



Winston H. Hickox
Secretary for
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State Water Resources Control Board

Division of Water Rights

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Gray Davis
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NOTICE OF PUBLIC WORKSHOPS

Regarding Proposed Revisions to the State Water Resources Control Board's Fee Schedules for Water Right and Water Quality Certification Programs

NORTHERN CALIFORNIA

Monday, October 27, 2003 at 10:00 a.m.
**Joe Serna Jr./Cal-EPA Headquarters
Building
Central Valley Auditorium – Second Floor
1001 I Street, Sacramento**

SOUTHERN CALIFORNIA

Monday, November 3, 2003 at 10:30 a.m.
**Ontario Convention Center
2000 Convention Center Way, Room 203
Ontario**

SUBJECT OF THE WORKSHOPS

The State Water Resources Control Board (SWRCB) will hold two public workshops to receive comments on recommendations on a proposed water right and water quality certification fee. In Fiscal Year 2003-2004, the Budget Act requires the SWRCB's water right program to be supported by fee revenues totaling \$4.4 million. Senate Bill (SB) 1049 requires the SWRCB to adopt emergency regulations revising and establishing fees to be deposited in the Water Rights Fund.

WHO MAY BE AFFECTED

The proposal will affect applicants for water quality certification and persons who are regulated by or receive services from the SWRCB's Division of Water Rights (Division), including water right applicants, permittees, licensees, registrants, lessors, persons filing notices of extraction and diversion of water, persons filing a proof of claim, and projects subject to water quality certification. This proposal will also affect persons contracting with federal agencies or Indian tribes who are likely to decline to pay a fee based on a claim of sovereign immunity; in that case, the fee may be allocated among the contractors.

BACKGROUND

Historically, water right fees collected by the SWRCB have been deposited in the General Fund. These fees recovered only a small fraction of the SWRCB's water right program costs. The Budget Act of 2003 reduced the amount of General Fund support for the Division's programs by approximately fifty percent, and substituted funding from fees. SB 1049 directs the SWRCB to set a fee schedule that will generate revenues identified in the Budget Act. Accordingly, the SWRCB will collect fees for the 2003-2004 fiscal year, but the fees will support only half of the Division's program costs this fiscal year. The SWRCB will review and revise the fees each fiscal year as necessary to conform to the revenue levels set forth in the annual Budget Act. The Office of the Legislative Analyst has recommended that fee revenues support the entire water right program

beginning in Fiscal Year 2004-2005. If the Legislature adopts that recommendation, the SWRCB will have to adjust the fee schedule to generate the increased revenues.

The State Water Rights Board in the 1960s, prior to formation of the State Water Resources Control Board, was supported by approximately 55 technical and legal staff. These staffing levels increased slowly, so that by the 1980s, the program was staffed by 64 technical and legal staff. The Legislature increased the authorized staffing for the program during the 1990s until it reached a maximum of 129 staff in 2000. As a result of budget cuts over the past three years, the program has decreased to the current staffing level of 92 positions, which includes 70 technical and legal staff. The proposed fees are for support of the program as currently budgeted, and would not result in any increase from the current staffing level.

Under the proposed emergency regulations, the SWRCB will increase filing fees for applications, petitions, registrations, and other filings and will adopt annual fees for permits, licenses, water leases, and projects subject to water quality certification. Most fees will be deposited in the Water Rights Fund, which can be used to support all activities in the water right program. The SWRCB will collect all filing fees and the State Board of Equalization will bill and collect all annual fees and pursue collection of unpaid fees.

Enclosed is a synopsis of the proposed fees. The full text of the proposed emergency regulations and fee schedule can be viewed at www.waterrights.ca.gov. To receive a mailed or faxed copy of the regulations, please call (916) 341-5128.

