



Water Rights Fees Stakeholder Meeting

DATE:	Monday, August 5, 2019
TIME:	1:00 pm to 3:00 pm
LOCATION:	CalEPA Headquarters Building Sierra Hearing Room (2 nd Floor) 1001 I Street Sacramento, CA 95814
WEBCAST LINK:	https://video.calepa.ca.gov/
QUESTIONS:	WaterRightsFees@waterboards.ca.gov – Questions received prior to and during the meeting will be addressed during the meeting unless otherwise requested.

AGENDA

1. Welcome and Introductions (**David Ceccarelli**)
2. Water Rights Fund Budget Cost Drivers (Attachment 1) (**John Weir**)
 - a. Water Rights Fund Condition (Attachment 2) (**John Weir**)
 - b. Fee Impact (Attachment 2A) (**John Weir**)
3. 401 Certification for Federal Energy Regulatory Commission (FERC) (Attachment 3, 3A) (**Jeff Wetzel**)
4. Water Rights Petition Fee Proposal (Attachment 4) (**Sam Boland-Brien**)
5. Cannabis Onstream Reservoir Fee (Attachment 5) (**Sam Boland-Brien**)
6. Applications Filing Fee Initial Review (Attachment 6) (**Katherine Lee**)
7. Groundwater Storage Streamlined Water Rights Permitting Process Fees Proposal (Attachment 7) (**Katherine Lee**)
8. Open Discussion

Attachment 1
State Water Resources Control Board
Water Rights Program Budget and Water Rights Fund Budget Cost Drivers
(\$000)

	FY 2019-20 Budget Act
Water Rights Fund ¹	\$24,785
General Fund	\$18,384
Public Resources Account, Cigarette and Tobacco Products Surtax Fund	\$99
Federal Trust Fund	\$223
California Cannabis Tax Fund	\$5,845
Totals	\$49,336

¹ For FY 19-20, does not include \$450,000 in Water Rights Funding appropriated for Department of Justice Legal Services

Water Rights Fund	FY 2018-19 Budget Act	FY 2019-20 Budget Act	Net Difference
Governor's May Revise Budget ²	\$24,159	\$25,235	\$1,076
Totals	\$24,159	\$25,235	\$1,076

² The Budget Act includes \$1 million in ongoing cost recovery for CEQA Consultation

FY 2019-20 Budget Cost Drivers

Water Rights Fund	Amounts
CalEPA Sacramento Headquarters Space Optimization ³	(\$1,660)
Control Section ⁴	\$1,020
Administrative Hearings Office (AB 747)	\$1,716
Totals	\$1,076
Adjusted Total	\$1,076

³ The appropriation is available for encumbrance until 6/30/22. For the purpose of the report the amount is a negative, but the balance will carry over to the next fiscal year.

⁴ Control Section Item 9800 Employee Compensation, 3.60 Retirement, and Pro Rata.

Attachment 2
FY 2019-20 Water Rights Fund Condition (\$000) Projection with Increased Fees

	FY 17-18	FY 18-19	FY 19-20 (No Change)	Option 1	Option 2	Option 3	Option 4
Percent Increase on Per/Acre Amount from Previous FY	4.6%	5.8%	0.0%	23.29%	21.92%	19.18%	16.44%
Per Acre-Foot Charge	\$0.069	\$0.073	\$0.073	\$0.090	\$0.089	\$0.087	\$0.085
Percent Change on Base Fee Amount from Previous FY	0.0%	50.0%	0.0%	0.00%	11.10%	22.22%	33.33%
Base Fee/Percent Increase	\$150.00	\$225.00	\$225.00	\$225.00	\$250.00	\$275.00	\$300.00
Fiscal Year	FY 17-18	FY 18-19	FY 19-20	FY 19-20	FY 19-20	FY 19-20	FY 19-20
Beginning Balance	\$3,253	\$3,551	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Prior year adjustments	\$1,041	\$0	\$0	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$4,294	\$3,551	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Revenue							
Regulatory Fees ¹	\$17,541	\$20,843	\$20,843	\$24,426	\$24,532	\$24,446	\$24,360
Cost Recovery ²	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Other Revenue ³	\$215	\$310	\$310	\$310	\$310	\$310	\$310
Loan from the USTCF(SGMA) ⁴	\$2,250	(\$2,250)	\$0	\$0	\$0	\$0	\$0
SGMA Fees	-	\$750	\$750	\$750	\$750	\$750	\$750
Cannabis Cultivation Regulation	-	\$500	\$500	\$925	\$925	\$925	\$925
Total Revenue	\$21,006	\$21,153	\$23,403	\$27,411	\$27,517	\$27,431	\$27,345

