

**STATE WATER RESOURCES CONTROL BOARD
BOARD WORKSHOP – DIVISION OF WATER RIGHTS
SEPTEMBER 8, 2004**

ITEM: 7

SUBJECT:

CONSIDERATION OF PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE STATE WATER RESOURCES CONTROL BOARD'S WATER RIGHT AND WATER QUALITY CERTIFICATION FEE SCHEDULES IN TITLE 23, DIVISION 3, OF THE CALIFORNIA CODE OF REGULATIONS

DISCUSSION:

In Fiscal Year (FY) 2004-05, the Budget Act requires the State's water rights program administered by the State Water Resources Control Board (SWRCB), including the water rights fee collection efforts of the State Board of Equalization, to be supported by fee revenues amounting to \$9.692 million. The Water Code requires the SWRCB to annually adopt emergency regulations revising and establishing fees to be deposited in the Water Rights Fund in the State Treasury. The emergency regulations may include provisions concerning the administration and collection of the fees.

The SWRCB must annually set a fee schedule that will generate revenues to the Water Rights Fund consistent with the Budget Act for the fiscal year. The SWRCB may adjust the fees set each year to account for over- or under-collections the previous year. Fees may be assessed for actions specified in the Water Code and may be expended to support regulatory activities specified in the Water Code.

In FY 2003-04, the SWRCB collected \$7.4 million in water right fees and water quality certification fees associated with water right actions. This is \$2.8 million in excess of the SWRCB's \$4.6 million¹ allocation from the Water Rights Fund specified in the Budget Act of 2003. The FY 2004-05 budget assumes that the Water Right Fund will have a balance of \$891,000 at the end of the fiscal year.

The SWRCB's budget allocation of \$9.692 million from the Water Rights Fund includes \$1.5 million that is intended to fund work described in pending Senate Bill (SB) 1116 and Assembly Bill (AB) 2121. At the time this fact sheet was prepared, it was uncertain whether those bills would be enacted. Therefore, the Division of Water Rights assumed

¹ Last year's fee calculations were based on a fee revenue budget of \$4.4 million, the amount specified in the Governor's proposed budget. However, the final budget provided a \$4.6 million allocation from the Water Rights Fund.

for the purposes of calculating the fees that the budget target for FY 2004-05 was \$6.3 million. Assuming a non-collection rate of 15 percent, the total amount to be billed is \$7.4 million. If either SB 1116 or AB 2121 is enacted without a viable source of funding, it may be necessary for the SWRCB to collect the additional \$1.5 million provided in the budget for these activities.

The proposed regulations would set fees for water right and water quality certification programs to collect fee revenues to cover the cost of these programs. If the proposed fee schedule is adopted by the SWRCB, the general result will be to: (1) increase filing fees for applications that allow diversions of greater than 10 and less than 40,000 acre-feet per year (afa), (2) increase annual fees for permits and licenses that allow diversions greater than 10 and less than 20,000 afa, (3) decrease annual fees for permits and licenses that allow diversions of more than 20,000 afa, (4) increase some petition fees, and (5) increase annual water quality certification fees for water diversion projects. Fees for roughly half of the current fee payers will remain unchanged from last year. The water right and water quality certification fee regulations and schedules will be contained in division 3 of title 23 of the California Code of Regulations.

POLICY:

Should the SWRCB adopt the proposed resolution?

FISCAL IMPACT:

The Budget Act for FY 2004-05 requires the water right program to be supported by fee revenues amounting to \$9.692 million, including \$1.5 million for work associated with pending legislation. The proposed fee schedule is anticipated to result in collections of \$6.4 million provided that certain assumptions hold true.

RWQCB IMPACT:

None.

STAFF RECOMMENDATION:

Staff recommends that the SWRCB adopt the proposed resolution.