PURPOSE OF WORKSHOPS

The purpose of the workshops is to receive comments on the proposed revisions to the water right and water quality certification fee schedules. The SWRCB will take the proposed revisions and the comments under advisement before deciding whether to adopt the proposed draft emergency regulations to revise the fee schedule. **The draft emergency regulations will be considered for adoption at a future SWRCB meeting.** SWRCB agendas are posted at <http://www.swrcb.ca.gov/wksmtgs/index.html>. You may also sign up to receive notices of SWRCB workshops and meetings by e-mail at <http://swrcb8.swrcb.ca.gov/lyrisswrcb/>.

PROCEDURAL MATTERS

These are informal workshops. There will be no sworn testimony or cross-examination of participants. The SWRCB and its staff may, however, ask clarifying questions.

Because of the short time frame, participants are encouraged to provide written comments as soon as possible, but no later than **close of business on Monday, November 3, 2003**. The SWRCB requests that written comments be sent to:

**Fee Revisions
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000**

The SWRCB requests that electronic copies of written comments be e-mailed to feechange@waterrights.swrcb.ca.gov with the subject line of "Fee Revisions."

Participants are encouraged to summarize their written comments in their oral presentations. Oral presentations will be limited to five minutes or less. Participants with similar comments are requested to make joint presentations.

LOCATIONS AND SECURITY

Maps for both locations can be found at <http://www.waterrights.swrcb.ca.gov/fees/maps> or can be obtained by calling the Division of Water Rights at (916) 341-5128.

Due to enhanced security precautions at the Cal-EPA Headquarters Building, all visitors are required to register with security prior to attending any meeting. Visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance, to sign in and receive a visitor's badge. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

ACCESSIBILITY

The Cal-EPA Headquarters Building second-floor hearing rooms and Ontario Convention Center second-floor conference room are accessible to persons with disabilities. Individuals who require special accommodations are requested to contact Adrian Perez at (916) 341-5880 at least five working days prior to the workshop date. TTY users may contact the California Relay service at 1-800-735-2929 or voice line at 1-800-735-2922.

IF YOU HAVE ANY QUESTIONS

Questions concerning this notice may be directed to the Division of Water Rights at (916) 341-5128. Questions may also be sent electronically to feechange@waterrights.swrcb.ca.gov with the subject line of "Question."



Debbie Irvin
Clerk to the Board

Enclosures

Date: October 14, 2003

Note: Audio broadcast of the Northern California workshop is available at:
<http://www.calepa.ca.gov/Broadcast/>

Synopsis of Proposed Emergency Regulations Setting Fee Schedules for the State Water Resources Control Board's Water Right and Water Quality Certification Programs

Background information is contained in the Workshop Notice.

Pursuant to Senate Bill 1049, the proposed emergency regulations include the following provisions:

Annual Fees

- Annual fees are based on each fiscal year (July 1 through June 30). Amounts contained in the Fee Schedule Summary are for Fiscal Year 2003-2004.
- Water right permit and license holders must pay an annual fee (see schedule) based on the total amount of water that can be diverted in any year under a permit or license. For direct diversion projects, the total annual amount is computed by multiplying the diversion rate by the length of the diversion season. If a permit or license specifies a maximum annual use limitation for that permit or license that is less than the calculated total annual amount, the fee is proposed to be based on the limitation.
- Fees for water right permits, licenses, applications and petitions with generation of power as the sole purpose of use and involving hydropower projects licensed by the Federal Energy Regulatory Commission (FERC) are set at 30 percent of the fee that would otherwise be due.
- A water right applicant must pay an annual fee in certain circumstances where the applicant's actions have resulted in a delay in processing the application or the project is initiated prior to the SWRCB issuing a permit authorizing the diversion.
- A person filing a petition to amend a permit or license or extend the development schedule specified in a permit must pay an annual fee in certain circumstances where the person's actions have resulted in a delay in processing the petition or when the person implements the change before the SWRCB approves the requested change.
- An applicant for water quality certification for FERC licensing must pay an annual fee based on the authorized or proposed installed generating capacity of the hydroelectric facility.

