin identified in the department's Bulletin No. 118, dated September 1975, and any amendments to that bulletin, but does not include a basin in which the average well yield is less than 100 gallons per minute.

(c) "Groundwater extraction facility" means any device or method for the extraction of groundwater within a groundwater basin.

(d) "Groundwater management plan" or "plan" means a document that describes the activities intended to be included in a groundwater management program.

(e) "Groundwater management program" or "program" means a coordinated and ongoing activity undertaken for the benefit of a groundwater basin, or a portion of a groundwater basin, pursuant to a groundwater management plan adopted pursuant to this part.

(f) "Groundwater recharge" means the augmentation of groundwater, by natural or artificial means, with surface water or recycled water.

(g) "Local agency" means any local public agency that provides water service to all or a portion of its service area, and includes a joint powers authority formed by local public agencies that provide water service.

(h) "Recharge area" means the area that supplies water to an aquifer in a groundwater basin and includes multiple wellhead protection areas.

(i) "Watermaster" means a watermaster appointed by a court or pursuant to other provisions of law.

(j) "Wellhead protection area" means the surface and subsurface area surrounding a water well or well field that supplies a public water system through which contaminants are reasonably likely to migrate toward the water well or well field.

(Added by Stats.1992, Ch. 947; Amended by Stats.1993, Ch. 320.)

CHAPTER 3. GROUNDWATER MANAGEMENT PLANS

10753. (a) Any local agency, whose service area includes a groundwater basin, or a portion of a groundwater basin, that is not subject to groundwater management pursuant to other provisions of law or a court order, judgment, or decree, may, by ordinance, or by resolution if the local agency is not authorized to act by ordinance, adopt and implement a groundwater management plan pursuant to this part within all or a portion of its service area.

(b) Notwithstanding subdivision (a), a local public agency, other than an agency defined in subdivision (g) of Section 10752, that provides flood control, groundwater management, or groundwater replenishment, or a local agency formed pursuant to this code for the principal purpose of providing water service that has not yet provided that service, may exercise the authority of this part within a groundwater basin that is located within its boundaries within areas that are either of the following:

(1) Not served by a local agency.

(2) Served by a local agency whose governing body, by a majority vote, declines to exercise the authority of this part and enters into an agreement with the local public agency pursuant to Section 10750.7 or 10750.8.

(Added by Stats.1992, Ch. 947; Amended by Stats.1993, Ch. 320.)



10753.2. (a) Prior to adopting a resolution of intention to draft a groundwater management plan, a local agency shall hold a hearing, after publication of notice pursuant to Section 6066 of the Government Code, on whether or not to adopt a resolution of intention to draft a groundwater management plan pursuant to this part for the purposes of implementing the plan and establishing a groundwater management program.

(b) At the conclusion of the hearing, the local agency may draft a resolution of intention to adopt a groundwater management plan pursuant to this part for the purposes of implementing the plan and establishing a groundwater management program.

(Added by Stats.1992, Ch. 947.)

10753.3. (a) After the conclusion of the hearing, and if the local agency adopts a resolution of intention, the local agency shall publish the resolution of intention in the same manner that notice for the hearing held under Section 10753.2 was published.

(b) Upon written request, the local agency shall provide any interested person with a copy of the resolution of intention.

(Added by Stats.1992, Ch. 947.)

10753.4. The local agency shall prepare a groundwater management plan within two years of the date of the adoption of the resolution of intention. If the plan is not adopted within two years, the resolution of intention expires, and no plan may be adopted except pursuant to a new resolution of intention adopted in accordance with this chapter.

(Added by Stats.1992, Ch. 947.)

10753.5. (a) After a groundwater management plan is prepared, the local agency shall hold a second hearing to determine whether to adopt the plan. Notice of the hearing shall be given pursuant to Section 6066 of the Government Code. The notice shall include a summary of the plan and shall state that copies of the plan may be obtained for the cost of reproduction at the office of the local agency.

(b) At the second hearing, the local agency shall consider protests to the adoption of the plan. At any time prior to the conclusion of the second hearing, any landowner within the local agency may file a written protest or withdraw a protest previously filed.

(Added by Stats.1992, Ch. 947.)

10753.6. (a) A written protest filed by a landowner shall include the landowner's signature and a description of the land owned sufficient to identify the land. A public agency owning land is deemed to be a landowner for the purpose of making a written protest.

(b) The secretary of the local agency shall compare the names and property descriptions on the protest against the property ownership records of the county assessors.

(c) (1) A majority protest shall be determined to exist if the governing board of the local agency finds that the protest filed and not withdrawn prior to the conclusion of the second hearing represent more than 50 percent of the assessed



value of the land within the local agency subject to groundwater management pursuant to this part.

(2) If the local agency determines that a majority protest exists, the groundwater plan may not be adopted and the local agency shall not consider adopting a plan for the area proposed to be included within the program for a period of one year after the date of the second hearing.

(3) If a majority protest has not been filed, the local agency, within 35 days after the conclusion of the second hearing, may adopt the groundwater management plan.

(Added by Stats.1992, Ch. 947.)

10753.7. A groundwater management plan may include components relating to all of the following:

- (a) The control of saline water intrusion.
- (b) Identification and management of wellhead protection areas and recharge areas.
- (c) Regulation of the migration of contaminated groundwater.
- (d) The administration of a well abandonment and well destruction program.
- (e) Mitigation of conditions of overdraft.
- (f) Replenishment of groundwater extracted by water producers.
- (g) Monitoring of groundwater levels and storage.
- (h) Facilitating conjunctive use operations.
- (i) Identification of well construction policies.
- (j) The construction and operation by the local agency of groundwater contamination cleanup, recharge, storage, conservation, water recycling, and extraction projects.
- (k) The development of relationships with state and federal regulatory agencies.
- (l) The review of land use plans and coordination with land use planning agencies to assess activities which create a reasonable risk of groundwater contamination.

(Added by Stats.1992, Ch. 947.)

10753.8. (a) A local agency shall adopt rules and regulations to implement and enforce a groundwater management plan adopted pursuant to this part.

(b) Nothing in this part shall be construed as authorizing the local agency to make a binding determination of the water rights of any person or entity.

(c) Nothing in this part shall be construed as authorizing the local agency to limit or suspend extractions unless the local agency has determined through study and investigation that groundwater replenishment programs or other alternative sources of water supply have proved insufficient or infeasible to lessen the demand for groundwater.

(Added by Stats.1992, Ch. 947.)

10753.9 In adopting rules and regulations pursuant to Section 10753.8, the local agency shall consider the potential impact of those rules and regulations on



business activities, including agricultural operations, and to the extent practicable and consistent with the protection of the groundwater resources, minimize any adverse impacts on those business activities.

(Added by Stats.1992, Ch. 947.)

CHAPTER 4. FINANCES

10754. For purposes of groundwater management, a local agency that adopts a groundwater management plan pursuant to this part has the authority of a water replenishment district pursuant to Part 4 (commencing with Section 60220) of Division 18 and may fix and collect fees and assessments for groundwater management in accordance with Part 6 (commencing with Section 60300) of Division 18.

(Added by Stats.1992, Ch. 947.)

10754.2. (a) Subject to Section 10754.3, except as specified in subdivision (b), a local agency that adopts a groundwater management plan pursuant to this part, may impose equitable annual fees and assessments for groundwater management based on the amount of groundwater extracted from the groundwater basin within the area included in the groundwater management plan to pay for costs incurred by the local agency for groundwater management, including, but not limited to, the costs associated with the acquisition of replenishment water, administrative and operating costs, and costs of construction of capital facilities necessary to implement the groundwater management plan.

(b) The local agency may not impose fees or assessments on the extraction and replacement of groundwater pursuant to a groundwater remediation program required by other provisions of law or a groundwater storage contract with the local agency.

(Added by Stats.1992, Ch. 947; Amended by Stats.1993, Ch. 320.)

10754.3. Before a local agency may levy a water management assessment pursuant to Section 10754.2 or otherwise fix and collect fees for the replenishment or extraction of groundwater pursuant to this part, the local agency shall hold an election on the proposition of whether or not the local agency shall be authorized to levy a groundwater management assessment or fix and collect fees for the replenishment or extraction of groundwater. The local agency shall be so authorized if a majority of the votes cast at the election is in favor of the proposition. The election shall be conducted in the manner prescribed by the laws applicable to the local agency or, if there are no laws so applicable, then as prescribed by laws relating to local elections. The election shall be conducted only within the portion of the jurisdiction of the local agency subject to groundwater management pursuant to this part.

(Added by Stats.1992, Ch. 947.)

CHAPTER 5. MISCELLANEOUS

10755. (a) If a local agency annexes land subject to a groundwater management plan adopted pursuant to this part, the local agency annexing the land shall comply with the groundwater management plan for the annexed property.



(b) If a local agency subject to groundwater management plan adopted pursuant to this part annexes land not subject to a groundwater management plan adopted pursuant to this part at the time of annexation, the annexed territory shall be subject to the groundwater management plan of the local agency annexing the land.
(Added by Stats.1992, Ch. 947.)

10755.2. (a) It is the intent of the Legislature to encourage local agencies, within the same groundwater basin, that are authorized to adopt groundwater management plans pursuant to this part, to adopt and implement a coordinated groundwater management plan.

(b) For the purpose of adopting and implementing a coordinated groundwater management program pursuant to this part, a local agency may enter into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code with public agencies, or a memorandum of understanding with public or private entities providing water service.

(c) A local agency may enter into agreements with public entities or private parties for the purpose of implementing a coordinated groundwater management plan.

(Added by Stats.1992, Ch. 947; Amended by Stats.1993, Ch. 320.)

10755.3. Local agencies within the same groundwater basin that conduct groundwater management programs within that basin pursuant to this part, and cities and counties that either manage groundwater pursuant to this part or have ordinances relating to groundwater within that basin, shall, at least annually, meet to coordinate those programs.

(Added by Stats.1992, Ch. 947; Amended by Stats.1995, Ch. 833.)

10755.4. Except in those groundwater basins that are subject to critical conditions of groundwater overdraft, as identified in the department's Bulletin 118-80, revised on December 24, 1982, the requirements of a groundwater management plan that is implemented pursuant to this part do not apply to the extraction of groundwater by means of a groundwater extraction facility that is used to provide water for domestic purposes to a single-unit residence and, if applicable, any dwelling unit authorized to be constructed pursuant to Section 65852.1 or 65852.2 of the Government Code.

(Added by Stats.1992, Ch. 947.)

10756. (a) On or before April 1, 1998, the department shall prepare and publish, in a bulletin of the department published pursuant to Section 130, a report on the number of agencies that have adopted and implemented groundwater management plans, or that manage groundwater, pursuant to this part or pursuant to any of the following authorities:

(1) Part 2.75 (commencing with Section 10750) as added by Chapter 903 of the Statutes of 1991.

