

**STATE WATER RESOURCES CONTROL BOARD MEETING
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 19, 2012**

ITEM 12

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064 AND 1068 OF THE CALIFORNIA CODE OF REGULATIONS.

DISCUSSION

Water Code section 1525 requires the State Water Resources Control Board (State Water Board) to adopt, by emergency regulations, a schedule of fees to recover the costs incurred in connection with the State Water Board's Water Rights Program. Water Code section 1525 further requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act. Water Code section 1551 requires that all water rights fee revenue be deposited in the Water Rights Fund (WRF). Similar provisions in Water Code section 13160.1 govern water quality certification fees. The current fee schedules were adopted on September 19, 2011.

Financial Condition of the Water Rights Fund

[Attachment 1](#) shows an analysis of the fund condition for the WRF. The beginning balance for Fiscal Year (FY) 2011-12 was \$5.6 million. Total estimated revenue is approximately \$15.7 million, including \$51,000 in other revenue and repayment from the General Fund to the WRF of \$926,000 for a loan authorized by the FY 2010-11 State Budget. Total expenditures are approximately \$15.7 million, resulting in a \$58,000 decrease with an ending balance of \$5.6 million.

The projected beginning balance for FY 2012-13 is \$5.6 million. Under the current fee schedule rates, total revenue is estimated to be \$15.5 million. Total expenditures, including approximately \$500,000 in projected salary savings are anticipated to be \$16.4 million, resulting in a \$915,000 decrease with an ending balance of \$4.7 million.

Proposed Changes for FY 2012-13

- (1) The State Water Board, in compliance with Water Code section 1229(c), established general conditions for registration of small irrigation use facilities. The State Water Board will begin accepting applications for Small Irrigation Registrations once filing fees are adopted. State Water Board staff anticipates the costs associated with managing the program will be similar to the Livestock Stock pond and Domestic Registration programs. State Water Board staff proposes to add a one-time \$250 filing fee for a Small Irrigation Registration and a \$100 5-year renewal fee. In addition, State Water Board staff proposes to add a one-time \$250 filing fee for a petition to change a point of diversion or place of use for a Small Irrigation Registration.

- (2) State Water Board staff also proposes the annual adjustment to the caps on application and petition filing fees based on changes in the consumer price index.

POLICY ISSUE

Should the State Water Board approve a resolution to adopt emergency regulations to change the current water right fee schedules as proposed by staff?

FISCAL IMPACT

- (1) **Add a registration filing, renewal and petition fee for Small Irrigation Registrations:** In compliance with Water Code section 1229(c), the Division established conditions for registration of small irrigation use facilities. The changes will:
- Add a one-time registration filing fee of \$250 and a 5-year renewal fee of \$100 to cover the costs of managing the program.
 - Add a one-time filing fee of \$250 to petition to change a point of diversion or place of use for a Small Irrigation Registration.
- (2) **Adjust the caps on application and petition filing fees based on the consumer price index:** Currently, the caps for application and petition filing fees are set at \$460,821 for applications and for change petitions involving water transfers, and \$5,782 for most other change petitions. The adjustment will:
- Increase the current cap of \$460,821 by the increase in the consumer price index of 2.6% to \$472,248.
 - Increase the current cap of \$5,782 by the increase in the consumer price index of 2.6% to \$5,932.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

State Water Board staff recommends that the State Water Board approves the resolution to adopt emergency regulations to change the current water right fee schedules as proposed by staff.

State Water Board action on this item will assist the Water Boards in reaching Goals 3 and 5 of the Strategic Plan Update: 2008-2012 to increase sustainable local water supplies available and ensure adequate water flows for fish and wildlife habitat, and to improve transparency and accountability.

D R A F T

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHT FEE
SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5,
SECTIONS 1062, 1064 AND 1068 OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. The Water Code requires the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Rights Fund in the State Treasury. (Wat. Code, §§ 1525, 1530, 1551, 13160.1.) The emergency regulations must be adopted to implement the fee revenue requirement in the Budget Act. The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a [fee schedule](#) that will generate revenues to support expenditures in the amount the Budget Act sets for specified regulatory activities.
4. The Budget Act delegates to the Department of Finance the authority to make specified adjustments to the amounts specified in the Budget Act. The State Water Board has taken into account the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with the Budget Act, that are required to support the water right program.
5. State Water Board staff prepared recommended revisions to the State Water Board's water right regulations to implement the Water Code and the provisions of the Budget Act.
6. The water right fee regulations and schedules will be contained in title 23, division 3, chapter 5, sections 1062, 1064 and 1068 of the California Code of Regulations.
7. These [emergency regulations](#) will take effect upon filing with the Secretary of State.

D R A F T

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts emergency regulations revising title 23, division 3, chapter 5, sections 1062, 1064 and 1068 of the California Code of Regulations as recommended by staff to implement the Water Code and provisions of the Budget Act of 2012.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on September 19, 2012.

Jeanine Townsend
Clerk to the Board