

California
Water Boards
Protecting California's Water



**STATE WATER RESOURCES CONTROL BOARD
ANNUAL FEES – WATER QUALITY
REPORT TO THE LEGISLATURE
FISCAL YEAR 2016-2017**

DECEMBER 2017



STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

STATE WATER RESOURCES CONTROL BOARD

ANNUAL FEES REPORT

Fiscal Year 2016-17

I. EXECUTIVE SUMMARY

The State Water Resources Control Board (State Water Board) is providing this report on the expenditure of annual fees to comply with Water Code Section 13260.3, which states “On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.” This report presents these expenditures and discusses the following core regulatory programs and activities:

- National Pollutant Discharge Elimination System Permit Program
- National Pollutant Discharge Elimination System Storm Water Program
- Waste Discharge Requirement Program
- Land Disposal Program
- Confined Animal Facilities Program
- Water Quality (401) Certification Program
- Agricultural Lands Regulatory Program
- Cannabis Cultivation

The mission of the State Water Board is to “preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.” This mission is accomplished, in part, through the regulation of facilities that discharge wastewater and storm water into surface waters and ground waters of the state.

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate Regional Water Quality Control Board (Regional Board) and to pay an annual fee set by the State Water Board, the funds from which are to be deposited in the Waste Discharge Permit Fund (WDPF). Water Code Section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code Section 13260 further requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act.

II. EXPENDITURE OF ANNUAL FEES COLLECTED PURSUANT TO WATER CODE SECTION 13260

As Table 1 shows, the budget for the WDPF for Fiscal Year 2016-17 was approximately \$128.6 million, including appropriations for the State Water Board, California Environmental Protection Agency and State Controller's Office, and the adjusted beginning balance was \$19.5 million. Total revenue was \$126.8 million, including \$2.3 million in fines and penalty revenue and \$402,000 in other revenue. Total expenditures were \$131.7 million with expenditures exceeding revenue by \$4.9 million resulting and the fund reserve absorbing the revenue shortfall.

Table 1. WDPF Financial Summary (in thousands)

Budget	\$128,645
Beginning Fund Balance	\$19,971
Prior Year Adjustments ¹	(\$449)
Adjusted Beginning Fund Balance	\$19,522
Revenue	
Fee Revenue	\$124,135
Fines and Penalty Revenue	\$2,284
Other Revenue ²	\$402
Total Revenue	\$126,821
Expenditures	
401 Certification	\$11,099
Cannabis	\$930
Confined Animal Facilities	\$5,144
Irrigated Lands	\$10,192
NPDES	\$31,518
Storm Water	\$31,361
WDR	\$33,416
Subtotal ³	\$130,083
Water Recycling ⁴	\$362
Other Expenditures ⁵	\$1,255
Total Expenditures	\$131,700
Over/(Under)	(\$4,879)
Ending Fund Balance	\$14,643

¹ Prior year adjustments to align to the Fund Condition Statement

² Income from surplus money investments and escheat of unclaimed checks.

³ Includes Local Assistance expenditure allocated to all core regulatory programs

⁴ Legislative Augmentation for Water Recycling.

⁵ Includes various state operations charges for other agencies.

III. DISCUSSION OF CORE REGULATORY PROGRAMS

A. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROGRAM

Water pollution degrades surface waters, making them unsafe for drinking, fishing, swimming and other activities. NPDES permits are required for all point source pollution discharges of waste into California's surface waters to prevent pollution and loss or impairment of beneficial uses of the waters, prevent damage to or loss of aquatic species and habitat, and prevent human health problems and waterborne diseases. Point sources are discrete conveyances such as pipes or man-made ditches. Industrial, municipal, and other facilities must obtain a permit if their discharges go directly to surface waters. Individual homes that are connected to a municipal sewer system, use a septic system, or do not have a surface discharge do not need a NPDES permit.

