

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES  
OCTOBER 5, 2010**

**ITEM 4**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHT AND WATER QUALITY CERTIFICATION FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064, AND 1066 AND CHAPTER 28, ARTICLE 1, SECTION 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 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 15, 2009.

Financial Condition of the Water Rights Fund

[Attachment 1](#) shows an analysis of the fund condition for the WRF. The Fiscal Year (FY) 2009-10 beginning balance is \$5.5 million. Total estimated revenue is approximately \$7.7 million including \$262,000 in other revenue. Total expenditures were \$7.5 million, resulting in a \$245,000 gain with an ending balance of \$5.8 million.

The projected beginning balance for FY 2010-11 is \$5.8 million. Under the current fee schedule rates, total revenue is estimated to be \$11.2 million. As a result of a shift in General Fund to water rights fee authority and legislative mandates, including the approval of 25.0 enforcement positions in Senate Bill 8 in 2009, total expenditures are anticipated to be \$17.5 million, resulting in a \$6.3 million deficit and a negative ending balance of \$542,000.

Proposed Changes for FY 2010-11

The State Water Board proposes to: (1) increase annual permit and license fees by increasing the minimum annual fee from \$100 to \$150 and increasing the per acre-foot charge from \$0.03 to \$0.057 to conform with revenue levels in the Budget Act; (2) provide a one-time credit in the FY 2010-11 billing cycle in the amount of \$0.019 for each acre-foot by which the annual diversion authorized by the permit or license is greater than 10 acre-feet to adjust for higher than anticipated fund reserves; (3) increase the per kilowatt charge for licensed Federal Energy Regulatory Commission (FERC) projects from \$0.017 to \$0.125 and the per kilowatt charge for FERC projects undergoing licensing from \$0.220 to \$0.342 per kilowatt to conform to revenue levels in the in the Budget Act; (4) adjust the caps on application and petition filing fees based on changes in the consumer price index; and (5) remove the reference to the one-time credit in the FY 2009-10 billing cycle.

**POLICY ISSUE**

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

## FISCAL IMPACT

- 1) **Increase fees to conform to the Budget Act:** Under the current fee schedules, total revenue would be approximately \$11.2 million while expenditures increase to \$17.5 million leaving a loss of \$6.3 million and a negative ending balance of \$542,000. The revised fee schedules will:
  - Increase annual fees to conform to revenue levels in the Budget Act.
  - Provide a one-time credit for FY 2010-11 to maintain a prudent fund reserve while making adjustments for a higher than anticipated reserve.
  - Increase FERC fees, for both licensed and those undergoing licensing, to conform to the \$603,000 increase in appropriation to the FERC program.
  - Remove the one-time credit in the FY 2009-10 billing cycle.
  
- 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 \$454,960 for applications and for change petitions involving water transfers, and \$5,715 for most other change petitions. The adjustments will:
  - Decrease the current cap of \$454,960 by the decrease in the consumer price index of -.03% to \$454,823.
  - Decrease the current cap of \$5,715 by the decrease in the consumer price index of -.03% to \$5,713.

## REGIONAL BOARD IMPACT

No.

## STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current water rights and water quality certification fee schedules as proposed by staff.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Water Boards' Strategic Plan: to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-

ADOPTING EMERGENCY REGULATIONS REVISING THE CORE REGULATORY WATER QUALITY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200 AND 2200.6 OF THE CALIFORNIA CODE OF REGULATIONS.

### WHEREAS:

1. Water Code Section 13260(d) requires each person for whom waste discharge requirements are issued to pay an annual fee to the State Water Board.
2. Water Code Section 13260(f) requires the State Water Board to adopt a schedule of fees by emergency regulation.
3. Water Code Section 13260(f) requires fees to be adjusted annually to conform to the revenue levels set forth in the Budget Act for these activities.
4. State Water Board staff prepared recommended changes to the [annual fee schedule](#) contained in current regulation to implement the State Budget Act requirements.

### THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts [emergency regulations](#) approving the revisions to Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.3, 2200.4, 2200.5 and 2200.6 of the California Code of Regulations to implement the provisions of the 2010 State Budget Act pursuant to the provisions of Water Code Section 13260(f) ([annual fee schedule](#)).

### 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 Resources Control Board held on October 5, 2010.

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Jeanine Townsend  
Clerk to the Board