

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES  
OCTOBER 19, 2010**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5 (COMMENCING WITH SECTION 1061) 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 \$7.8 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. Total expenditures are anticipated to be \$14.3 million, including a \$926,000 loan from the WRF to the General Fund, as authorized by the FY 2010-11 Budget Act, resulting in a \$3.1 million deficit and an ending balance of \$2.7 million.

Proposed Changes for FY 2010-11

The State Water Board proposes to: (1) adjust the caps on application and petition filing fees based on changes in the consumer price index; and (2) 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 right fee schedules as proposed by staff?

## FISCAL IMPACT

- 1) **Remove one-time fee credit:** Under the current fee schedules, a one-time fee credit was applied to the FY 2009-10 billing cycle. This credit does not apply in the FY 2010-11 billing cycle. The revised fee schedules will:
  - Remove the reference to the one-time credit that applied 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:
  - Reduce the current cap of \$454,960 by the decrease in the consumer price index of -.03% to \$454,823.
  - Reduce 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 right fee schedules as proposed by staff.

# D R A F T

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

ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS FEE SCHEDULES  
IN TITLE 23, DIVISION 3, CHAPTER 5 (COMMENCING WITH SECTION 1061) OF THE  
CALIFORNIA CODE OF REGULATIONS.

### WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. The Water Code requires the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Rights Fund in the State Treasury, including fees for water quality certification. (Wat. Code, §§ 1525, 1530, 1551, 13160.1.) The emergency regulations must be adopted to implement the fee revenue requirement in the Budget Act. The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a [fee schedule](#) that will generate revenues to support expenditures in the amount the Budget Act sets for specified regulatory activities.
4. The Budget Act delegates to the Department of Finance the authority to make specified adjustments to the amounts specified in the Budget Act. The State Water Board has taken into account the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with the Budget Act, that are required to support the water right program.
5. State Water Board staff prepared recommended revisions to the State Water Board's water right regulations to implement the Water Code and the provisions of the Budget Act.
6. The water right fee regulations and schedules will be contained in chapter 5 (commencing with section 1061) of division 3 of title 23 of the California Code of Regulations.
7. The State Water Board provided an opportunity for public comment on the proposed regulations and considered the regulations at a public meeting conducted on October 19, 2010.
8. These [emergency regulations](#) will take effect upon filing with the Secretary of State or the effective date of the Budget Act of 2010, whichever occurs later.

# **D R A F T**

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts emergency regulations revising chapter 5 (commencing with section 1061) of division 3 of title 23 of the California Code of Regulations as recommended by staff to implement the Water Code and provisions of the Budget Act of 2010.

## **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 19, 2010.

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Jeanine Townsend  
Clerk to the Board