				Option 1	Option 2	Option 3	Option 4
Fiscal Year	FY 17-18	FY 18-19	FY 19-20 (No Change)	FY 19-20	FY 19-20	FY 19-20	FY 19-20
Expenditures							
Water Board State Operations ⁵	\$18,671	\$20,447	\$22,745	\$22,745	\$22,745	\$22,745	\$22,745
Cannabis Cultivation Regulation	\$740	\$740	\$740	\$740	\$740	\$740	\$740
SGMA Fees ⁴		\$750	\$750	\$750	\$750	\$750	\$750
Cost Recovery Expenditures	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Supplemental Pension Payments	-	\$188	\$406	\$406	\$406	\$406	\$406
Other State Operations ⁶	\$1,338	\$579	\$1,367	\$1,367	\$1,367	\$1,367	\$1,367
Total Expenditures	\$21,749	\$23,704	\$27,008	\$27,008	\$27,008	\$27,008	\$27,008
Surplus(Deficit)	(\$743)	(\$2,551)	(\$3,605)	\$403	\$509	\$423	\$337
ENDING BALANCE	\$3,551	\$1,000	(\$2,605)	\$1,403	\$1,509	\$1,423	\$1,337
Fund Reserve⁷	16.9%	4.5%	-10.2%	5.5%	5.9%	5.6%	5.2%

¹ For FY 18-19 and FY 19-20, forecasted revenue is based on the estimated billing amounts for license/permit/applications and estimated revenue from petitions and one-time applications.

² Ongoing cost recovery for the California Environmental Quality Act (CEQA) Consultation.

³ Includes miscellaneous services to the public, Surplus Money Investment Fund (SMIF) & Enforcement.

⁴ For FY 17-18, a loan from the Underground Storage Tank Cleanup Fund (0439) to the Water Rights Fund (3058) per Budget Act of 2017. For FY 18-19, Loan repayment from the Water Rights Fund (3058) to the Underground Storage Tank Cleanup Fund (0439) per Budget Act of 2017.

⁵ FY 18-19 and FY 19-20, are based off of the budget authority in FY 2019 Budget Act.

⁶ For FY 18-19, Other State Operations projected expenditures include \$539,000 to CDTFA, \$37,000 to CalEPA, and \$3,000 to Fi\$CAL. For FY 19-20, Other State Operations projected expenditures include \$528,000 to the California Department of Tax and Fee Administration (CDTFA), \$37,000 to CalEPA, a credit of \$2,000 from Fi\$CAL, and \$804,000 for Statewide General Administrative Expenditures (Pro Rata).

⁷ Fund reserve calculation excludes expenditure items for SGMA and Cannabis Cultivation. Cannabis Revenue projections for FY 19-20 includes estimated revenue being received from the Cannabis Onstream Reservoir Fee.

Attachment 2A
Permits, Licenses, and Applications
Impact of Proposed Fees FY 2019-20

		Option 1	Option 2	Option 3	Option 4
Type of Fee Payer	Current Fee	\$225 @ 0.090	\$250 @ 0.089	\$275 @ 0.087	\$300 @ 0.085
Highest Fee Payer	\$5,648,857.49	\$6,961,096.25	\$6,885,455.74	\$6,732,624.69	\$6,579,793.69
Second Highest Fee Payer	\$1,877,084.76	\$2,314,004.52	\$2,288,403.38	\$2,237,101.04	\$2,185,798.73
Third Highest Fee Payer	\$1,365,862.36	\$1,683,017.71	\$1,664,801.50	\$1,627,929.11	\$1,591,056.71
Fourth Highest Fee Payer	\$700,735.90	\$861,581.61	\$853,230.08	\$835,431.17	\$817,632.20
Fifth Highest Fee Payer	\$374,748.83	\$461,704.72	\$456,739.66	\$446,659.56	\$436,579.45
1,000 Acre Feet	\$297.27	\$314.10	\$338.11	\$361.13	\$384.15
Less than/equal to 10 acres	\$225.00	\$225.00	\$250.00	\$275.00	\$300.00

