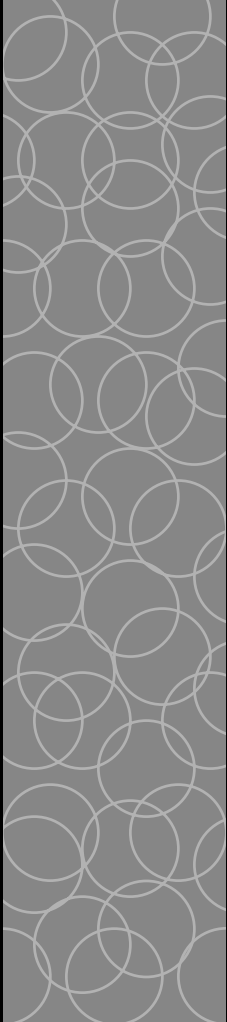




Proposed Water Right Fees

FY 2004-2005



Vicky Whitney, Chief
Division of Water Rights

Governor's Proposed Budget

(In \$1000s)

◆ BOE

– Water Rights Fund \$428

◆ SWRCB

– Public Resources Account: Cigarette
and tobacco products surtax fund \$ 407

– Federal Trust Fund 419

– Reimbursements 272

– Water Rights Fund 7,764

– Total \$8,862

◆ Reserve for economic uncertainty

– Water Rights Fund \$891

Budget Act of 2004 (SB 1113)

◆ SWRCB

– Public Resources Account: Cigarette and tobacco products surtax fund	\$ 407
– Federal Trust Fund	419
– Reimbursements	272
– <u>Water Rights Fund</u>	<u>9,264</u>
– Total	\$10,362

◆ Difference in Governor's Budget and Budget Act

- \$1.5M increased appropriation from the Water Rights Fund
- Work associated with pending AB 2121

Budget Act of 2004 (Cont.)

- ◆ Uncertainties generated by other budget changes delegated to DOF
 - Section 3.60:
 - ◆ Increased employer retirement rates
 - ◆ Authorized departmental budget increases consistent with higher costs
 - ◆ Per DOF Budget Letter 04-29: Deadline for Agency reporting to the DOF is October 4, 2004.
 - Section 4.10
 - ◆ Unallocated General Fund cuts

Assumptions for FY 2003-04 Fees

- ◆ Revenue target of \$4.4M
- ◆ Non-collection rate of 40%
- ◆ Must use existing database to calculate fees
- ◆ Had to be in place by Jan. 1, 2004 when General Funds were expended

Assumptions that are no longer valid

- ◆ Target Revenue in FY 2003-04 was \$4.6M not \$4.4M
- ◆ Collection rate was 65%, but collection amount was 90% of target
- ◆ Fee revenues should be received by October 1, 2004 when FY 2003-04 reserve is expended

Proposed Changes to Fee Regulations for FY 2004-05

- ◆ Fees for about 50 percent of fee payers are unchanged
- ◆ Decrease annual permit, license, and pending application fees
- ◆ Increase annual fees for water leases
- ◆ Increase annual fees those seeking and holding CWA § 401 certification for FERC-licensed hydropower projects

Proposed Changes (Cont.)

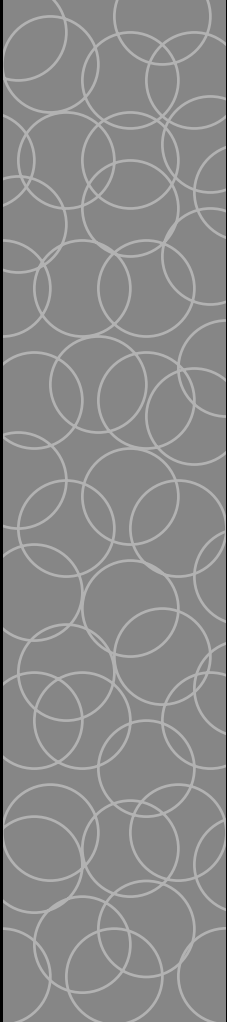
- ◆ Increase but cap application fees
- ◆ Impose non-refundable “review fee” for applications and petitions
- ◆ Eliminate supplemental application and petition fees except for those to which they already apply
- ◆ Increase but cap change petition fees for those who divert more than 10 acre-feet

Proposed Changes (Cont.)

- ◆ Impose a new petition fee on those who seek to change applications for more than 10 acre-feet if the applications were previously publicly noticed.
- ◆ Assess a minimum fee for transfers and increase the fees by \$2000 per transfer
- ◆ Increase filing fees for water leases



Proposed Changes (Cont.)

- 
- ◆ Clarify that previous owners are responsible for fees unless they comply with existing regulations which require them to notify the Board of ownership or address changes
 - ◆ Remove language, originally included at the request of the BOE, intended to clarify that any challenges to the amount of the fee would be determined by the SWRCB not the BOE

Proposed Changes (Cont.)

- ◆ Clarify that permittees/licensees may not maintain a fee challenge in court unless they first pay their fees
- ◆ When specifying which permit or license limitation may determine fees, change the words “annual use limitation” to “annual diversion limitation”

Alternatives Considered

- ◆ Increase filing fees by a greater amount
 - In FY 2004-05, application rates dropped by about 50 percent compared to the 10 year average
 - Half of the applications filed were the result of enforcement actions
 - Concerns that more significant increases would discourage voluntary compliance
- ◆ Reduce the fees for the smallest diverters
 - Costs associated with small diverters exceed the fees assessed

Alternatives Considered (Cont.)

- ◆ Reduce the fees assessed against USBR's contractors
 - Six different alternatives
 - Annual permit and license fees for others would have increased by an amount ranging from \$68 per fee payer to \$640 per fee payer

Annual Fee Calculation

- ◆ Annual Fees would be reduced from 3¢ per acre-foot to 2.5¢ per acre-foot
 - Based on the proposed budget of \$7.764M in funding from the Water Right Fund
 - Based on the specified Budget Reserve of \$891,000 at the end of FY 2004-05
 - Based on a non-collection rate of 15%
 - Results in an additional reserve of \$125,000


Other considerations

◆ AB 2121

- The Budget Act includes a transfer of funds from the Tidelands Oil Revenue Fund to Water Right Fund
 - ◆ Insufficient funds
 - ◆ Last in line
- Staff did not include the \$1.5M in its calculations



Recommendation

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- ◆ We recommend that the Board adopt the proposed resolution, which would approve the changes shown on the attached Amendments to Title 23 of the California Code of Regulations and summarized on the table titled “Fiscal Year 2004-2005 Fee Schedule Summary”