(2) Other statutory authority.

(3) Adjudication.

(4) Local ordinance.

(b) The report shall also include all of the following information:

(1) The number of agencies that do not overlie a groundwater basin or that overlie a basin with groundwater that is not usable.

(2) The number of agencies whose groundwater is managed by another agency.



- (3) The number of agencies that have expressed no interest in initiating groundwater management.
- (c) The report may include any of the following information, if determined by the department to be available:
 - (1) The volume or percentage of extracted groundwater that is managed in accordance with a groundwater management plan or other authority described in subdivision (a).
 - (2) The extent of basinwide coordination.
 - (3) The number of interstate basins for which a groundwater management plan has been adopted.
 - (4) Any other information determined by the department to be relevant.
 - (d) The department shall update the report periodically, as needed.
 - (Added by Stats.1997, Ch. 548.)

~~10757-10767.~~ (Repealed by Stats.1992, Ch. 947.)

PART 2.8. AGRICULTURAL WATER MANAGEMENT PLANNING

(Added by Stats.1986, Ch. 954.)

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10800. This part shall be known and may be cited as the Agricultural Water Management Planning Act.

- 10801.** The Legislature finds and declares as follows:
- (a) The waters of the state are a limited and renewable resource.
 - (b) The Constitution requires that water in the state be used in a reasonable and beneficial way.
 - (c) Urban water districts, which represent more than 22,000,000 Californians and use less than 12 percent of the water consumed in the state, are required by Part 2.6 (commencing with Section 10610) to submit water management plans.
 - (d) More than 84 percent of the water used in the state is used for agricultural purposes.
 - (e) The conservation of agricultural water supplies are of great statewide concern.
 - (f) There is a great amount of reuse of delivered water, both inside and outside the water service areas.
 - (g) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.
 - (h) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.
 - (i) Changes in water management practices shall be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.
 - (j) Agricultural water suppliers that receive water from the federal Central Valley Project are required by federal law to develop and implement water conservation plans.



(k) Agricultural water users applying for a permit to appropriate water from the State Water Resources Control Board are required to develop and implement water conservation plans.

10802. The Legislature finds and declares that it is the policy of the state as follows:

(a) The conservation of water shall be pursued actively to protect both the people of the state and their water resources.

(b) The conservation of agricultural water supplies shall be an important criterion in public decisions on water.

(c) Agricultural water suppliers, who determine that a significant opportunity exists to conserve water or reduce the quantity of highly saline or toxic drainage water, shall be required to develop water management plans to achieve conservation of water.

CHAPTER 2. DEFINITIONS

10810. Unless the context otherwise requires, the definitions of this chapter govern the construction of this part.

10811. "Conservation" means the use of cost-effective measures that reduce evapotranspiration, evaporation, or flows to unusable water bodies in order to prevent the waste, the unreasonable use, or the unreasonable method of use of water.

10812. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10813. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of such an entity.

10814. "Plan" means an agricultural water management plan prepared pursuant to this part. A plan shall describe and evaluate reasonable and practical efficient uses and conservation activities. The components of the plan may vary according to an area's characteristics and its capabilities to conserve and use water efficiently. The plan shall address measures for agricultural water management as set forth in Article 2 (commencing with Section 10830) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

10815. "Public agency" means any board, commission, county, city and county, city, regional agency, district, or other public entity.

10816. "Agricultural water supplier" or "supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.



CHAPTER 3. WATER MANAGEMENT PLANS

Article 1. General Provisions

10820. (a) The requirements of this part shall be satisfied by any water management or conservation plan prepared to meet federal or state laws or regulations which substantially include the contents of a plan required under this part if that plan was prepared after January 1, 1981.

(b) Those suppliers that have prepared, or are preparing, an alternate plan as described in subdivision (a) shall submit that plan to the department not later than December 31, 1991.

10821. (a) Every agricultural water supplier serving water directly to customers shall prepare an informational report based on information from the last three irrigation seasons on its water management and conservation practices in the manner set forth in Article 2 (commencing with Section 10825) and shall submit the report to the department not later than December 31, 1989.

(b) The informational report shall include a determination of whether the supplier has a significant opportunity to conserve water or reduce the quantity of highly saline or toxic drainage water through improved irrigation water management in the manner set forth in subdivision (g) of Section 10825.

(c) Suppliers may consult with appropriate state agencies or the Agricultural Experiment Station to help determine whether significant opportunities exist. State agencies shall cooperate with agricultural water suppliers in any reasonable manner.

(d) Those suppliers that determine that a significant opportunity exists to conserve water or reduce the quantity of highly saline or toxic drainage water in the manner set forth in subdivision (g) of Section 10825 shall prepare and adopt an agricultural water management plan based on information from the last three irrigation seasons in the manner set forth in Section 10826 and shall submit the plan to the department not later than December 31, 1991.

10822. Every person that becomes an agricultural water supplier after December 31, 1988, shall comply with the requirements of this part within two years after becoming an agricultural water supplier to an area.

10823. An agricultural water supplier indirectly providing water to customers may adopt an agricultural water management plan or participate in areawide, regional, watershed, or basinwide agricultural water management planning.

10824. An agricultural water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide agricultural water management planning where those plans will reduce preparation costs and contribute to the achievement of conservation and efficient water use and where those plans satisfy the requirements of this part.



Article 2. Contents of Reports and Plans

10825. To the extent information is available, the reports shall address all of the following:

- (a) The quantity and source of water delivered to, and by, the supplier.
- (b) Other sources of water used within the service area, such as groundwater and other diversions.
- (c) A general description of the supplier's water delivery system and service area, including a map.
- (d) Total irrigated acreage within the service area.
- (e) The amount of acreage of trees and vines grown within the service area.
- (f) An identification of all of the following:
 - (1) Current water conservation and reclamation practices being used.
 - (2) Plans for changing current water conservation plans.
 - (3) Conservation educational services being used.
- (g) A determination of whether the supplier, through improved irrigation water management, has a significant opportunity to do one or both of the following:

- (1) Save water by means of reduced evapotranspiration, evaporation, or reduction of flows to unusable water bodies that fail to serve further beneficial uses.
 - (2) Reduce the quantity of highly saline or toxic drainage water.
- (Added by Stats.1986, Ch. 954; Amended by Stats.1991, Ch. 938.)*

10826. To the extent information is available, the plans shall address all of the following:

- (a) The quantity and source of surface water, groundwater, and recycled water delivered to and by the supplier.
- (b) A description of all of the following:
 - (1) The water delivery system used in the area supplied.
 - (2) The beneficial uses of the water supplied, including noncrop beneficial uses.
 - (3) Conjunctive use programs.
 - (4) Incidental and planned groundwater recharge.
 - (5) Water recycling programs, including treatment and distribution facilities.
 - (6) The amounts of the delivered water that are lost to further beneficial use to unusable bodies of water or moisture - deficient soils through the following:
 - (A) Crop evapotranspiration.
 - (B) Noncrop evapotranspiration.
 - (C) Evaporation from water surfaces.
 - (D) Surface flow or percolation.
- (c) An identification of cost-effective and economically feasible measures for water conservation and recycling, their resulting detriments and benefits, and the impacts on amounts of downstream surface water supply and immediately adjacent groundwater supply.
- (d) An evaluation of other significant impacts, including impacts within the service area and downstream on fish and wildlife habitat, water quality, energy



use, and other factors of either local or statewide concern or interstate concern, where applicable. Alternatives should be designed to minimize impacts on other beneficial users currently being served both within and without the service area and to result in improved overall water management.

(e) A schedule prepared by the supplier to implement those water management practices that it determines to be cost-effective and economically feasible. Priority shall be given to those water management practices, or combination of practices, that offer lower incremental costs than expanded or additional water supplies.

(Added by Stats.1986, Ch. 954; Amended by Stats.1991, Ch. 938, Amended by Stats. 1995, Ch. 28)

Article 3. Adoption and Implementation of Plans

10840. Every agricultural water supplier required to prepare a water management plan pursuant to subdivision (d) of Section 10821 shall prepare its plan pursuant to Section 10826.

(Added by Stats.1986, Ch. 954.)

10841. (a) An agricultural water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water conservation and reclamation and management methods and techniques.

(b) In order to assist agricultural water suppliers in obtaining needed expertise as provided for in subdivision (a), the department, upon request of an agricultural water supplier, shall provide the supplier with a list of persons or agencies having expertise or experience in the development of water management plans.

(c) The department shall prepare by July 1, 1988, an outline of model informational reports and water management plans which an agricultural water supplier may use in complying with the requirements of this part.

(Added by Stats.1986, Ch. 954; Amended by Stats.1991, Ch. 938.)

10842. Prior to adopting a plan, the agricultural water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

(Added by Stats.1986, Ch. 954.)

10843. An agricultural water supplier shall implement its plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan, as determined by the governing body of the agricultural water supplier.

(Added by Stats.1986, Ch. 954.)

10844. An agricultural water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes



to the plans shall be filed with the department within 30 days after adoption.

Not later than January 1, 1993, the department shall prepare and submit to the Legislature a report summarizing the status of the plans adopted pursuant to this part.

(Added by Stats.1986, Ch. 954.)

10845. The adoption of a plan or submission of a report as specified in subdivision (d) of Section 10821 satisfies any requirements of state statute, regulation, or order, including those of the State Water Resources Control Board, for the preparation of water management plans. If the board requires additional information concerning water conservation to implement its existing authority, nothing in this part limits the board in obtaining that information.

(Added by Stats.1986, Ch. 954.)

CHAPTER 4. MISCELLANEOUS PROVISIONS

(Added by Stats.1986, Ch. 954.)

10850. (a) Any actions or proceedings to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier on the grounds of noncompliance with this part shall be brought pursuant to Section 1085 of the Code of Civil Procedure, and the court's review of compliance or noncompliance with this part shall extend to whether the water conservation plan, or portion thereof, or revision thereto, substantially complies with the requirements of this part.

(b) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part, or within 18 months after commencement of agricultural water service by a supplier commencing that service after January 1, 1988.

(c) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be commenced within 120 days after filing of the plan or amendment thereto pursuant to Section 10844 or the taking of that action.

(d) In an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier made pursuant to this part at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing, or in written correspondence delivered to the public agency prior to, or at, the public hearing, except where the court finds either of the following.

(1) The issue could not have been raised at the public hearing by a person exercising reasonable diligence.

(2) The body conducting the public hearing prevented the issue from being raised at the public hearing.

10851. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans prepared and adopted under this part. Nothing in this part exempts projects for implementation of the plan or for expanded or additional water supplies from the California Environmental Quality Act.



10852. If any provision of this part or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

10853. The department, from funds appropriated for this purpose, shall reimburse each supplier preparing an informational report pursuant to this part for the cost incurred in preparing the report up to an amount, not to exceed five thousand dollars (\$5,000) per report. The department shall reimburse each supplier preparing an agricultural water management plan pursuant to this part for the costs incurred by the supplier in preparing the plan up to an amount, not to exceed twenty-five thousand dollars (\$25,000) per plan.

