

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 20, 2022**

ITEM 7

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, SECTIONS 1040, 1044, 1062, 1063, 1064, 1066, AND 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 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 water quality certification fees. The current fee schedules were adopted on September 21, 2021.

Financial Condition of the Water Rights Fund

Total budgetary expenditures for FY 2022-23 are \$34.1 million. To cover expenditures and ensure a 5 percent reserve for FY 2022-23, staff is projecting an approximate 7.2 percent increase to most WRF fee categories for revenue to match expenditures.

Proposed Changes

For FY 2022-23, staff is proposing to increase the annual per acre-foot charge for Permits & Licenses, and Pending Applications, from \$0.099 to \$0.106 per each acre-foot greater than 10 acre-feet, with no change in the base fee. Staff is also proposing to increase annual fees for Clean Water Act section 401 Certifications for Federal Energy Regulatory Commission (FERC) projects already licensed from \$0.329 to \$0.353 per kilowatt and increase annual fees for FERC projects undergoing licensing from \$0.669 to \$0.717 per kilowatt.

Staff is proposing 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, 1062, 1064, 1701, 1725, or 1735 fees by 4.23 percent based on the California Consumer Price Index, from \$579,952 to \$604,484.

Staff is proposing a new fee of \$1,000 for watershed-wide petitions necessary for implementing voluntary agreements to provide regional sharing of water diversions. The proposed fee structure would allow for implementation of watershed-wide programs in the absence of drought emergency regulations in future years. Staff is proposing to waive the proposed fee if these petitions are filed concurrently to other temporary urgency change petitions not part of the agreement implementation.

Staff is also making a correction to California Code of Regulations title 23, section 1062(A)(1)(G) to update the regulations to match the proposed fee changes regarding the filing fee for applications for 5-year underground storage temporary permit. These proposed changes were discussed at the June 9, 2020 and August 6, 2020 Water Rights Fees Stakeholder Meeting and staff received no comments. However, due to an inadvertent error, the fee changes were not included in the staff proposal at the September 15, 2020 Board Meeting.

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 2022-23 Budget Act includes expenditure authority for the WRF of \$34.1 million. The proposed fee schedule changes will ensure the projected revenue for the WRF when added to the projected fund balance from FY 2021-22 meets the FY 2022-23 budget expenditures and maintains 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.