Attachment 3

Projected FERC Revenue and Expenditures FY 19-20

	Current Fees	Option 1	Option 2	Option 3
Licensed Project Annual Base Fee	\$100.00	\$100.00	\$5,000.00	\$1,000.00
Licensed Project per kilowatt	0.125/kw	0.154/kw	0.128/kw	0.452/kw
Undergoing License Base Fee	\$1,000.00	\$1,000.00	\$5,000.00	\$1,000.00
Undergoing License per kilowatt	0.43/kw	0.529/kw	0.492/kw	0.452/kw
Fiscal Year	FY 18-19	FY 19-20	FY 19-20	FY 19-20
Revenue				
401 Certified	\$190,779	\$241,707	\$362,431	\$769,436
401 Undergoing Licensing	\$2,952,620	\$3,585,616	\$3,473,950	\$3,050,280
Total Revenue	\$3,143,399	\$3,827,324	\$3,836,381	\$3,819,717
Expenditures				
Water Board State Operations	\$3,636,584	\$3,636,584	\$3,636,584	\$3,636,584
Total Expenditures	\$3,636,584	\$3,636,584	\$3,636,584	\$3,636,584
Surplus (Deficit)	(\$493,185)	\$190,740	\$199,797	\$183,133

Attachment 3A
Staff Proposals for Fiscal Year 2019-2020
Fee Structure Options for
Division of Water Rights' Water Quality Certification Program

The three fee options proposed below address the Division of Water Rights' Water Quality Certification Program's component of the current Water Rights Fund deficit.

	Applicant seeking WQC for FERC License/Amendment		Licensee of FERC-licensed Project with WQC Issued	
	Minimum Fee	Fee Structure	Minimum Fee	Fee Structure
Current Fees	\$1,000	\$1,000 + \$0.43 per kilowatt (based on authorized or proposed installed generating capacity)	\$100	\$100 + \$0.125 per kilowatt (based on authorized installed generating capacity)
Option 1: Increase cost per kilowatt	\$1,000	\$1,000 + \$0.529 per kilowatt (based on authorized or proposed installed generating capacity)	\$100	\$100 + \$0.154 per kilowatt (based on authorized installed generating capacity)
Option 2: Increase cost per kilowatt and minimum fee	\$5,000	\$5,000 + \$0.492 per kilowatt (based on authorized or proposed installed generating capacity)	\$5,000	\$5,000 + \$0.128 per kilowatt (based on authorized installed generating capacity)
Option 3: One fee structure (pre- and post-license)	\$1,000 + \$0.452 per kilowatt (based on authorized or proposed installed generating capacity)			

Option 1:

This option consists of keeping the existing fee structure and only increasing the cost per kilowatt.

Option 2:

This option consists of increasing the minimum fee to \$5,000 and increasing the cost per kilowatt. To some degree, this option addresses small kilowatt projects and water quality certification amendments, which require a significant amount of staff time.

Option 3:

This option consists of creating one minimum fee and cost per kilowatt that applies to all hydroelectric projects, whether pursuing a water quality certification or operating under a Federal Energy Regulatory Commission license with certification conditions. This option addresses the ongoing often significant workload associated with implementing provisions of the FERC license following water quality certification issuance.

Attachment 4
Fee Structure Options: FY 19/20
Water Right Petition Fee Proposal

Petition Annual Fee				
	Minimum Fee	Fee Structure	Example Fee for: 100 af 1,000 af 10,000 af	Maximum Fee
Current fee	\$1,000	Conditions when fee is applied: Due under specific circumstances such as: petitioner diverts water prior to the State Water Board approving the requested change; petitioner requests a delay in processing petition; petitioner is lead agency under CEQA and has not adopted or certified a final environmental document for the project within two years after the petition is noticed; or petitioner fails to provide requested supplemental information.	\$1,000	\$1,000
Proposal: Increase fees to a per acre-foot charge	\$1,000 + \$0.40 per acre-foot up to \$10,000	<p>Due under specific circumstances such as:</p> <p>Petitioner diverts water prior to the State Water Board approving the requested change; petitioner requests a delay in processing petition; petitioner is lead agency under CEQA and has not adopted or certified a final environmental document for the project within two years after the petition is noticed; Petitioner has entered into a CEQA MOU with the Division but has not complete the administrative draft CEQA document within two years after the petition is noticed; or petitioner fails to provide requested supplemental information.</p> <p>An annual petition fee may be temporarily reduced to \$500 in cases where the Division finds that the petitioner has timely provided all information required to process the petition, however the Division has determined it has insufficient resources to complete the petition processing. This would be assessed on an annual basis.</p>	<p>100 af: \$1,036</p> <p>1,000 af: \$1,432</p> <p>10,000 af: \$5,000</p>	\$10,000

Change Petition Fee

	Minimum Fee	Fee Structure	Example Fee for: 100 af 1,000 af 10,000 af	Maximum Fee
Current fee	\$1,000	\$1,000 plus \$0.30 per each acre-foot greater than 10 acre feet based on the total annual amount of diversion covered by permit or license, or \$6,518 whichever is less.	\$1,000	\$6,518
Proposal: Increase per acre-foot charge and maximum	\$1,000	\$1,000 plus \$0.40 per each acre-foot greater than 10 acre feet based on the total annual amount of diversion covered by permit or license, or \$20,000 whichever is less.	100 af \$1,036 1,000 af \$1,432 10,000 af \$5,428	\$20,000