Filing Fees

- Filing fees are currently required for water right applications, petitions, small domestic and livestock stockpond registrations, proofs of claim filed in a statutory adjudication, and notices of extraction and diversion of water. These fees are proposed to be increased. New fees are proposed to be assessed for petitions for assignment of a State-filed application and requests for release of priority of a State-filed application. (See schedule.)
- A person who filed a water right application on or after July 1, 2003, and before January 1, 2004, must pay a supplemental filing fee in the amount of the difference between the filing fee already paid and the amount due under the emergency regulations.
- An applicant for water quality certification for an activity that does not involve a FERC-licensed project must pay an application fee. Where water quality certification is required for a project to divert water for irrigation, domestic use, or other beneficial use, the fee is based on the costs for that project. For other projects, the SWRCB's water quality fee schedule, adopted September 30, 2003, applies.

Fee Schedule Summary

Annual Fee Categories (Collected by State Board of Equalization)	
Fee Category	Proposed Fee
Permits & Licenses Annual Fees ^[1]	Greater of \$100 or \$0.03 per Acre-Foot per Annum
Pending Application Annual Fee ^[2]	Greater of \$100 or \$0.03 per Acre-Foot per Annum
Petition Annual Fee ^[3]	\$1,000
Water Lease Annual Fee (for leases under Water Code § 1020 et seq. involving water districts)	Greater of \$1,000 or \$10 per Acre-Foot
Projects under review for 401 Certification for FERC licensing	\$500 plus \$0.85 per Kilowatt
Projects issued FERC licenses pursuant to 401 certification	\$10 plus \$0.01 per Kilowatt

One-Time Fee Categories (Collected by SWRCB)	
Fee Category	Proposed Fee
Application ^[1]	Greater of \$1,000 or \$10 per Acre-Foot per Annum
Petition to Revise Declaration of Fully Appropriated Streams filed with Application	\$10,000 in addition to Application Fee
Petition for Assignment of a State Filed Application	\$5,000 in addition to Application Fee
Applications filed between July 1, 2003 & Effective Date of Regulations	Difference between Application Fee above and fees paid previously.
Change Petition	\$1,000
Change Petition Pursuant to Water Code §1707	\$850
Time Extension Petition	\$1,000
Wastewater Petitions	\$1,000
Request for Release of Priority (State Filing)	\$5,000 in addition to Application Fee
401 Certification for Water Development Projects not subject to FERC Licensing	Fee Based on Project Specific Costs
401 Certification for Projects not Involving Water Development	No Change, Based on Water Quality Fee Schedule Adopted 9/30/2003
Water Lease Application (for leases under Water Code § 1020 et seq. not involving water districts)	Greater of \$1,000 or \$10 per Acre-Foot Leased
Small Domestic and Stockpond Registration/ 5-year Renewal Fee	\$500
Proof of Claim under Water Code §2575 et seq.	\$500
Groundwater Recordation under Water Code §4999 et seq.	\$150

^[1] Total Acre-Foot per Annum will be considered equal to the diversion rate multiplied by the length of the direct diversion season, and the total collection amount for storage, unless otherwise specified. If the application includes both direct diversion and storage, the two amounts will be additive, unless a total annual amount is specified.

^[2] Due under specific circumstances such as: project is initiated prior to the SWRCB issuing a permit authorizing the diversion; applicant requests a delay in processing application; applicant is lead agency under California Environmental Quality Act (CEQA) and has not adopted or certified a final environmental document for the project within two years after the water right application is filed; applicant fails to provide requested supplemental information; or Division has determined that a permit may be issued but the applicant has failed to pay filing fees.

^[3] Due under specific circumstances such as: petitioner diverts water prior to the SWRCB approving the requested change; petitioner requests a delay in processing petition; petitioner is lead agency under CEQA and has not adopted or certified a final environmental document for the project within two years after the petition; or petitioner fails to provide requested supplemental information.