10854. No agricultural water supplier shall be required to prepare an agricultural water management plan pursuant to this part unless funds are appropriated by the Legislature for the 1990-91 fiscal year, or before, to reimburse the agricultural water supplier for its costs associated with the plans.

10855. This part shall remain operative only until January 1, 1993, except that, if an agricultural water supplier fails to submit its information report or agricultural water management plan prior to January 1, 1993, this part shall remain operative with respect to that supplier until it has submitted its report or plan, or both.

(Added by Stats.1986, Ch. 954.)

Note: Statutes of 1986, Chapter 954 also contains the following provisions:

Sec. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act above the five thousand dollars (\$5,000) per report and twenty-five thousand dollars (\$25,000) per plan specified in Section 10853 of the Water Code shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund. The provisions of paragraph (4) of subdivision (a) of Section 17556 of the Government Code shall not be applicable to claims filed pursuant to this act.

Sec. 3. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the Bosco-Keene Renewable Resources Investment Fund to the Department of Water Resources for payment of claims for preparation of informational reports pursuant to Section 10821 of the Water Code for expenditure without regard to fiscal year. Reimbursement shall not be made under this section for reports prepared pursuant to any law other than Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code.

(Added by Stats.1986, Ch. 954.)

PART 2.10 WATER SUPPLY PLANNING TO SUPPORT EXISTING AND PLANNED FUTURE USES

10910. (a) Any city or county that determines that an environmental impact report is required in connection with a project, as defined in Section 10913, shall comply with this part if, as part of the approval of the project, either of the following is required:

(1) The adoption of a specific plan, if the city or county has not previously complied with this part for the project in question.

(2) An amendment to, or revision of, the land use element of a general plan, or a specific plan, that will result in a net increase in the stated population density or building intensity to provide for additional development.

(b) Notwithstanding subdivision (a), only a project that will result in a net increase in the stated population density or building intensity that has been identified in connection with the revision of any part of a general plan is subject to the requirements imposed by this part, if the project has not previously complied with this part.

(c) The city or county shall, at the time that it submits a notice of preparation pursuant to Section 21080.4 of the Public Resources Code, identify any water system that is, or may become, a public water system, as defined in Section 10912, that may supply water for the project.

(d) The city or county, at the time it submits a notice of preparation, shall request each public water system identified pursuant to subdivision (c) to assess whether the projected water demand associated with a proposed project described in subdivision (a) or (b) was included as part of the most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610). As part of that assessment, the public water system shall indicate whether its total projected water supplies available during normal, single-dry, and multiple-dry water years included in the 20-year projection contained in the urban water management plan will meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses.

(e) The governing body of each public water system shall approve the assessment prepared pursuant to subdivision (d), at a regular or special meeting and submit the assessment to the city or county not later than 30 days after the date on which the request was received.

(f) If the public water system that receives a request pursuant to subdivision (d) fails to submit its assessment to the city or county within the 30 days provided in subdivision (e), it shall be assumed, without a request for a specific extension of time, that the public water system has no information to submit.

(Added by Stats.1995, Ch. 881.)

10911. (a) If, as a result of its assessment, the public water system concludes that its water supplies are, or will be, insufficient, the public water system shall provide to the city or county its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies. Those plans may include, but are not limited to, information concerning all of the following:



(1) The estimated total costs, and the proposed method of financing the costs, associated with acquiring the additional water supplies.

(2) All federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies.

(3) Based on the considerations set forth in paragraphs (1) and (2), the estimated timeframes within which the public water system expects to be able to acquire additional water supplies.

(b) The lead agency shall include in the environmental impact report the water supply assessment provided to the lead agency by the public water system pursuant to Section 10910, and any information provided pursuant to subdivision (a), except that the assessment and information shall not exceed 10 standard typewritten pages in length unless the lead agency determines that additional information is appropriate.

(c) The lead agency may include in the environmental impact report an evaluation of any information included in the environmental impact report provided pursuant to subdivision (b). The lead agency shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the proposed project, in addition to existing and planned future uses. If the lead agency determines that water supplies will not be sufficient, the lead agency shall include that determination in its findings pursuant to Section 21081 of the Public Resources Code.

(Added by Stats.1995, Ch. 881.)

10912. For the purposes of this part, "public water system" means a system for the provision of piped water to the public for human consumption that has 3000 or more service connections. A public water system includes all of the following:

(a) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used primarily in connection with the system.

(b) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system.

(c) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(Added by Stats.1995, Ch. 881.)

10913. A project, for purposes of this part, means any of the following activities for which an application has been submitted to a city or county:

(a) A proposed residential development of more than 500 dwelling units.

(b) A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.

(c) A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.

(d) A proposed hotel or motel, or both, having more than 500 rooms.

(e) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.

(f) A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500-dwelling-unit project.

(Added by Stats.1995, Ch. 881.)

10914. (a) Nothing in this part is intended to create a right or entitlement to water service or any specific level of water service.

(b) Nothing in this part is intended to either impose, expand, or limit any duty concerning the obligation of a public water system to provide certain service to its existing customers or to any future potential customers.

(c) Nothing in this part is intended to modify or otherwise change existing law with respect to projects which are not subject to this part.

(d) This part applies only to a project for which a notice of preparation is submitted on or after January 1, 1996.

(Added by Stats.1995, Ch. 881.)

10915. (a) The Legislature finds and declares all of the following:

(1) The voters of the County of San Diego, in November 1988, approved Proposition C, a measure that required the development of a regional growth management plan and directed the establishment of a regional planning and growth management review board.

(2) The County of San Diego and the cities in the county, by agreement, designated the San Diego Association of Governments as that review board.

(3) A regional growth management strategy that provides for a comprehensive regional strategy and a coordinated economic development and growth management program has been developed pursuant to Proposition C.

(4) The regional growth management strategy includes a water element to coordinate planning for water that is consistent with the requirements of this part.

(5) The San Diego County Water Authority, by agreement with the San Diego Association of Governments in its capacity as the review board, uses the association's most recent regional growth forecasts for planning purposes and to implement the water element of the strategy.

(b) The procedures established by the review board for the development and approval of the regional growth management strategy, including the water element and any certification process established to ensure that a general plan is consistent with that element, are deemed to comply with the requirements of this part.

(Added by Stats.1995, Ch. 881.)

PART 3. CENTRAL VALLEY PROJECT

CHAPTER 3.

THE DEPARTMENT OF WATER RESOURCES

Article 3. Limitation of Powers

(Added by Stats.1943, Ch. 370; Amended by Stats.1957, Ch. 1932.)

11460. In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the



beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.

11461. In no other way than by purchase or otherwise as provided in this part shall water rights of a watershed, area, or the inhabitants be impaired or curtailed by the department, but the provisions of this article shall be strictly limited to the acts and proceedings of the department, as such, and shall not apply to any persons or state agencies.

11462. The provisions of this article shall not be so construed as to create any new property rights other than against the department as provided in this part or to require the department to furnish to any person without adequate compensation therefor any water made available by the construction of any works by the department.

11463. In the construction and operation by the department of any project under the provisions of this part, no exchange of the water of any watershed or area for the water of any other watershed or any area may be made by the department unless the water requirements of the watershed or area in which the exchange is made are first and at all times met and satisfied to the extent that the requirements would have been met were the exchange not made, and no right to the use of water shall be gained or lost by reason of any such exchange.

11464. No water right, reservoir, conduit, or facility for the generation, production, transmission, or distribution of electric power, acquired by the department shall ever be sold, granted, or conveyed by the department so that the department thereby is divested of the title to and ownership of it.

11465. The department shall not make any change, alteration, or revision of any rates, prices, or charges established by any contract entered into pursuant to this part except as provided by the contract.

(Added by Stats.1943, Ch. 370; Amended by Stats.1957, Ch. 1932.)

CHAPTER 10. FISH AND WILDLIFE AND RECREATION IN CONNECTION WITH STATE WATER PROJECTS

Article 4. Planning and Construction of Projects *(Added by Stats.1961, Ch. 867; Amended by Stats.1992, Ch. 427.)*

11910. There shall be incorporated in the planning and construction of each project those features (including, but not limited to, additional storage capacity) that the department, after giving full consideration to any recommendations which may be made by the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, any federal agency, and any local governmental agency with jurisdiction over the area involved, determines necessary or desirable for the preservation of fish and wildlife, and necessary or desirable to permit, on a year-round basis, full utilization of the project for the

enhancement of fish and wildlife and for recreational purposes to the extent that those features are consistent with other uses of the project, if any. It is the intent of the Legislature that there shall be full and close coordination of all planning for the preservation and enhancement of fish and wildlife and for recreation in connection with the state water projects by and between the Department of Water Resources, the Department of Parks and Recreation, the Department of Boating and Waterways, the Department of Fish and Game, and all appropriate federal and local agencies.

11910.1. In furtherance of the policies specified in Section 11910, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, and other governmental agencies shall submit their recommendations or comments on reconnaissance studies or feasibility reports of the Department of Water Resources relating to any project or feature of a project within 60 days following receipt of a formal request for review from the Department of Water Resources.

11912. The department, in fixing and establishing prices, rates, and charges for water and power, shall include as a reimbursable cost of any state water project an amount sufficient to repay all costs incurred by the department, directly or by contract with other agencies, for the preservation of fish and wildlife and determined to be allocable to the costs of the project works constructed for the development of such water and power, or either. Costs incurred for the enhancement of fish and wildlife or for the development of public recreation shall not be included in the prices, rates, and charges for water and power, and shall be nonreimbursable costs.

It shall be the duty of the department to report annually to the Legislature the costs, if any, which the department has allocated to recreation and fish and wildlife enhancement for each facility of any state water project. The department shall also report to the Legislature any revisions which the department makes in such allocations.

The department shall submit each such cost allocation to the Department of Boating and Waterways, the Department of Parks and Recreation, and the Department of Fish and Game. The Department of Boating and Waterways, the Department of Parks and Recreation, and the Department of Fish and Game shall file with the Department of Water Resources their written comments with respect to each such cost allocation, which written comments shall be included in the report required by this section.

The allocations or revised allocations reported to the Legislature shall become effective for the purposes of Section 11915 upon approval by the Legislature.

It shall also be the duty of the department to report to the Legislature on any expenditure of funds for acquiring rights-of-way, easements, and property pursuant to Section 346 for recreation development associated with such facilities. For the purposes of Section 11915, such expenditures shall become approved in the same manner as provided above with respect to cost allocations.

(Added by Stats.1961, Ch. 867; Amended by Stats.1992, Ch. 427.)

