

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF ADMINISTRATIVE SERVICES  
SEPTEMBER 18, 2024**

**ITEM 6**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, SECTIONS 1042, 1044, 1062, 1063, 1064, 1066, 1068, AND 3833 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 certain water quality certification fees, and section 1529.5 governs fees related to certain work for implementation the Sustainable Groundwater Management Act (SGMA). The current fee schedules were adopted on September 19, 2023, with the exception of the SGMA fees, which were most recently amended on March 19, 2024.

**Financial Condition of the Water Rights Fund**

Attachment 1 shows an analysis of the WRF condition. The beginning balance for FY 2023-24 was \$5.9 million. Total estimated revenue is approximately \$33.4 million and total expenditures are approximately \$34.0 million, resulting in a \$639,000 decrease in the fund with an ending balance of \$5.2 million and a fund reserve of 15.8 percent.

Total budgetary expenditures for FY 2024-25 are \$38.8 million. To cover expenditures for FY 2024-25, staff is proposing to adjust fees to generate an additional \$3.03 million and utilizing the fund reserve to support a portion of the expenditures. A prudent fund reserve of approximately 10 percent is typically targeted in order to absorb economic uncertainty and other contingencies. However, with the increased costs this year the State Water Board is utilizing the fund reserve to cover a portion of the expenditures, resulting in drawing the fund reserve to 5.8 percent with the expectation to build it back to 10 percent in the coming years.

## Proposed Changes

For FY 2024-25, staff is proposing a change to clarify the qualifications to be exempt from SGMA fees as a “low-income resident,” with the same change proposed for reduced small domestic use registration fees, and proposing a change to clarify how the requirement in the SGMA regulations that measuring devices be calibrated at the time they are installed can be met.

Staff are also proposing to raise the per-acre foot component of the annual fees for water right applications, permits and licenses from \$0.109 to \$0.120 per each acre-foot greater than 10 acre-feet; to raise the base annual fee for permits and licenses from \$300 to \$350; and 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, 1701, 1725, or 1735 fees by 3.94 percent based on the California Consumer Price Index, from \$648,914 to \$674,481.

Additionally, staff is proposing the following fee regulation changes:

- Applications [Citation: §1062(a)(1)(A)]

Current: \$1,000 plus \$15 per each acre-foot greater than 10 acre-feet based on the total annual amount of diversion sought by the application or \$648,914, whichever is less.

Proposed: The applicant shall pay the following fee based on the total annual amount of diversion sought by the application:

Table 1

<b>Acre-foot Requested</b>	<b>Tier</b>	<b>Fee</b>
Under 10	1	\$5,000
10 to <200	2	\$40,000
200 to <1K	3	\$43,000
1K to <5K	4	\$55,000
5K to <10K	5	\$117,000
10K to <15K	6	\$192,000
15K to <20K	7	\$266,000
20K to <25K	8	\$341,000
25K to <30K	9	\$415,000
30K to <35K	10	\$489,000
35K to <40K	11	\$564,000
40K to <200K	12	\$649,000
≥200K	13	\$811,000

Project Complexity Surcharge: A complexity surcharge of an additional 20 percent per application (120 percent of the tier amount shown in Table 1 above) shall be included for:

- Applications proposing to divert from a location(s) within the watershed of the Sacramento-San Joaquin Bay Delta.
  - Applications proposing to divert by means of an onstream dam(s) located within the geographic area covered by the Policy for Maintaining Instream Flows in Northern California Coastal Streams.
- Application for Small Hydroelectric [Citation: §1062(a)(1)(B)]  
Current: \$1,000  
Proposed:
    - Under 10 acre-feet: fee equal to Tier 1 of Table 1, plus any Project Complexity Surcharge.
    - 10 acre-feet or more: fee equal to Tier 2 of Table 1, plus any Project Complexity Surcharge.
  - Application for 180-day Temporary Permit Filed Pursuant to Water Code section 1425 Other Than for Diversion to Underground Storage During High Flow Events [Citation: §1062(a)(1)(C)]  
Current: \$2,000 or 50 percent of the fee calculated under section 1062(a)(1)(A), whichever is greater.  
Proposed: 50 percent of the fee from Table 1, plus any Project Complexity Surcharge.
  - Application for 180-day Temporary Permit for Small Hydroelectric That Meet Criteria in California Code of Regulations, title 14, section 15328 [Citation: §1062(a)(1)(D)]  
Current: \$1,000  
Proposed:
    - Under 10 acre-feet: 50 percent of fee from Tier 1 of Table 1, plus any Project Complexity Surcharge.
    - 10 acre-feet or more: 50 percent of fee from Tier 2 of Table 1, plus any Project Complexity Surcharge.
  - Application for 180-day Temporary Permit Filed Pursuant to Water Code section 1425 to Divert to Underground Storage During High Flow Events [Citation: §1062(a)(1)(E)]  
Current: The lesser of the standard Temporary Permit fee or \$5,000 plus \$0.10 for every acre-foot of diversion sought by the application.

Proposed:

When submitted a minimum of 120 days prior to requested commencement of diversion	35 percent of the fee from Table 1, plus any Project Complexity Surcharge.
When submitted less than 120 days prior to requested commencement of diversion	50 percent of the fee from Table 1, plus any Project Complexity Surcharge.

Eliminate separate fee structure for renewals.

- Application for 5-year Temporary Permit Filed Pursuant to Water Code section 1433 to Divert to Underground Storage

Current: \$6,000 plus [The lesser of the standard 180-day Temporary Permit fee or \$5,000 plus \$0.10 for every acre-foot of diversion sought by the application]

As an annual fee component of the filing fee for each Year 2 to 5: \$0.20 for every acre-foot of actual flows diverted under the renewed temporary permit, due within 30 days after the end of the diversion season

Proposed:

When submitted a minimum of 120 days prior to requested commencement of diversion	35 percent of the fee from Table 1, plus any Project Complexity Surcharge.
When submitted less than 120 days prior to requested commencement of diversion	50 percent of the fee from Table 1, plus any Project Complexity Surcharge.

- Change Petition to Split an Application, Permit or License [Citation: §1062(a)(1)(C); §1064(a)(1)(A)(iv)]

Current: \$850 for section 836 splits; section 1064(a)(1)(A) fee for all other splits

Proposed: \$850 for section 836 permit or license splits; section 1064(a)(1)(A) fee for all other splits except for pending applications

Proposed for Pending applications: Where the application initially requested annual diversions of 40,000 acre-feet or greater, the total application fee from Table 1, plus any Project Complexity Surcharge, for all separate applications generated by the proposed split less the amount of the original application fee that was paid.

- Petition to Revise Declaration of Fully Appropriate Streams Filed with Water Right Application [Citation: §1062(a)(2)]

Current: \$10,000 in addition to Application Fee

Proposed: \$100,000 in addition to Application Fee

- Petition for Assignment of a State-Filed Application Filed with Water Right Application [Citation: §1062(a)(3)]

Current: \$5,000 in addition to Application Fee

Proposed: \$20,000 in addition to Application Fee

- Request for Release from Priority of a State-Filed Application [Citation: §1064(a)(3)]

Current: \$5,000

Proposed:

Accompanying the filing of an application to appropriate water, an unnoticed application or pending application with active protests	\$20,000
When submitted for a pending application that has been noticed with no unresolved protests	\$5,000
For a single pending application that has been noticed with no unresolved protests, that simultaneously seeks release from two or more state-filed applications	\$10,000

- Registration Program Fees [Citation: 1064(a)(4); 1068 (e)]

Small Domestic/Livestock Stockpond

Current: \$500

Proposed: Amendment fee equal to the registration fee as specified in section 1068(a), which is currently \$250.

Small Irrigation

Current: \$750 for cannabis cultivation; \$100 for all other uses

Proposed: Registrants proposing to change a small irrigation appropriation for cannabis cultivation to another purpose of use shall continue paying the annual fee for a registration for cannabis cultivation until a request for a replacement water right has been filed and revocation has been requested by the registrant.