The NPDES Permit Program is mandated by the Federal Clean Water Act and administered by the state. The Clean Water Act requires the United States Environmental Protection Agency (US EPA) to set effluent limits on discharges to surface waters to ensure protection of the receiving water. The Clean Water Act requires all persons who want to discharge pollutants to first obtain a NPDES permit. Pollutant discharges without a NPDES permit are illegal.

The Clean Water Act allows the US EPA to approve State programs to issue NPDES permits in lieu of the US EPA, enabling states to perform many of the permitting, administrative, and enforcement aspects of the program. The US EPA retains oversight responsibilities in states that have been authorized to implement Clean Water Act programs. Since its introduction in 1972, the NPDES Permit Program has significantly improved the nation's water quality.

B. NPDES STORM WATER PROGRAM

Storm water discharges are runoff from land and impervious areas such as paved streets, parking lots and building rooftops during rainfall and snow melt-off. These discharges often contain pollutants in quantities that could adversely affect water quality. Discharges of pollutants to storm water conveyance systems are significant sources of pollution to surface waters. Federal law designates these discharges as nonpoint source discharges subject to a NPDES permit.

Storm water activities are separated into three major categories: construction, industrial and municipal.

- **Construction Activities.** Storm water runoff from construction activities can have a significant impact on water quality. As storm water flows over a construction site, it picks up pollutants like sediment, debris, and chemicals. Polluted storm water runoff can harm or kill fish and other wildlife. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion. The NPDES Storm Water Program requires operators of construction sites one acre or larger (including smaller sites that are part of a larger common plan of development) to obtain authorization to discharge storm water under a NPDES construction storm water permit.

- **Industrial Activities.** Runoff from activities that take place at industrial facilities, such as material handling and storage, often discharge industrial pollutants to nearby storm sewer systems and water bodies. This may adversely impact water quality. To limit pollutants in storm water discharges from industrial facilities, the NPDES Storm Water Program regulates these activities. Operators of industrial facilities included in one of the 11 categories of "storm water discharges associated with industrial activity" that discharge storm water to a municipal separate storm sewer system or directly to waters of the United States require authorization under a NPDES industrial storm water permit.
- **Municipal Activities.** Under the NPDES Storm Water Program, operators of large, medium and small regulated municipal separate storm sewer systems (MS4s) require authorization to discharge pollutants under a NPDES storm water permit. Medium and large MS4 operators are required to submit comprehensive permit applications and are issued individual permits while small MS4 operators are covered under a general permit.

C. WASTE DISCHARGE REQUIREMENT (WDR) PROGRAM

The Water Code requires the State Water Board to establish policies to protect the state's waters through the development of Water Quality Control Plans (Basin Plans) and the issuance of WDRs. The purpose of Basin Plans and WDRs is to ensure, to the greatest extent possible, that discharges to the state's waters do not adversely affect the quality and beneficial uses of such waters.

WDRs are issued under state authority to regulate discharges to land or surface waters of the state for specified types of discharges not covered by NPDES permits. The WDR Program regulates discharges that include percolation through disposal ponds, discharges through leach fields, and irrigation of landscapes and farmland. Regulatory requirements for wastewater discharges to land are contained in California Code of Regulations (CCR) Title 23. To comply with the effluent limitations in WDRs, wastewater usually must be treated before being discharged. These discharges, unless waived under Water Code Section 13269, must meet WDRs. Discharges that are waived under Water Code Section 13269 also must meet water quality regulatory requirements and pay water quality fees.

D. LAND DISPOSAL PROGRAM

The Land Disposal Program regulates waste discharges to land for treatment, storage and disposal in waste management units. Waste management units include waste piles, surface impoundments, and landfills. Regulatory requirements for hazardous waste discharges are contained in CCR Title 23, Chapter 15. Regulatory requirements for non-hazardous waste discharges are contained in CCR Title 27.