CHAPTER 11.
WATER CONSERVATION AND RECLAMATION PROJECTS
(Added by Stats. 1985, Ch. 938)

Article 1. Policy

11950. This chapter shall be known and may be cited as the Water Conservation Projects Act of 1985.

11951. The Legislature hereby finds and declares all of the following:

(a) Agriculture is this state's largest income producer, contributing approximately \$14 billion annually to the economy of the state. California agriculture remains the leader in the development of modern agricultural technology and is supported by the world's leading agricultural education and research institutions. However, the future growth and prosperity of agriculture is threatened by a lack of necessary irrigation water.

(b) The population of California is expected to increase by over three million persons by the year 2000. This increase alone will require at least an additional 600,000 acre-feet of water annually for municipal purposes.

(c) Upon commencement of the operation of the Central Arizona Project which is scheduled to occur by 1985, over 662,000 acre-feet of water presently available for use each year in California will be lost to the State of Arizona pursuant to decisions of the United States Supreme Court. These court decisions decrease the total water supply available to California from the Colorado River by a quantity sufficient to supply the needs of three and one-half million people.

(d) The central San Joaquin Valley faces a critical water shortage amounting to approximately 1.4 million acre-feet annually which is presently being mined from the groundwater basin. The lowering of the groundwater table is causing irrigation water to be pumped at excessive depths of 500 to 600 feet or more, which requires a tremendous use of energy at a high cost.

(e) Based on a 50 year average, California faces a drought in one out of every four years. During periods such as the 1976-1977 drought, the state has had critical water shortages, requiring emergency conservation measures and resulting in thousands of acres of prime agricultural land in the San Joaquin Valley remaining unplanted. At the peak of the 1976-77 drought period, the state lost approximately \$1.5 billion in crop revenues as a result of inadequate supplies of irrigation water.

(f) A portion of the foregoing water requirements may be economically met by water conservation and reclamation projects which produce substantial quantities of additional usable water for use in areas of the state with inadequate local supplies.

11952. (a) It is the intent of the Legislature in enacting this chapter to encourage local agencies and private enterprise to implement potential water conservation and reclamation projects by establishing a state program to finance or assist in financing projects which meet state criteria and will result in additional

supplies of water for use in areas of need. Water conservation and reclamation projects, including facilities for municipal and industrial advanced waste water treatment, regulatory impoundments, improvements to water supply and delivery systems, tailwater recovery systems, and sprinkler or drip irrigation systems, may result in increased quantities of usable water for beneficial purposes, but may be financially unattractive at the local level if the cost of additional fresh water is less than the cost to conserve or reclaim water.

(b) It is in the interests of both the users of water supplied by the state and the users of local water supplies to undertake water conservation and reclamation projects which supply water for purposes of the State Water Resources Development System at a cost less than the cost of new state water development facilities, and which provide benefits to local water users, including decreased salt concentrations, resulting from increased irrigation efficiency and reduced problems of pollution from waste water discharges. It is not the intent of the Legislature in enacting this chapter to affect or otherwise defer the construction of water facilities necessary to meet the requirements of the people of this state, and nothing in this chapter shall be construed to affect the authority of the department under any other provision of law.

11953. Nothing in this chapter shall be construed to alter or impair any provision of law providing protections for areas of origin, including, but not limited to, Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Section 10505, Article 3 (commencing with Section 11460) of Chapter 3, or Part 4.5 (commencing with Section 12200).

11954. Nothing in this chapter shall be construed to alter or impair any existing rights, including rights to divert water from the Colorado River and rights to the distribution or use of that water.

Article 2. Statewide Water Conservation

11960. Any water supplier or user of water in the state that has an existing right which permits the supplier or user to sell water may enter into a contract under this chapter to finance the conservation or recycling of water and to sell the conserved or recycled water to another water supplier or water user.

(Amended by Stats. 1995, Ch. 28.)

11961. Notwithstanding any other provision of law, where any person or public agency undertakes any water conservation effort, either separately or jointly, pursuant to any contract with any other water user, which results in a reduced use of water by that person or agency, no forfeiture, diminution, or impairment of the right to use the water conserved shall occur, except as set forth in the agreements between the parties.

11962. Water conservation and reclamation projects eligible for assistance under this chapter include, but are not limited to, the following:



- (a) Projects for municipal and industrial advanced waste water treatment to permit the reuse of the water for additional purposes.
- (b) Projects for the improvement of water supply and delivery facilities.
- (c) Projects for the improvement of on-farm irrigation systems, including tailwater recovery systems, regulatory impoundments, and sprinkler, drip, or other irrigation systems which enable more efficient use of water.

11963. Any contract entered into pursuant to this chapter for the transfer or sale of conserved or recycled water may provide for the recall of water and may include terms for that recall. Any recall provisions shall include a notice period of not less than five years unless otherwise agreed by the parties.
(Amended by Stats. 1995, Ch. 28.)

11964. Water conservation or reclamation projects developed pursuant to this chapter may be funded pursuant to any bond law heretofore or hereafter approved by the voters if the project is otherwise eligible for funding under the bond law.

11965. This article shall not be applicable to the State Water Resources Development System.

Article 3. Conservation in the State Water Resources Development System

11970. The department may use Central Valley Project revenue bonds or other funds available for the purposes of the State Water Resources Development System to finance, in whole or in part, water conservation programs and facilities that reduce demands by the sponsoring contractor for project water from the system for a period of time agreed to by the sponsoring contractor, and thereby increase the supply of project water available in the Sacramento-San Joaquin Delta for distribution to other contractors.

11971. As used in this article, "sponsoring contractor" means a contractor or contractors, who have a long-term water supply contract with the department and who agree to reduce demands for project water from the State Water Resources Development System in accordance with Section 11970.

11972. A local water conservation project described in Section 11970 is eligible for funding pursuant to this article if, in the determination of the department, the project meets all of the following criteria:

- (a) The project is engineeringly feasible and is capable of producing project water which is economically competitive with alternative new water supply sources.
- (b) The construction and operation of the facilities and programs will not interfere with the requested deliveries of annual entitlement water to any contractor other than the sponsoring contractor.
- (c) The project will not result in any greater annual charges to any contractor, other than the sponsoring contractor, than would have occurred with



the construction at the same time of alternative new water supply sources constituting either reservoirs located north of the delta or off-aqueduct storage reservoirs located south or west of the delta designed to deliver water to the California Aqueduct.

11973. The department shall determine whether a local water conservation project described in Section 11970 is economically competitive by comparing, in an engineering and economic analysis, the local conservation project with alternative new water supply sources constituting either reservoirs located north of the delta or off-aqueduct storage reservoirs located south or west of the delta designed to supply water to the California Aqueduct. The analysis for the alternative new water supply sources shall use the average cost per acre-foot of yield in the latest studies made for those sources by the department and shall compare those facilities with the proposed local conservation project using commonly accepted engineering economics. In the case of a local conservation project to be funded in part by the department as part of the system and in part from other sources, the economic analysis shall be applied only to the portion to be funded by the department as a part of the system.

11974. A local water conservation project described in Section 11970 shall not be constructed or implemented pursuant to this article until both of the following occurs:

- (a) The sponsoring contractor signs a written agreement with the department which indicates all of the following:
 - (1) The approval of the facility or program by the sponsoring contractor.
 - (2) The yield and the period of time during which the water from the local conservation project constitutes project water.
 - (3) The disposition of the local conservation project or of the yield from the local conservation project upon the expiration of that period of time.
- (b) All contractors within whose boundaries any portion of the local water conservation project is located, and who are not sponsoring contractors for the local conservation project, approve the local water conservation project in writing.

11975. In the event of a shortage in water supply, within the meaning of Article 18(a) of the standard water supply contract between the department and the state water supply contractors, the determination of whether to count, in whole or in part, the reduced demand from future conservation programs described in Section 11970 in the allocation of deficiencies among contractors shall be based on a project-by-project evaluation taking into consideration such factors as any limitation on the use of the water from the facilities and whether the sponsoring contractor has access to project water from the delta as an alternate to those facilities.

11976. This article is the only portion of this chapter applicable to the State Water Resources Development System.



Article 4. Administration

11980. The department shall establish criteria for determining the eligibility of water conservation projects for assistance under this chapter and shall establish criteria for determination of the economic, financial, and engineering feasibility of proposed water conservation projects. The department shall establish guidelines to encourage feasibility studies to determine potential sources of conserved water for purposes of this chapter and to determine parties interested in contracting with potential water purchasers pursuant to this chapter.

11981. The State Water Resources Control Board shall establish criteria for determining both of the following:

(a) The eligibility of water reclamation projects for assistance under this chapter.

(b) The economic, financial, and engineering feasibility of proposed reclamation projects.

11982. The department shall establish criteria for determining whether a water conservation or reclamation project results in a net increase in the amount of water made available for use and does not interfere with an established right to use of water by any other person or entity.

11983. The department and the State Water Resources Control Board shall only approve for funding by the state under this chapter those projects which result in a net increase in the amount of water available for use and which do not interfere with an established right to use of water by any other person or entity. Any agreement between parties for a conservation or reclamation project not using state financing shall not require approval by the department or the State Water Resources Control Board under this chapter but shall comply with the criteria adopted under Section 11981 or 11982.

11984. The department is authorized to adopt those rules and regulations as may be necessary to carry out, and as are consistent with, this chapter.

11985. In providing financial assistance pursuant to this chapter, the department shall impose terms and conditions that are designed to protect the state's investment and that are necessary to carry out the purposes of this chapter. The department shall keep full and complete records and accounts concerning all of its transactions under this chapter and shall render a report on those transactions to the Legislature within 15 days after the commencement of the first regular session of the Legislature following the effective date of this chapter.

(Added by Stats.1985, Ch. 938.)

DIVISION 7. WATER QUALITY**CHAPTER 7. WATER RECLAMATION****Article 7. Water Reuse**

13550. (a) The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses, including, but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of the water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available which meets all of the following conditions, as determined by the state board, after notice to any person or entity who may be ordered to use recycled water or to cease using potable water and a hearing held pursuant to Article 2 (commencing with Section 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations:

(1) The source of recycled water is of adequate quality for these uses and is available for these uses. In determining adequate quality, the state board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the recycled water affecting these uses, on a user-by-user basis. In addition, the state board shall consider the effect of the use of recycled water in lieu of potable water on the generation of hazardous waste and on the quality of wastewater discharges subject to regional, state, or federal permits.

(2) The recycled water may be furnished for these uses at a reasonable cost to the user. In determining reasonable cost, the state board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying, delivering, and treating potable domestic water for these uses and the present and projected costs of supplying and delivering recycled water for these uses, and shall find that the cost of supplying the treated recycled water is comparable to, or less than, the cost of supplying potable domestic water.

(3) After concurrence with the State Department of Health Services, the use of recycled water from the proposed source will not be detrimental to public health.

(4) The use of recycled water for these uses will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife, fish, and wildlife.