- Water Rights-Related Water Quality Certifications: Remove subdivision (b)(2) from the California Code of Regulations, title 23, section 3833 to make applicable fees more predictable. Section 2200 fees apply.

- Late Fees for Annual Reports: Assess a late fee for certain reports based on the size of the water right and degree of lateness. No late fee is being proposed for reports received within 30 days of the reporting deadline.

Size (acre-feet)	30-60 days late	61-90 days late	>90 days late
0-100	20 percent of annual fee	30 percent of annual fee	45 percent of annual fee
>100-1,000	30 percent of annual fee	40 percent of annual fee	55 percent of annual fee
>1,000-5,000	40 percent of annual fee	50 percent of annual fee	65 percent of annual fee
>5,000-25,000	50 percent of annual fee	60 percent of annual fee	75 percent of annual fee
>25,000	60 percent of annual fee	70 percent of annual fee	85 percent of annual 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 2024-25 Budget Act includes expenditure authority for the WRF of \$38.8 million. The proposed fee schedule changes will ensure the projected revenue for the WRF, when added to the projected fund balance from FY 2023-24, meets the FY 2024-25 budget expenditures and ensures a prudent fund reserve.

**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.

**Water Rights Fund  
Fund Condition (\$000)**

	<b>FY 22-23</b>	<b>FY 23-24 (Forecast)</b>	<b>FY 24-25 No Fee Changes (Forecast)</b>	<b>FY 24-25 With Fee Changes (Forecast)</b>
<b>BEGINNING BALANCE</b>	\$5,040	\$5,860	\$5,221	\$5,221
Prior year adjustments	\$360	\$0	\$0	\$0
<b>Adjusted Beginning Balance</b>	<b>\$5,400</b>	<b>\$5,860</b>	<b>\$5,221</b>	<b>\$5,221</b>
<b>Revenue</b>				
Regulatory Fees <sup>1</sup>	\$30,307	\$31,200	\$31,200	\$33,821
Cost Recovery <sup>2</sup>	\$29	\$1,000	\$1,000	\$1,000
SGMA Fees	\$0	\$750	\$750	\$750
Other Revenue <sup>3</sup>	\$369	\$441	\$203	\$203
<b>Total Revenue</b>	<b>\$30,705</b>	<b>\$33,391</b>	<b>\$33,153</b>	<b>\$35,774</b>
<b>Expenditures</b>				
Water Board State Operations <sup>4</sup>	\$27,235	\$29,000	\$33,871	\$33,871
Cost Recovery Expenditures <sup>2</sup>	\$29	\$1,000	\$1,000	\$1,000
SGMA	\$0	\$750	\$750	\$750
Other State Operations <sup>5</sup>	\$2,981	\$3,280	\$3,190	\$3,190
<b>Total Expenditures</b>	<b>\$30,245</b>	<b>\$34,030</b>	<b>\$38,811</b>	<b>\$38,811</b>
Surplus/(Deficit)	\$460	(\$639)	(\$5,658)	(\$3,037)
<b>ENDING BALANCE</b>	<b>\$5,860</b>	<b>\$5,221</b>	<b>(\$437)</b>	<b>\$2,184</b>
<b>Fund Reserve</b>	<b>19.4%</b>	<b>15.8%</b>	<b>-1.2%</b>	<b>5.8%</b>

<sup>1</sup> Forecasted revenue is based on estimated billing amounts for applications, annual fees for license/permit/pending applications and estimated revenue from petitions and one-time applications.

<sup>2</sup> Ongoing cost recovery for the California Environmental Quality Act (CEQA) Consultation.

<sup>3</sup> Includes miscellaneous services to the public, Surplus Money Investment Fund (SMIF) & Enforcement, and F&P revenue.

<sup>4</sup> \$29,000 is the FY23-24 projected Water Board state operation expenditures and the budgeted amount is \$32,467.

<sup>5</sup> Includes expenditures for CDTFA, CalEPA, Supplemental Pension and Pro Rata.