

VIA ELECTRONIC MAIL

Public Comment
Proposed Drinking Water Fee Regs
Deadline: 7/29/16 by 5:00pm

July 29, 2016

State Water Resources Control Board
ATTN: Jeanine Townsend, Clerk to the Board
1001 I Street, 24th Floor
Sacramento, California 95814
commentletters@waterboards.ca.gov



Re: Comment Letter – Proposed Drinking Water Fee Regulations

Dear Ms. Townsend:

California Water Association (“CWA”) submits the following comments on the revised proposed Drinking Water Fee Regulations (the “Regulations”), as modified and released for public review and comment by the State Water Resources Control Board (the “Board”) on July 13, 2016.

CWA is a statewide association that represents the interests of 108 investor-owned water utilities (“IOUs”) that are subject to the jurisdiction of the California Public Utilities Commission (“CPUC”). Its members provide safe, reliable, and high-quality water services to approximately 6 million Californians. CWA appreciates this opportunity to comment on the Regulations as they will affect the water IOUs and their respective customers.

CWA has been an active supporter of and participant in the Board’s efforts to revise the existing drinking water fee schedule, as required by the California Safe Drinking Water Act. In its June 22 comment letter, CWA suggested that the fees imposed on large public water systems should reflect the level of regulatory oversight provided to those systems, consistent with the need to establish fees at a level that fully funds the Drinking Water Program.

Concurrence with the July 13 Proposed Modifications

CWA also urged the Board to structure the drinking water fee schedule in a manner that minimized the disproportionality in the original fee proposal. CWA believes the July 13 modifications to the schedule are responsive to that request and considers the new “declining block rate” approach, whereby the per connection cost declines as the number of service connections increases, is a more equitable approach to funding the Drinking Water Program.

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Jeanine Townsend

July 29, 2016

Page 2 of 4

Another modification to the original proposed regulations text with which CWA agrees is the change from “Severely Disadvantaged Community” to “Disadvantaged Community” in the new Sections 64300 (Definitions), 64305 (Fee Schedule for Annual Fees) and 64310 (Reduction of Fees for Public Water Systems Serving [a] Severely Disadvantaged Community). By extending the opportunity for discounts on Drinking Water Program fees to Disadvantaged Communities, the Board is furthering its equity commitment to a broader segment of water customers.

Further, the Board is being responsive to its obligations as a “relevant” state agency under Section 106.3 (b) of the Water Code, which requires state agencies to consider the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, when establishing, adopting, or revising policies or regulations. Clearly, extending the discount to Disadvantaged Communities falls under the category of considering the human right to water in this proceeding.

Request for New Subsections (b) and (c) in Proposed Section 64315 (Payment of Fees)

While CWA concurs with the staff modifications to the proposed Regulations, it reiterates its request that the Board bring forward practices from the traditional fee-for-service model, and institutionalize them in the accounting procedures that will be used to administer the Drinking Water Program in the future.

Not only is it desirable for the integrity of the Program that mechanisms are adopted to ensure accountability, but also, for the CPUC-regulated water utilities (and possibly, for government-owned water agencies and mutual water companies, as well), it is essential that cost accounting elements are utilized by the Board staff – especially for new or refurbished capital projects or other types of assignments that can be capitalized by the utilities. As CWA noted previously, this accounting approach can result in smaller impacts on customers’ bills.

To this end, CWA requests that a subsection (b) be added to Section 64315 (Payment of Fees) in the new Regulations that includes the following language:

(b) For each project, task, assignment, or review conducted by staff with respect to fees paid in furtherance of the Drinking Water Program, the State Board shall include the following in the disposition of its letter of agreement with the public water system:

Jeanine Townsend

July 29, 2016

Page 3 of 4

- (1) timely response from staff for a date certain in completing a permit application or bringing a new or retrofitted plant or equipment into service;*
- (2) tracking and reporting of Drinking Water Program staff time, on a per project or assignment basis, attributed to specific public water systems;*
- (3) a breakdown of costs attributable to specific projects;*
- (4) an annual statement or summary of work performed on all projects for each public water system*

The Drinking Water Program's current accounting and billing system provides for transparency and accountability because it allows public water systems and their customers to review and understand the fee-based regulatory activities that are being provided to their system. Inclusion of a requirement that the Drinking Water Program maintain its current system for accounting for staff time and resources attributable to each public water system, as recommended in proposed Subsection (b), is a critical addition to the Regulations.

Likewise, with respect to the critical services and programs that the Division of Drinking Water provides for all public water systems (e.g., inspections and final permitting of completed tanks, wells, and other facilities), CWA requests that a new Subsection (c) be added to Section 64315 that establishes the performance standards for the Drinking Water Program:

- (c) Each public water system, in consideration for its annual fee payment, shall be furnished with information from State Board staff on these performance metrics:*
- (1) Turnaround time on processing variances and waivers needed in local jurisdictions;*
 - (2) Turnaround time on inspection and final permitting of completed tanks, wells, and other facilities requiring new or amended permits;*
 - (3) Number of planned sanitary surveys for each small water and large water systems.*

Request for New Subsection (b) in Proposed Section 64305 (Fee Schedule for Annual Fees)

Implementation of connection-based fee structure instead of the current fee-for-service structure, may lead to a breakdown in the nexus between the amount of fees imposed and the level of regulatory activities and oversight provided by the Drinking Water Program. To help preserve the crucial relationship between fees and regulatory oversight, CWA requests a new Subsection (b) to proposed Section 64305 that will define the criteria for future fee increases.

Jeanine Townsend

July 29, 2016

Page 4 of 4

Section 64305. Fee Schedule for Annual Fees

(b) Future drinking water fee increases will be tied to specific criteria, as follows:

- (1) Staff levels*
- (2) Compensation rates and benefits cost increases;*
- (3) Losses in grants and other sources of funding that previously supported the Drinking Water Program.*

The above items represent minimum criteria that should be included in the final regulations; additional criteria may be desirable.

Conclusion

CWA concurs with the staff's proposed changes to the Regulations text regarding the annual fee schedule and the inclusion of Disadvantaged Communities in the fee discount. Additionally, CWA asserts that a number of non-fee and fee-related conditions should be an integral part of the Regulations and respectfully requests adoption of the additions to Sections 64305 and 64315, as proposed herein.

CWA appreciates the Board's efforts to update the drinking water fee schedule and the opportunity to provide these comments and participate in the development of the Regulations. CWA urges the Board to revise the Regulations consistent with CWA's suggestions.

Very truly yours,



Jack Hawks

cc: The Honorable Felicia Marcus, Chair
The Honorable Frances Spivy-Weber, Vice-Chair
The Honorable Dorene D'Adamo, Member
The Honorable Tam M. Doduc, Member
The Honorable Steven Moore, Member
Mr. Tom Howard, Executive Director
Mr. Jonathan Bishop, Chief Deputy Director
Ms. Cindy Forbes, Deputy Director, Division of Drinking Water
Mr. John Russell, Deputy Director, Division of Administrative Services