(b) In making the determination pursuant to subdivision (a), the state board shall consider the impact of the cost and quality of the nonpotable water on each individual user.

(c) The state board may require a public agency or person subject to this article to furnish information which the state board determines to be relevant to making the determination required in subdivision (a).

(Amended by Stats. 1991, Ch. 553; Amended by Stats. 1995, Ch. 28.)

13551. A person or public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, shall not use

water from any source of quality suitable for potable domestic use for nonpotable uses, including cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses if suitable recycled water is available as provided in Section 13550; however, any use of recycled water in lieu of water suitable for potable domestic use shall, to the extent of the recycled water so used, be deemed to constitute a reasonable beneficial use of that water and the use of recycled water shall not cause any loss or diminution of any existing water right.

(Amended by Stats.1991, Ch. 553; Amended by Stats.1995, Ch. 28.)

13552. The amendments to Sections 13550 and 13551 of the Water Code made during the first year of the 1991-92 Regular Session are not intended to alter any rights, remedies, or obligations which may exist prior to January 1, 1992, pursuant to, but not limited to, those sections or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

(Added by Stats.1991, Ch. 553.)

13552.2. (a) The Legislature hereby finds and declares that the use of potable domestic water for the irrigation of residential landscaping is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for this use, is available to the residents and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to submit information that the state board determines may be relevant in making the determination required in subdivision (a).

(Added by Stats.1993, Ch. 980; Amended by Stats.1995, Ch. 28.)

13552.4. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for irrigation of residential landscaping, if all of the following requirements are met:

(1) Recycled water, for this use, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The irrigation systems are constructed in accordance with Chapter 3 (commencing with Section 60301) of Division 4 of Title 22 of the California Code Regulations.

(b) This section applies to both of the following:

(1) New subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any residence that is retrofitted to permit the use of recycled water for landscape irrigation and for which the State Department of Health Services has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for irrigation of residential landscaping necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

(Added by Stats.1993, Ch. 980; Amended by Stats.1995, Ch. 28.)

13552.6. (a) The Legislature hereby finds and declares that the use of potable domestic water for floor trap priming, cooling towers, and air-conditioning devices is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user, and the water meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to submit information that the state board determines may be relevant in making the determination required in subdivision (a).

(Added by Stats. 1993, Ch. 980; Amended by Stats.1995, Ch. 28.)

13552.8. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water in floor trap priming, cooling towers, and air-conditioning devices, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) If public exposure to aerosols, mist, or spray may occur, appropriate mist mitigation or mist control is provided, such as the use of mist arrestors or the addition of biocides to the water in accordance with criteria established pursuant to Section 13521.

(4) The person intending to use recycled water has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the public agency, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies to both of the following:

(1) New industrial facilities and subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any structure that is retrofitted to permit the use of recycled water for floor traps, cooling towers, or air-conditioning devices, for which the State Department of Health Services has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for floor trap priming, cooling towers, or air-conditioning devices necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

(Added by Stats.1993, Ch. 980; Amended by Stats.1995, Ch. 28.)

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish whatever information may be relevant to making the determination required in subdivision (a).

(c) For the purposes of this section and Section 13554, "structure" or "structures" means commercial, retail, and office buildings, theaters, auditoriums, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the State Department of Health Services.

(d) Nothing in this section or Section 13554 applies to a pilot program adopted pursuant to Section 13553.1.

(Added by Stats.1991, Ch. 723; Amended by Stats. 1995, Ch. 28; Amended by Stats.1997, Ch. 149.)

13553.1. (a) The Legislature hereby finds and declares that certain coastal areas of the state have been using sea water to flush toilets and urinals as a means of conserving potable water; that this practice precludes the beneficial reuse of treated wastewater and has had a deleterious effect on the proper wastewater treatment process, and has led to corrosion of the sea water distribution pipelines and wastewater collection systems; and that this situation must be changed.

(b) There is a need for a pilot program to demonstrate that conversion to the use of recycled water in residential buildings for toilet and urinal flushing does not pose a threat to public health and safety.

(c) A city that is providing a separate distribution system for sea water for use in flushing toilets and urinals in residential structures may, by ordinance, authorize the use of recycled water for the flushing of toilets and urinals in residential structures if the level of treatment and the use of the recycled water meets the criteria set by the State Department of Health Services.

(Added by Stats.1995, Ch. 78.)

13554. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for toilet and urinal flushing in structures, except a mental hospital or other facility operated by a public agency for the treatment of persons with mental disorders, if all of the following requirements are met:



(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The public agency has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the use site, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies only to either of the following:

(1) New structures for which the building permit is issued on or after March 15, 1992, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1992.

(2) Any construction pursuant to subdivision (a) for which the State Department of Health Services has, prior to January 1, 1992, approved the use of recycled water.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water by a structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

(Added by Stats.1991, Ch. 723; Amended by Stats. 1995, Ch. 28; and Stats.1997, Ch. 149.)

13554.2. (a) Any person or entity proposing the use of recycled water shall reimburse the State Department of Health Services for reasonable costs that department actually incurs in performing duties pursuant to this chapter.

(b) (1) Upon a request from the person or entity proposing the use of recycled water, the State Department of Health Services shall, within a reasonable time after the receipt of the request, provide an estimate of the costs that it will reasonably incur in the performance of its duties pursuant to this chapter.

(2) For purposes of implementing subdivision (a), that department shall maintain a record of its costs. In determining those costs, that department may consider costs that include, but are not limited to, costs relating to personnel requirements, materials, travel, and office overhead. The amount of reimbursement shall be equal to, and may not exceed, that department's actual costs.

(c) With the consent of the person or entity proposing the use of recycled water, the State Department of Health Services may delegate all or part of the duties that department performs pursuant to this chapter within a county to a local health agency authorized by the board of supervisors to assume these duties, if, in the judgment of that department, the local health agency can perform these duties. Any person or entity proposing the use of recycled water shall reimburse the local health agency for reasonable costs that the local health agency actually incurs in the performance of its duties delegated pursuant to this subdivision.

(d) (1) Upon a request from the person or entity proposing the use of recycled water, the local health agency shall, within a reasonable time after the



receipt of the request, provide an estimate of the cost it will reasonably incur in the performance of its duties delegated under subdivision (c).

(2) The local health agency, if delegated duties pursuant to subdivision (c), shall maintain a record of its costs that include, but is not limited to, costs relating to personnel requirements, materials, travel, and office overhead. The amount of reimbursement shall be equal to, and may not exceed, the local health agency's actual costs.

(e) The State Department of Health Services or local health agency shall complete its review of a proposed use of recycled water within a reasonable period of time. That department shall submit to the person or entity proposing the use of recycled water a written determination as to whether the proposal submitted is complete for purposes of review within 30 days from the date of receipt of the proposal and shall approve or disapprove the proposed use within 30 days from the date on which that department determines that the proposal is complete.

(f) An invoice for reimbursement of services rendered shall be submitted to the person or entity proposing the use of recycled water subsequent to completion of review of the proposed use, or other services rendered, that specifies the number of hours spent by the State Department of Health Services or local health agency, specific tasks performed, and other costs actually incurred. Supporting documentation, including receipts, logs, timesheets, and other standard accounting documents, shall be maintained by that department or local health agency and copies, upon request, shall be provided to the person or entity proposing the use of recycled water.

(g) For the purposes of this section, "person or entity proposing the use of recycled water" means the producer or distributor of recycled water submitting a proposal to the department.

(Amended by Stats. 1993, Ch. 980; Amended by Stats. 1994, Ch. 347.)

13554.3. The State Water Resources Control Board may establish a reasonable schedule of fees by which it is reimbursed for the costs it incurs pursuant to Section 13553 and 13554.

(Added by Stats. 1991, Ch. 723.)

13555.2. The Legislature hereby finds and declares that many local agencies deliver recycled water for nonpotable uses and that the use of recycled water is an effective means of meeting the demands for new water caused by drought conditions or population increases in the state. It is the intent of the Legislature to encourage the design and construction of water delivery systems on private property that deliver water for both potable and nonpotable uses in separate pipelines.

(Added by Stats. 1992, Ch. 418; Amended by Stats. 1995, Ch. 28.)

13555.3. (a) Water delivery systems on private property that could deliver recycled water for nonpotable uses described in Section 13550, that are constructed on and after January 1, 1993, shall be designed to ensure that the water to be used for only potable domestic uses is delivered, from the point of entry to the private property to be served, in a separate pipeline which is not used to deliver the recycled water.

(b) This section applies to water delivery systems on private property constructed within either of the following jurisdictions:

(1) One that has an urban water management plan that includes the intent to develop recycled water use.

(2) One that does not have an urban water management plan that includes recycled water use, but that is within five miles of a jurisdiction that does have an urban water management plan that includes recycled water use, and has indicated a willingness to serve the water delivery system.

(c) This section does not preempt local regulation of the delivery of water for potable and nonpotable uses and any local governing body may adopt requirements which are more restrictive than the requirements of this section.

(Added by Stats.1992, Ch. 418; Amended by Stats.1995, Ch. 28.)

13556. In addition to any other authority provided in law, any water supplier described in subdivision (b) of Section 1745 may acquire, store, provide, sell, and deliver recycled water for any beneficial use, including, but not limited to, municipal, industrial, domestic, and irrigation uses, if the water use is in accordance with statewide recycling criteria and regulations established pursuant to this chapter.

(Added by Stats.1993, Ch. 53; Amended by Stats.1995, Ch. 28.)

CHAPTER 7.5. WATER RECYCLING ACT OF 1991

13575. (a) This chapter shall be known and may be cited as the Water Recycling Act of 1991.

(b) As used in this chapter, the following terms have the following meanings:

(1) "Customer" means a person or entity that purchases water from a retail water supplier.

(2) "Entity responsible for groundwater replenishment" means any person or entity authorized by statute or court order to manage a groundwater basin and acquire water for groundwater replenishment.

(3) "Recycled water" has the same meaning as defined in subdivision (n) of Section 13050.

(4) "Recycled water producer" means any local public entity that produces recycled water.

(5) "Recycled water wholesaler" means any local public entity that distributes recycled water to retail water suppliers and which has constructed, or is constructing, a recycled water distribution system.

(6) "Retail water supplier" means any local entity, including a public agency, city, county, or private water company, that provides retail water service.

(7) "Retailer" means the retail water supplier in whose service area is located the property to which a customer requests the delivery of recycled water service.

(Amended by Stats.1994, Ch. 733; Amended by Stats. 1998, Ch.753)

13576. The Legislature hereby makes the following findings and declarations:

(a) The State of California is subject to periodic drought conditions.

(b) The development of traditional water resources in California has not kept pace with the state's population, which is growing at the rate of over



700,000 per year and which is anticipated to reach 36 million by the year 2010.

(c) There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to replenish groundwater basins, and protect and enhance fisheries, wildlife habitat, and riparian areas.

