

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 22, 2021**

ITEM 19

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, SECTIONS 1062, 1063, 1064, 1066, 1068, 1071 AND 3833.1 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 regulation, 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 amounts appropriated by the Legislature. 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 15, 2020.

Financial Condition of the Water Rights Fund

Total budgetary expenditures for FY 2021-22 are \$31.6 million. A prudent fund reserve of approximately 5-10 percent is typically targeted in order to absorb economic uncertainty and other contingencies. To cover expenditures and ensure a 5 percent reserve for FY 2021-22, staff is projecting an approximate 9.6 percent fee increase would be required for all WRF fee payers for revenue to match expenditures.

Proposed Changes

For FY 2021-22, staff proposes to increase the annual per acre-foot charge for Permits & Licenses, and Pending Applications, from \$0.090 to \$0.099 per each acre-foot greater than 10 acre-feet, with no change in the base fee. Staff also propose to increase annual fees for Clean Water Act section 401 Certifications for Federal Energy Regulatory Commission (FERC) projects undergoing licensing from \$0.610 to \$0.669 per kilowatt, and increase annual fees for FERC projects already licensed from \$0.300 to \$0.329 per kilowatt.

Staff is also proposing to implement a filing fee of \$4,000 for any person who, after having submitted a cannabis small irrigation use registration, files a report intended to support a claim that their diversion is from a Fully-Contained Spring.

Staff proposes to increase the caps on fees for water right applications and change petitions involving a transfer of water pursuant to Water Code section 382, 1435, 1062, 1064, 1701, 1725, or 1735 fees by 1.67 percent based on the California Consumer Price Index, increasing from \$570,426 to \$579,952.

Finally, staff propose to modify the base fee applicable to the hydropower discount contained in section 1071 to ensure that the minimum fee is consistent with the otherwise applicable base fee.

POLICY ISSUE

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

FISCAL IMPACT

The FY 2021-22 Budget Act includes expenditure authority for the WRF of \$30.6 million. The proposed fee schedule changes will ensure the projected revenue for the WRF when added to the projected fund balance from FY 2020-21 meets the FY 2021-22 budget expenditures and maintains a prudent fund reserve of approximately 5 percent.

REGIONAL BOARD IMPACT

No.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt an emergency regulation to change the current water right fee schedules as proposed by staff.