Time Extension Fee				
	Minimum Fee	Fee Structure	Example Fee for: 100 af 1,000 af 10,000 af	Maximum Fee
Current fee	\$1,000	Flat	\$1,000	\$1,000
Proposal: Change to match change petition fees, with reduction for simultaneous filing	\$1000	Fees would match proposal for change petitions above with a per-acre foot charge. Time Extension Petitions filed in conjunction with a change petition for the same project will receive a 50% reduction in filing fees.	100 af \$1,036 1,000 af \$1,432 10,000 af \$5,428	\$20,000

Waste Water Petitions

	Minimum Fee	Fee Structure	Example Fee for: 100 af 1,000 af 10,000 af	Maximum Fee
Current fee	\$1,000	Flat	\$1,000	\$1,000
Proposal: Fixed tiered fees based on project size	\$5,000	\$5,000 plus \$3.00 per acre-foot based on the total annual amount of the reduced flow to the watercourse, or \$75,000 whichever is less.	100 af: \$5,300 1,000 af: \$8,000 10,000 af: \$35,000	\$75,000

Temporary Change or Urgency Change Petitions

	Minimum Fee	Fee Structure	Example Fee for: 100 af 1,000 af 10,000 af	Maximum Fee
Current fee structure	\$2,000	\$2,000 plus \$0.30 per each acre-foot greater than 10 acre-feet based on the total annual amount of water sought to be transferred annually or \$534,155, whichever is less.	100 af: \$2,027 1,000 af: \$2,324 10,000 af: \$5,321	\$534,155
Proposal: Increase to account for increased resource costs	\$2,000	\$2,000 plus \$0.50 per each acre-foot greater than 10 acre-feet based on the total annual amount of water sought to be transferred annually or \$534,155, whichever is less.	100 af: \$2,045 1,000 af: \$2,945 10,000 af: \$6,995	\$534,155

Attachment 5
Staff Proposal for FY 2019-20 Fee Schedule for
Cannabis Small Irrigation Use Registration Program

Cannabis Small Irrigation Use Registration (SIUR) Proposed Fee Schedule		
	Fee Examples for First 3 Years	Fee Structure
Cannabis SIUR (No Onstream Reservoir)	\$750 \$750 \$750	Same Initial Fee and Annual Renewal Fee \$750
Cannabis SIUR (with Onstream Reservoir)	\$4,750 \$1,000 \$1,000	Initial Fee ¹ : \$750 + \$4,000 = \$4,750 Annual Renewal Fee ² : \$750 + \$250 = \$1,000
Non-Cannabis SIUR filed with Cannabis SIUR	\$375 \$50 \$50	50% Discount for Initial Fee and Annual Fee ³

1. The additional filing fee is based on an increase of staff cost for field inspections and site-specific analysis for onstream reservoir(s).
2. The annual renewal fee includes the \$750 ongoing SIUR annual fee and an additional \$250 fee for increased staff costs for review and oversight of compliance plans for onstream reservoir(s).
3. An SIUR filed for non-cannabis irrigation use receives a 50% discount for both the initial filing fee (originally \$750) and the annual fee (originally \$100) if the SIUR is filed with a cannabis SIUR for the same diversion.

Attachment 6

Fee Structure Options: FY 2019-20

Water Right Application Fee Proposal

Application Filing Fee (Non-Refundable Portion of Fee). Applicable categories:

- 1) Application
- 2) Application for Small Hydroelectric
- 3) Application for Temporary Permit filed pursuant to Water Code §1425 other than for diversion to underground storage during high flow events
- 4) Application for Temporary permit filed pursuant to Water Code §1425 to Divert to Underground Storage During High Flow Events
- 5) Application for Temporary Permit for Small Hydroelectric that meets criteria established in CCR, title 14, §15328