(d) The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta which is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of groundwater basins, recreation, fisheries, and wetlands.

(e) The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Health Services is updating regulations for the use of recycled water.

(f) The use of recycled water is a cost-effective, reliable method of helping to meet California's water supply needs.

(g) The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.

(h) Retail water suppliers and recycled water producers and wholesalers should promote the substitution of recycled water for potable water and imported water in order to maximize the appropriate cost-effective use of recycled water in California.

(i) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment should cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service.

(j) Retail water suppliers and recycled water producers and wholesalers should be encouraged to enter into contracts to facilitate the service of recycled and potable water by the retail water suppliers in their service areas in the most efficient and cost-effective manner.

(k) Recycled water producers and wholesalers and entities responsible for groundwater replenishment should be encouraged to enter into contracts to facilitate the use of recycled water for groundwater replenishment if recycled water is available and the authorities having jurisdiction approve its use.

(l) Wholesale prices set by recycled water producers and recycled water wholesalers, and rates that retail water suppliers are authorized to charge for recycled water, should reflect an equitable sharing of the costs and benefits associated with the development and use of recycled water.

(Amended by Stats. 1994, Ch. 733; Amended 1998, Ch. 164)

13577. This chapter establishes a statewide goal to recycle a total of 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

13579. (a) In order to achieve the goals established in Section 13577, retail water suppliers shall identify potential uses for recycled water within their service areas, potential customers for recycled water service within their service areas, and, within a reasonable time, potential sources of recycled water.

(b) Recycled water producers and recycled water wholesalers may also identify potential uses for recycled water, and may assist retail water suppliers in identifying potential customers for recycled water service within the service areas of those retail water suppliers.

(c) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment may cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service and recycled water for groundwater replenishment consistent with the criteria set forth in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 13550 and in accordance with Section 60320 of Title 22 of the California Code of Regulations.

(Added by Stats.1994, Ch. 733; Amended 1998, Ch. 164)

13580. (a) A retail water supplier that has identified a potential use or customer pursuant to Section 13579 may apply to a recycled water producer or recycled water wholesaler for a recycled water supply.

(b) A recycled water producer or recycled water wholesaler that has identified a potential use or customer pursuant to Section 13579 may, in writing, request a retail water supplier to enter into an agreement to provide recycled water to the potential customer.

(c) A customer may request, in writing, a retailer to enter into an agreement to provide recycled water to the customer.

(d) (1) An entity responsible for groundwater replenishment that is a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request that retail water supplier to enter into an agreement to provide recycled water for that purpose. That entity may not obtain recycled water for that purpose from a recycled water producer, a recycled water wholesaler, or another retail water supplier without the agreement of the entity's retail water supplier.

(2) An entity responsible for groundwater replenishment that is not a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request a retail water supplier, a recycled water producer, or a recycled water wholesaler to enter into an agreement to provide recycled water for that purpose.

(Added by Stats.1994, Ch. 733; Amended by Stats. 1998, Ch. 753)

13580.5. (a) (1) Subject to subdivision (d) of Section 13580.7, a retail water supplier that receives a request from a customer pursuant to subdivision (c) of Section 13580 shall enter into an agreement to provide recycled water, if recycled water is available, or can be made available, to the retail water supplier for sale to the customer.

(2) Notwithstanding paragraph (1), in accordance with a written agreement between a recycled water producer or a recycled water wholesaler and a retail water supplier, the retail water supplier may delegate to a recycled water producer or a recycled water wholesaler its responsibility under this section to provide recycled water.



(b) A customer may not obtain recycled water from a recycled water producer, a recycled water wholesaler, or a retail water supplier that is not the retailer without the agreement of the retailer.

(c) If either a recycled water producer or a recycled water wholesaler provides a customer of a retail water supplier with a written statement that it can and will provide recycled water to the retailer, the retail water supplier shall, not later than 120 days from the date on which the retail water supplier receives the written statement from the customer, by certified mail, return receipt requested, submit a written offer to the customer. A determination of availability pursuant to Section 13550 is not required.

(d) If the state board pursuant to Section 13550 makes a determination that there is available recycled water to serve a customer of a retail water supplier, the retail water supplier, not later than 120 days from the date on which the retail water supplier receives a copy of that determination from the customer, by certified mail, return receipt requested, shall submit a written offer to the customer.

(Added by Stats. 1998, Ch. 753)

13580.7. (a) This section applies only to a retail water supplier that is a public agency.

(b) If no rate is in effect for recycled water service within the service area of a retail water supplier, the rate and conditions of service for recycled water service shall be established by contract between the retail water supplier and the customer.

(c) A rate for recycled water service established by contract, ordinance, or resolution, shall reflect a reasonable relationship between the amount of the rate and the retail cost of obtaining or producing the recycled water, the cost of conveying the recycled water, and overhead expenses for providing recycled water service. Capital costs of facilities required to serve the customer shall be amortized over the economic life of the facility, or the length of time the customer agrees to purchase recycled water, whichever is less. The rate shall not exceed the estimated reasonable cost of providing the service, and any additional costs agreed to by the customer for recycled water supplemental treatment.

(d) The rate for recycled water shall be comparable to, or less than, the retail water supplier's rate for potable water. If recycled water service cannot be provided at a rate comparable to, or less than, the rate for potable water, the retail water supplier is not required to provide the recycled water service, unless the customer agrees to pay a rate that reimburses the retail water supplier for the costs described in subdivision (c).

(e) The offer required by subdivisions (c) and (d) of Section 13580.5 shall identify all of the following:

- (1) The source for the recycled water.
- (2) The method of conveying the recycled water.
- (3) A schedule for delivery of the recycled water.
- (4) The terms of service.
- (5) The rate for the recycled water, including the per-unit cost for that water.
- (6) The costs necessary to provide service and the basis for determining those costs.



(f) This section does not apply to recycled water service rates established before January 1, 1999, or any amendments to those rates.

(Added by Stats. 1998, Ch. 753)

13580.8. (a) This section applies only to a retail water supplier that is regulated by the Public Utilities Commission.

(b) Rates for recycled water that is provided to the customer by a retail water supplier regulated by the Public Utilities Commission shall be established by the commission pursuant to Section 455.1 of the Public Utilities Code. A regulated water utility may request the commission to establish the rate or rates for the delivery of recycled or nonpotable water, with the objective of providing, where practicable, a reasonable economic incentive for the customer to purchase recycled or nonpotable water in place of potable water.

(c) A regulated water utility may propose a rate or rates for recycled or nonpotable water by tariff or by contract between the retail water supplier and the customer. Where the rate or rates are set by contract, the water utility and its customer shall meet, confer, and negotiate in good faith to establish a contract rate.

(d) The commission shall, as appropriate, provide a discount from the general metered rate of the water utility for potable water by either of the following means:

(1) Passing through to the customer the net reduction in cost to the water utility in purchasing and delivering recycled or nonpotable water as compared to the cost of purchasing and delivering potable water.

(2) Granting to the customer a uniform discount from the water utility's general metered potable water rate when the discount in paragraph (1) is determined to be an insufficient incentive for the customer to convert to the use of recycled or nonpotable water. If the commission provides for a discount pursuant to this paragraph that is greater than the water utility's reduction in cost, the commission shall authorize the water utility to include the aggregate amount of that discount in its revenue requirements to be applied to, and recovered in, rates that are applicable to all general metered customers.

(Added by Stats. 1998, Ch. 753)

13580.9. (a) Notwithstanding any other provision of law, and except as otherwise previously provided for in a contract agreed to by the customer and the City of West Covina, if the purchaser, contractor, or lessee of, or successor to, all or a portion of the water utility owned by the City of West Covina is a retail water supplier that is regulated by the Public Utilities Commission, rates for recycled or nonpotable water service to a closed hazardous waste and solid waste facility located within the boundaries of the City of West Covina for the purposes of irrigation, recreation, or dust suppression or any other use at that facility shall be established in accordance with subdivisions (a) to (e), inclusive, of Section 13580.7, and if there is a failure to agree on the terms and conditions of a recycled or nonpotable water supply agreement for the delivery of water for those purposes by that purchaser, contractor, lessee, or successor, Section 13581 shall apply.

(b) For the purpose of this section, nonpotable water that is not the result of the treatment of waste shall be treated as the equivalent of recycled water if it is suitable for a direct beneficial use or a controlled use that would not



otherwise occur and is therefor considered a valuable resource, if the use of that water will not adversely affect downstream water rights, degrade water quality, or be injurious to plant life, fish, or wildlife, as provided by statute or by regulations of the State Department of Health Services and the state board or a regional board, as appropriate.

(Added by Stats. 1998, Ch. 753)

13581. (a) If there is a failure to agree on terms and conditions of a recycled water supply agreement involving a retail water supplier that is a public agency within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision (c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, any party may request a formal mediation process. The parties shall commence mediation within 60 days after the mediation request is made. If the parties cannot agree on a mediator, the director shall appoint a mediator. The mediator may recommend to the parties appropriate terms and conditions applicable to the service of recycled water. The cost for the services of the mediator shall be divided equally among the parties to the mediation and shall not exceed twenty thousand dollars (\$20,000).

(b) If the parties in mediation reach agreement, both parties together shall draft the contract for the recycled water service. The parties shall sign the contract within 30 days.

(c) If the parties in mediation fail to reach agreement, the affected retail water supplier shall, within 30 days, by resolution or ordinance, adopt a rate for recycled water service. The agency action shall be subject to validating proceedings pursuant to Chapter 9 (commencing with Section 860) of Part 2 of Title 10 of the Code of Civil Procedure, except that there shall not be a presumption in favor of the retail water supplier under the action taken to set the rate for recycled water service. The mediator shall file a report with the superior court setting forth the recommendations provided to the parties regarding appropriate terms and conditions applicable to the service of recycled water. Each party shall bear its own costs and attorney's fees.

(Added by Stats. 1994, Ch. 733; Amended by Stats. 1998, Ch. 753)

13581.2. If the retail water supplier is regulated by the Public Utilities Commission, and there is a failure to agree on terms and conditions of a recycle water supply agreement with a customer within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision (c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, the matter shall be submitted to the Public Utilities Commission for resolution, and the commission shall determine a contract rate or rates for recycled water as provided in Section 13580.8.

(Added by Stats. 1998, Ch. 753)

13582. This chapter is not intended to alter either of the following:

(a) Any rights, remedies, or obligations which may exist pursuant to Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of

Division 2 of this code or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

(b) Any rates established or contracts entered into prior to January 1, 1999.
(Added by Stats. 1994, Ch. 733; Amended 1998, Ch. 753)

13583. (a) If a retail water supplier that is a public agency does not comply with this chapter, the customer may petition a court for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

(b) If a retail water supplier is regulated by the Public Utilities Commission and does not comply with this chapter, the Public Utilities Commission may order the retailer to comply with this chapter after receiving a petition from the customer specifying the provisions of this chapter with which the retailer has failed to comply.