E. CONFINED ANIMAL FACILITIES PROGRAM

Confined animal facilities (CAFs) are agricultural operations where animals are kept and raised in confined situations. CAFs generally congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. Animal waste and wastewater can enter water bodies from spills or breaks of waste storage structures (due to

accidents or excessive rain), and non-agricultural application of manure to cropland. CAFs that meet the regulatory definition of a concentrated animal feeding operation have the potential of being regulated under either the NPDES or WDR permitting programs.

F. WATER QUALITY (401) CERTIFICATION PROGRAM

Section 404 of the Clean Water Act establishes a program to regulate discharges of dredge and fill material into waters of the United States, including wetlands. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to lands that support farming and forestry activities.

A permit review process controls regulated activities. An individual permit is usually required for potentially significant impacts; however, for most discharges that will have only minimal adverse impacts as the Army Corps of Engineers often grants up-front general permits. These may be issued on a national, regional, or statewide basis for particular categories of activities (for example, minor road crossings, utility line backfill, and bedding) as a means to expedite the permitting process.

Under Section 401 of the Clean Water Act, states and tribes can approve, condition, or deny all federal permits or licenses that might result in a discharge to state or tribal waters, including wetlands. The major federal licenses and permits subject to Section 401 are Section 402 and 404 permits (in non-delegated states), Federal Energy Regulatory Commission hydropower licenses, and Rivers and Harbors Act Section 9 and 10 permits. States and tribes may choose to waive their Section 401 certification authority. States and tribes make their decisions to approve, condition, or deny permits or licenses primarily on the basis of whether the activity will comply with state water quality standards. In addition, states and tribes look at whether the activity will violate effluent limitations, new source performance standards, toxic pollutants, and other water resource requirements of state/tribal law or regulation.

G. AGRICULTURAL LANDS REGULATORY PROGRAM

The Agricultural Lands Regulatory Program (formerly referred to as the Irrigated Lands Regulatory Program) regulates discharges from irrigated agricultural lands, which includes irrigation return flow, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants including pesticides, sediment, nutrients, salts, pathogens, and heavy metals from cultivated fields into surface waters.

Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater bodies have also suffered pesticide, nitrate and salt contamination. Statewide, approximately 9,493 miles of rivers/streams and some 513,130 acres of lakes/reservoirs are listed on the 303(d) list as being impaired by irrigated agriculture. Of these, approximately 2,800 miles, or approximately 28 percent, have been identified as impaired by pesticides.

To control and assess the effects of discharges from irrigated agricultural lands, the Los Angeles, Central Coast, Central Valley, and San Diego Regional Water Quality Control Boards have adopted comprehensive conditional waivers. These Regional Water Boards have made significant strides to implement their waiver programs and are committed to

continue their efforts to work with the agricultural community to protect and improve water quality.

H. CANNABIS CULTIVATION

On October 17, 2017, the State Water Board adopted the Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation (*Cannabis Policy*) and General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (*Cannabis General Order*). The State Water Board is establishing this new regulatory program to address potential water quality and quantity issues related to cannabis cultivation and to meet the directives of *Senate Bill (SB) 837* (Statutes 2016, Chapter 32, Committee on Budget and Fiscal Review) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA; Senate Bill 94 [Statutes 2017, Chapter 27, Committee on Budget and Fiscal Review]). The program is designed to meet the requirements of the Basin Plans, the California Water Code, and the Clean Water Act. The State and regional water boards are the principal agencies with primary responsibility for the coordination and control of water quality. Nonpoint source (NPS) pollution, also known as polluted runoff, is the leading cause of water quality impairments. Many streams in California are impacted by erosion and sediment delivery, changes to riparian systems that may reduce shade and affect water temperatures, over allocation of water sources, and chemical/pollutant discharges from areas under cultivation or material/waste storage areas.

Additional Information

The State Water Board's Annual Performance Report can be found at:

https://www.waterboards.ca.gov/about_us/performance_report_1516/index.shtml

Questions concerning the information provided in this report or requests for additional information should be sent to:

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