	Minimum Fee	Fee Structure	Example Fee	Maximum Fee
Current fees	\$250	Application Fee structure not shown – no changes proposed. The filing fees for these categories is inclusive of a non-refundable \$250 fee for an initial review.	\$250	\$250
Proposal: Increase non-refundable portion, define initial review period.	1): \$600 2): \$600 3): \$700 4): \$700 Initial \$650 Renewal 5): \$600	Application Fee structure not shown – no changes proposed. Filing fees to be inclusive of a non-refundable fee of: \$500+10% of the application filing fee for an initial review. For the purposes of this fee, the initial review period is defined as the period of time ending when the application is either 1) accepted, 2) rejected or 3) the date the board communicates to the applicant that the applicant made a bona fide attempt to conform to the rules and regulations, but that the application is defective in some manner. This time period also includes 4) withdrawal by the applicant within 30 days after receipt. No portion of the fee is refundable after the initial review period.	Example for 1) Application: 1 af \$600 10 af \$600 100 af \$735 1,000 af \$ 2,085 10,000 af \$15,585 ~35,553 af or more: \$53,915	1) \$53,915 2) \$600 3) \$26,958 4) \$26,958 5) \$600

*All examples based on current fees. No change is proposed to base fee or acre-feet charge of applicable fees. The maximum cap amount, where one exists, is routinely increased as part of annual fee modifications.

Attachment 7
Groundwater Storage Streamlined
Water Rights Permitting Process Fees Proposal

Application Fee				
	Minimum Fee	Fee Structure	Example Fee for: 1,000 af 10,000 af 100,000 af	Maximum Fee
Option (1) Retain Standard Application Fee for all	\$1,000	Standard Application Fee (\$1,000 plus \$15 per each acre-foot greater than 10 acre-feet or \$534,155, whichever is less)*	1,000 af \$15,850* 10,000 af \$150,850* 100,000 af \$534,155*	\$534,155*
Option (2) 75% of Application Fee (25% reduction) for eligible projects [1]	\$1,000	75% of the fee calculated under the standard Application Fee (25% reduction)	1,000 af \$11,888* 10,000 af \$113,138* 36,000 af 400,617* 100,000 af \$400,617*	\$400,617*

* Based on current fee. The maximum cap amount is routinely increased as part of annual fee modifications. No changes are proposed to base fee or acre-feet charge.

- [1] Applications meeting the following requirements may be eligible for the proposed application fee:
- a. The application proposes to divert water to underground storage in a groundwater basin identified in Bulletin 118.
 - b. The application is submitted by a Groundwater Sustainability Agency or local agency as defined by Sustainable Groundwater Management Act (SGMA).
 - c. The primary method of diversion proposed in the application is diversion to underground storage. Any other methods of diversion must be incidental to the primary method.
 - d. The application proposes to divert water only during periods of high flows between December 1 and March 31, as articulated in streamlined permitting process guidance published by the State Water Board and as documented in written concurrence from State Water Board staff as part of the application submittal package.

Annual Fee (based in part on actual diversions - eligible projects only)

	Fee Structure	100% of authorized diversion amount achieved	90% of authorized diversion amount achieved ^[2]	<=75% of authorized diversion amount achieved ^[1]
Option (1) Retain Standard Annual Fee	Permit and License Annual Fee* (based on face value)	All diversion: 10,000 af \$955 100,000 af \$7,525*		
Option (2) Annual Fee based on amount diverted ^[3] ^[4]	Annual Fee based on amount diverted or 75% of "standard" Annual Fee*, whichever is greater	10,000 af \$955* (Fee based on amount diverted)	10,000 af \$881* (Fee based on amount diverted)	10,000 af \$716* (Fee based on 75% of Standard fee)
		100,000 af \$7,525* (Fee based on amount diverted)	100,000 af \$6,794* (Fee based on amount diverted)	100,000 af \$5,644* (Fee based on 75% of Standard fee)

* These examples are based on the current annual fee: \$225 plus \$0.073 per each acre-foot greater than 10 acre-feet. These numbers will be adjusted if the permit and license fees are raised.

^[1] Benefit in year party diverts between zero to 75% of face value: 25% reduction in what they would have paid based on current face value based fee.

^[2] A party that diverts 90% of a 10,000 af face value, will only pay for 9,000 af. The closer a party diverts to full face value, the less the discount.

^[3] Permits and Licenses meeting the following requirements may be eligible for the proposed annual fee:

- The water right is conditioned to divert water to underground storage in a groundwater basin identified in Bulletin 118.
- The right holder is a Groundwater Sustainability Agency or local agency as defined by Sustainable Groundwater Management Act (SGMA).
- The water right is conditioned to be subject to this annual fee. This includes but not limited to 1) The water right is conditioned to limit diversions to periods of high flows between December 1 and March 31; and 2) The right holder has installed and is maintaining a stream gage with telemetry capabilities to provide publicly available real-time streamflow conditions via the California Data Exchange Center website and, when available, a future website developed by the State Water Board.

^[4] The annual fee will be assessed based on activity in the preceding permit or license reporting year. In the initial year of issuance, the fee will be charged based on the face value, and a onetime credit will be provided to the subsequent year if necessary, based on amount diverted.