(Added by Stats. 1998, Ch. 753)





**PUBLIC RESOURCES CODE
DIVISION 10. STREAMFLOW
PROTECTION STANDARDS**

10000. The Legislature finds and declares as follows:

(a) A substantial increase has occurred in the number of requests to appropriate water from the various streams and watercourses of this state, especially for the purpose of generating electric energy.

(b) These requests, if approved without due regard for their cumulative effect on streamflows, could adversely affect, to a serious and significant degree, the fish and wildlife resources dependent on those streams and watercourses.

(c) These fish and wildlife resources are important for the entire state and are inextricably linked to the continued economic viability of industries, such as the fishing industry, which are desirable and important components of the state's economy.

(Added by Stats.1982, Ch. 1478.)

10001. The Director of Fish and Game shall identify and list those streams and watercourses throughout the state for which minimum flow levels need to be established in order to assure the continued viability of stream-related fish and wildlife resources. The director shall include in this identification list those streams and watercourses the director determines are significant, along with a statement of findings as to why that stream or watercourse was selected. The identification list required by this section shall rank the streams and watercourses beginning with those where the need for establishing minimum flow levels is the greatest. The director, at his discretion, may revise the list any may add or delete streams or watercourses as circumstances require. The initial identification list required by this section shall be completed no later than January 1, 1984.

(Added by Stats.1982, Ch. 1478.)

10002. The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, the Director of Boating and Waterways, the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.



10003. The Director of Fish and Game, on his or her own motion or at the request of the State Water Resources Control Board, may review any streamflow requirement and may propose revision or modification thereof. The proposed revision or modification shall be transmitted to the State Water Resources Control Board.
(Amended by Stats.1985, Ch. 1259.)

10004. The Department of Fish and Game shall initiate studies to develop proposed streamflow requirements for those streams or watercourses in each fiscal year for which funds are appropriated and shall complete studies on each stream or watercourse within three years. It is the intent of the Legislature that the department develop a program that will initiate studies on at least 10 streams or watercourses in each fiscal year.
(Added by Stats.1985, Ch. 1259.)

10005. (a) The Department of Fish and Game shall impose and collect a filing fee of eight hundred fifty dollars (\$850) to defray the costs of identifying streams and providing studies pursuant to Division 10 (commencing with Section 10000) of the Public Resources Code.

(b) The filing fee shall be proportional to the cost incurred by the Department of Fish and Game and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the costs of the Department of Fish and Game as specified in subdivision (a).

(c) Any user of water, including a person or entity holding riparian or appropriative rights, shall pay the filing fee to the Department of Fish and Game upon application to the State Water Resources Control Board for any permit, transfer, extension, or change of point of diversion, place of use, or purpose of use, if there is a diversion of water from any waterway where fish reside. No permit, or other entitlement identified in this section is effective until the filing fee is paid. The State Water Resources Control Board shall, every six months, forward all fees collected to the department and provide the location for each entitlement for which filing fee has been collected.

(d) The fee imposed by this section shall not be imposed on the following applications filed with the State Water Resources Control Board:

(1) Small domestic use registrations submitted pursuant to Article 2.7 (commencing with Section 1228) of Chapter 2 of Division 2 of the Water Code.

(2) The first application for an extension of time for an individual permit if no change in point of diversion, place of use, or purpose of use is included in the application.

(3) Water applications which, in the opinion of the Department of Fish and Game, are filed for administrative and technical clarification purposes only.

(Added by Stats.1990, Ch. 1706; Amended by Stats.1992, Ch. 761.)

DEPARTMENT OF FISH AND GAME
DIVISION 2. DEPARTMENT OF FISH AND GAME

CHAPTER 1
ORGANIZATION AND GENERAL FUNCTIONS

Article 1. Generally

711. It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(a) The costs of nongame fish and wildlife programs and free hunting and fishing license programs shall be provided annually in the Budget Act by appropriating money from the General Fund and sources other than the Fish and Game Preservation Fund to the department for these purposes.

(b) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing taxes, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(c) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(d) The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(e) The department shall conduct, or contract for, a review, at least every five years, of its programs to ensure consistency with this section.

(f) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 may not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

For purposes of this article, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

(Amended by Stats.1993, Ch. 1027.)



711.2. (a) For purposes of this article, unless the context otherwise requires, "wildlife" means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability and "project" has the same meaning as defined in Section 21065 of the Public Resources Code.

(b) For purposes of this article, "person" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies of those entities.

(Added by Stats.1990, Ch. 1706; Amended by Stats.1994, Ch. 1010.)

711.4. (a) The department shall impose and collect a filing fee in the amount prescribed in subdivision (d) to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), consulting pursuant to Section 21104.2 of the Public Resources Code, and other activities protecting those trust resources identified in the review pursuant to the California Environmental Quality Act.

(b) The filing fees shall be proportional to the cost incurred by the department and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the full costs of department programs as specified.

(c) (1) All project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project.

(2) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if the lead or certified regulatory program agency finds that the project is either of the following:

(A) Categorically exempt from the California Environmental Quality Act.

(B) De minimis in its effect of fish and wildlife.

(3) Notwithstanding paragraph (1), no filing fee shall be paid pursuant to this section if all the following conditions exist:

(A) The project is being undertaken by the department.

(B) The project costs are payable from any of the following sources:

(i) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund.

(ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

(iii) The Habitat Conservation Fund.

(iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

(v) The Commercial Salmon Stamp Account in the Fish and Game Preservation Fund.

(vi) Striped bass stamp funds collected pursuant to Section 7360.

(C) The project is implemented through a contract with either a

nonprofit entity or a local government agency. The filing fee shall be paid at the time and in the amount specified in subdivision (d). Notwithstanding Section 21080.5 and 21081 of the Public Resources Code, no project shall be operative, vested, or final until the filing fees required pursuant to this section are paid.

(d) The fees shall be in the following amounts:

(1) For a project which is found by the lead or certified regulatory agency to be de minimis in its effect on fish and wildlife, no filing fee shall be paid, whether or not a negative declaration or an environmental impact report is prepared pursuant to the California Environmental Quality Act.

(2) For a project which is statutorily or categorically exempt from the California Environmental Quality Act, including those certified regulatory programs which incorporate statutory and categorical exemptions, no filing fee shall be paid.

(3) For a project for which a negative declaration is prepared pursuant to subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one thousand two hundred fifty dollars (\$1,250). The filing fee shall be paid to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of that code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code, as appropriate.

(4) For a project with an environmental impact report prepared pursuant to the California Environmental Quality Act, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of the Public Resources Code or to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of that code.

(5) For a project which is subject to a certified regulatory program pursuant to Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty dollars (\$850). The filing fee shall be paid to the Secretary of the Resources Agency upon filing of the notice of determination pursuant to Section 21080.5 of that code. If the filing fee is to be paid by the state lead agency, the payment shall be made pursuant to a memorandum of understanding with the department.

(e) The county clerk may charge a documentary handling fee of twenty-five dollars (\$25) per filing in addition to the filing fee specified in subdivision (d).

(1) The county clerk of each county and the Office of Planning and Research shall maintain a record of all environmental documents received. The record shall include, for each environmental document received, the name of each applicant or lead agency, the document filing number, and the filing date. The record shall be made available for examination or audit by authorized personnel of the department during normal business hours.

(2) The filing fee imposed and collected pursuant to subdivision (d) shall be remitted monthly to the department within 30 days after the end of each month. The amount of fees due shall be reported on forms prescribed and provided by the department.

(3) The department shall assess a penalty of 10 percent of the amount of fees due for any failure to remit the amount payable when due. The department



may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

(f) Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

(g) Only one filing fee shall be paid for each project unless the project is tiered or phased, and separate environmental documents or review by the department is required.

(h) This section does not preclude or modify the duty of the department to recommend, require, permit, or engage in mitigation activities pursuant to the California Environmental Quality Act.

(i) The permit process of the California Coastal Commission, as certified by the Secretary of the Resources Agency, is exempt from the payment of the filing fees prescribed by paragraph (5) of subdivision (d) insofar as the permits are issued under any of the following regulations:

(1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

(2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section 13255) of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations.

(Added by Stats.1990, Ch. 1706; Amended by Stats.1994, Ch. 433.)

711.7. (a) The fish and wildlife resources are held in trust for the people of the state by and through the department.

(1) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal land and water adjacent to or affecting state trust resources, all persons engaging in projects or activities under federal license, contract, or permit, to the extent permitted by federal law, shall be governed by this article and shall pay project filing fees unless the payment of state filing and permit fees is explicitly preempted by the authority of the federal agency permitting the use or modification of state trust resources.

(2) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal lands and waters adjacent to or affecting state trust resources, all federal agencies acting in their proprietary capacity, to the extent permitted by federal law, shall be governed by this article and Section 10005 and 21089 of the Public Resources Code, unless the payment of state filing and permit fees is explicitly preempted by the authority of a particular federal agency.

(b) If a court of competent jurisdiction finds that any provision of this section or the application thereof to any federal agency, person, or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(Added by Stats.1990, Ch. 1706.)

CHAPTER 6. FISH AND WILDLIFE PROTECTION AND CONSERVATION

1601. (a) Except as provided in this section, general plans sufficient to indicate the nature of a project for construction by, or on behalf of, any state or local governmental agency or any public utility shall be submitted to the department if the project will (1) divert, obstruct, or change the natural flow or the bed, channel, or bank of any river, stream, or lake designated by the department in which there is at any time an existing fish or wildlife resource or from which these resources derive benefit, (2) use material from the streambeds designated by the department, or (3) result in the disposal or deposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into any river, stream, or lake designated by the department. If an existing fish or wildlife resource may be substantially adversely affected by that construction, the department shall notify the governmental agency or public utility of the existence of the fish or wildlife resource together with a description thereof and shall propose reasonable modifications in the proposed construction that will allow for the protection and continuance of the fish or wildlife resource, including procedures to review the operation of those protective measures. The department's description of an existing fish or wildlife resource shall be specific and detailed and the department shall make available upon request the information upon which its conclusion is based that the resource may be substantially adversely affected. The proposals shall be submitted within 30 days from the date of receipt of the plans, except that the time period may be extended by mutual agreement. Upon a determination by the department and after notice to the affected parties of the necessity for an onsite investigation or upon the request for an onsite investigation by the affected parties, the department shall make an onsite investigation of the proposed construction and shall make the investigation before it proposes any modifications.

(b) (1) Within 14 days from the date of receipt of the department's proposals, the affected agency or public utility shall notify the department in writing whether the proposals are acceptable, except that the time period may be extended by mutual agreement. If the department's proposals are not acceptable to the affected agency or public utility, the agency or public utility shall so notify the department. Upon request, the department shall meet with the affected agency or public utility within seven days of receipt of the notification, or at a time mutually agreed upon, for the purpose of developing proposals that are acceptable to the department and the affected agency or public utility.

