

## WALNUT VALLEY WATER DISTRICT



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June 17, 2016

Ms. Jeanine Townsend, Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Sent Via Email to: [DAS-DrinkingWaterFees@waterboards.ca.gov](mailto:DAS-DrinkingWaterFees@waterboards.ca.gov)

Re: *Comments regarding SWRCB Draft Drinking Water Fee Regulations*

Dear Ms. Townsend:

The Walnut Valley Water District (District) appreciates the opportunity to comment on the State Water Resources Control Board's ("SWRCB") draft Drinking Water Fee Regulations released for public comment on April 29, 2016 ("Draft Fee Regulations"). By way of background, the District serves approximately 27,000 service connections in eastern Los Angeles County.

Under SB 83 (2015), effective July 1, 2016, "Each public water system shall submit an annual fee according to a fee schedule established by the [SWRCB]... for the purpose of reimbursing the [SWRCB] for the costs incurred by the [SWRCB] for conducting activities mandated under the SDWA."<sup>1</sup>

The proposed range of fees that the District could pay is under discussion and varies in different alternative scenarios from \$36,088 to \$59,595 annually, while our average fees for the past six fiscal years has been around \$17,000. *This proposed fee structure represents a 112% to a 251% annual increase to residents and businesses in our service area!*

Under the Draft Fee Regulations beginning in Fiscal Year 2016-17, these fees will be assessed on a per-connection basis, with two tiers of per-connection fees depending on system size. The Draft Fee Regulations' stated goal is to recover sufficient funding to support the Drinking Water Program's increased budget authorization amount for Fiscal Year 2016-17 and create a more stable and consistent source of funding for the Program. In contrast, under the current fee schedule, Community Water Systems with more than 1,000 connections are charged a fee that is calculated based on the number of hours of service that the system requires from the Drinking Water Program ("fee-for-service"), while systems with 1,000 or fewer connections pay a fee set at \$6 per service connection, with a minimum fee of \$250.

Since large water systems typically require less assistance from the program on a connection basis—and State Water Board has indicated it will devote more time to smaller systems that experience more problems—we maintain that the revised fee structure should reflect this difference. At the same time, the structure must be fair to small- and medium-size water systems.

<sup>1</sup> Health & Safety Code § 116565. (*Operative July 1, 2016.*)

We support the Drinking Water Program being adequately funded. We are concerned that the Draft Fee Regulations do not equitably allocate Drinking Water Program costs as they would impose dramatic fee increases on many Large Water Systems while decreasing fees for all Small Water Systems to levels substantially less than that those previously established by the Legislature.<sup>2</sup> In addition, the new fee structure imposes potentially significant fees on water wholesalers. As is typical in any distribution structure, those wholesalers pass those fees onto their customers. Thus, in our case, our regional water supplier, the Metropolitan Water District of Southern California (“MWD”), will be paying Drinking Water Program fees, as will our local wholesaler, Three Valleys Municipal Water District (“TVMWD”). Thus, we will be paying not only our own system’s fees, but also portions of the fees paid by MWD and TVMWD – resulting in our district essentially being triple-charged for those fees.

Also, under the California Constitution (i.e., Proposition 26), State regulatory fees are required to bear a “fair or reasonable relationship” to the fee payor’s burdens on, or benefits received from, the governmental activity.<sup>3</sup> The SWRCB Proposed Fee Regulations’ dramatic increases on many Large Water Systems’ fees and significant reductions for all Small Water Systems’ fees are not fairly or reasonably related to the Large Systems’ burdens placed on the Drinking Water Program, or the benefits those systems will receive from the Program. Thus, those increased fees likely constitute violations of those applicable constitutional limitations.

We would support a fee structure that ensures:

- All water systems receive an appropriate level of service in a timely fashion;
- A fee structure that acknowledges economies of scale for large systems and wholesale providers investment in water quality and internal compliance;
- A fee structure should not effectively “double charge” for wholesale and retail systems;
- A transparent and accountable structure and one that provides for an accounting of SWRCB staff time and resource allocations; and,
- “Fee payer equity.”

The Walnut Valley Water District appreciates the SWRCB’s willingness to engage public water system representatives on this important issue. We encourage the SWRCB to modify the Draft Fee Regulations consistent with fairness and equity.

If you have any questions regarding this matter, please contact me at [mholmes@wvwd.com](mailto:mholmes@wvwd.com) or (909) 595-1268.

Sincerely,

*Walnut Valley Water District*



Michael Holmes  
General Manager

cc: WVWD Board of Directors

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<sup>2</sup> For purposes of this comment letter, “Large Water Systems” are defined as Community Water Systems serving more than 1,000 connections and “Small Water Systems” are defined as Community Water Systems serving 1,000 or fewer connections.

<sup>3</sup> Cal. Const. art XIII. A., § 3.