(2) If mutual agreement is not reached at the meeting held pursuant to paragraph (1), a panel of arbitrators shall be established. The panel of arbitrators shall be established within seven days from the date of the meeting, or at a time mutually agreed upon, and shall be composed of one representative of the department, one representative of the affected agency or public utility, and a third person mutually agreed upon or, if no agreement can be reached, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall act as chair of the panel. The panel

may settle disagreements and make binding decisions regarding the fish and wildlife modifications. The arbitration shall be completed within 14 days from the date that the composition of the panel is established, unless the time is extended by mutual agreement. The expenses of the department representative shall be paid by the department; the expenses of the representative of the governmental agency or the public utility shall be paid by the governmental agency or the public utility; and the expenses of the chair of the panel shall be paid one-half by each party.

(c) A governmental agency or public utility proposing a project subject to this section shall not commence operations on that project until the department has found that the project will not substantially adversely affect an existing fish or wildlife resource or until the department's proposals, or the decisions of a panel of arbitrators, have been incorporated into the project. The department shall not condition the streambed alteration agreement on a project subject to this section on the receipt of another state or federal permit.

(d) The department shall determine and specify types of work, methods of performance, or remedial measures that are exempt from this section.

(e) With regard to any project that involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to, and agreement with, the department is not required subsequent to the initial notification and agreement, unless the work as described in the agreement is substantially changed or conditions affecting fish and wildlife resources substantially change, and the resources are adversely affected by the activity conducted under the agreement. This subdivision applies in any instance where notice to, and agreement with, the department has been attained prior to January 1, 1977.

(f) (1) Except as provided in paragraph (2), this section does not apply to any of the following projects:

(A) Immediate emergency work necessary to protect life or property.

(B) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(C) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This subparagraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(2) The agency or public utility performing the project shall notify the department within 14 days from the date of commencement of a project exempted by this subdivision.

(3) For purposes of this subdivision, "emergency" means an emergency, as defined in Section 21060.3 of the Public Resources Code.

(g) The department may enter into agreements with applicants for a term of not more than five years for the performance of operations on projects subject to this section. The terms of the agreement may be renegotiated at any time by mutual consent of the parties. Each agreement shall be renewed automatically by the department at the expiration of its term unless the department determines that there has been a substantial change in conditions. If there is a disagreement between the department and the applicant as to whether there has been a substantial change in conditions, the department and the applicant shall proceed to arbitration pursuant to subdivision (b). The department may charge a fee when the agreement is entered into and for each renewal, but may not charge an annual fee for this purpose.

(Added by Stats.1976, Ch. 603; Amended by Stats. 1992, Ch. 646; Amended by Stats.1996, Ch. 825; Amended by Stats. 1998, Ch.9)

1601.5. (Repealed by Stats.1976, Ch. 603.)

1602. In addition to the provisions of Section 1601, the department, following submission of the modifications referred to in Section 1601, shall by mutual agreement with any state agency proposing such project, establish such procedures that the parties deem necessary to provide adequate review of the proposed modifications and consideration of alternative conditions designed to protect existing fish and wildlife resources. If no agreement can be reached between the department and the state agency proposing the project, the procedures for arbitration specified in Section 1601 shall then apply.

(Added by Stats.1976, Ch. 603.)

1603. (a) It is unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds, without first notifying the department of that activity, except when the department has been notified pursuant to Section 1601. The department, within 30 days from the date of receipt of that notice, or within the time determined by mutual written agreement, shall, when an existing fish or wildlife resource may be substantially adversely affected by that activity, notify the person of the existence of that fish or wildlife resource together with a description of the fish or wildlife, and shall submit to the person its proposals as to measures necessary to protect fish and wildlife. Upon a determination by the department of the necessity for onsite investigation or upon the request for an onsite investigation by the affected parties, the department shall notify the affected parties that it shall make an onsite investigation of the activity and shall make that investigation before it proposes any measure necessary to protect the fish and wildlife. The department's



description of an existing fish or wildlife resource shall be specific and detailed and the department shall make available upon request the information upon which its conclusion is based that the resource may be substantially adversely affected.

(b) (1) Within 14 days from the date of receipt of the department's proposals, the affected person shall notify the department in writing whether the proposals are acceptable, except that the time period may be extended by mutual agreement. If the department's proposals are not acceptable to the affected person, the person shall so notify the department. Upon request, the department shall meet with the affected person within seven days from the date of receipt of that notification or by a date that may be mutually agreed upon for the purpose of developing proposals that are acceptable to the department and the affected person.

(2) If mutual agreement is not reached at the meeting held pursuant to paragraph (1), a panel of arbitrators shall be established. However, appointment of the panel may be deferred by mutual consent of the parties. The panel shall be established within seven days from the date of that meeting and shall be composed of one representative of the department, one representative of the affected person, and a third person mutually agreed upon or, if no agreement can be reached, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall act as panel chair. The panel may settle disagreements and make binding decisions regarding fish and wildlife modifications. The arbitration shall be completed within 14 days from the date that the composition of the panel is established, unless the time period is extended by mutual agreement. The expenses of the department representative shall be borne by the department; the expenses of the representative of the person who diverts or obstructs the natural flow, or changes the bed, of any river, stream, or lake, or uses any material from the streambeds shall be borne by that person; and the expenses of the chair of the panel shall be paid one-half by each party.

(c) It is unlawful for any person to commence any activity affected by this section until the department has found that it will not substantially adversely affect an existing fish or wildlife resource or until the department's proposals, or the decisions of a panel of arbitrators, have been incorporated into the activity. If the department fails to act within 30 days from the date of the receipt of the notice, the person may commence the activity. The department shall not condition the streambed alteration agreement on the receipt of another state or federal permit.

(d) It is unlawful for any person to engage in an activity affected by this section, unless the activity is conducted in accordance with the department's proposals or the decisions of the panel of arbitrators.

(e) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required subsequent to the initial notification and agreement unless the work as described in the agreement is substantially changed or conditions affecting fish and wildlife resources substantially change and those resources are adversely affected by the activity conducted under the agreement. This subdivision applies in any instance where notice to, and agreement with, the department has been attained prior to January 1, 1977.

(f) (1) Except as provided in paragraph (2), this section does not apply to any of the following projects:

(A) Immediate emergency work necessary to protect life or property.

(B) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(C) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This subparagraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(2) The person performing the project shall notify the department within 14 days from the date of commencement of a project exempted by this subdivision.

(3) For purposes of this subdivision, "emergency" means an emergency, as defined in Section 21060.3 of the Public Resources Code.

(g) The department may enter into agreements with applicants for a term of not more than five years for the performance of activities subject to this section. The terms of the agreement may be renegotiated at any time by mutual consent of the parties. Each agreement shall be renewed automatically by the department at the expiration of its term unless the department determines that there has been a substantial change in conditions. If there is a disagreement between the department and the applicant as to whether there has been a substantial change in conditions, the department and the applicant shall proceed to arbitration pursuant to subdivision (b). The department may charge a fee when the agreement is entered into and for each renewal, but may not charge an annual fee for this purpose.

(Added by Stats. 1976, Ch. 603; Amended by Stats. 1996, Ch. 825; Amended by Stats. 1998, Ch. 3)

1603.1. (a) Every person who violates Section 1603 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, whether the effects of the



violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(e) In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(1) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(2) The remedy at law is inadequate. The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in this paragraph or paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of any legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

(Added by Stats. 1991, Ch. 844)

1603.3. The department shall provide all applicants for an agreement pursuant to Section 1601 or 1603 with a cover letter which sets forth all of the following information:

(a) The time period for review of the application.

(b) An explanation of the applicant's right to object to conditions proposed by the department.

(c) The time period within which objections may be made in writing by the applicant to the department.

(d) The time period within which the department is required to respond to the applicant's objections, and that the response must be in writing.

(e) An explanation of the right of the applicant to appeal the department's imposition of conditions for the agreement, including the right to arbitration.

(f) The procedures for arbitration and the timelines set forth in statute for using the arbitration procedure, including, but not limited to, information about the payment requirements for the arbitrator's fees.

(g) The current fee schedule for obtaining the agreement, including, but not limited to, an explanation of how the fees are calculated.

(Added by Stats.1996, Ch. 11.)

1603.5. The department may enter into an agreement with any person, state or local governmental agency, or any public utility, for projects in the Napa River watershed in accordance with a watershed management plan developed by the Napa Resource Conservation District. Notice to, and agreement with, the department is not required for a project subsequent to the initial agreement pursuant to this subdivision, unless the work as described in the agreement is substantially changed, or conditions affecting fish and wildlife resources substantially change, and those resources are adversely affected by the activity conducted under the agreement.

(Added by Stats.1996, Ch. 166.)

DIVISION 6. FISH

CHAPTER 3. DAMS, CONDUITS, AND STREAMS

Article 2. Dams and Obstructions

5937. The owner of any dam shall 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. During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass 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, when, in the judgment of the department, it is impracticable or detrimental to the owner to pass the water through the fishway.

(Added by Stats.1957, Ch. 456.)

5943. (a) The owner of a dam shall accord to the public for the purpose of fishing, the right of access to the waters impounded by the dam during the open season for the taking of fish in the stream or river, subject to the regulations of the commission.

(b) Subdivision (a) does not apply to any impoundment of water by a dam that is wholly located on privately owned land that is primarily agricultural or residential in nature if the impounded waters are from a stream or river that is not naturally frequented by fish and if the dam does not prevent the free passage of fish over or around the dam. The Legislature finds and declares that this subdivision is intended to be declaratory of existing law.

(Amended by Stats.1996, Ch. 273.)

5946. The provisions of Section 5938 shall not be applicable to dams constructed in District 4-1/2 after September 9, 1953.

No permit or license to appropriate water in District 4-1/2 shall be issued by the State Water Rights Board after September 9, 1953, unless conditioned upon full compliance with Section 5937. Plans and specifications for any such dam shall not be approved by the Department of Water Resources unless adequate provision is made for full compliance with Section 5937.

(Added by Stats.1957, Ch. 456; Amended by Stats.1957, Ch. 1932.)

5947. It unlawful for the owner of a dam in District 4-1/2 to release water from the dam, or any facilities for the generation of hydroelectric energy operated in connection therewith, in varying flows in such a manner as to destroy fish life below such release.

(Added by Stats.1957, Ch. 456.)

5948. No person shall cause or having caused, permit to exist any log jam or debris accumulation or any other artificial barrier, except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations, in any stream in this State, which will prevent the passing of fish up and down stream or which is deleterious to fish as determined by the commission, subject to review by the courts.

(Added by Stats.1957, Ch. 456; Amended by Stats.1957, Ch. 2039.)

