

Appendix A:
Draft of the Proposed Water Commission Bill

REVIEW OF THE LAWS ESTABLISHING THE SWRCB'S PERMITTING AUTHORITY OVER APPROPRIATIONS OF
GROUNDWATER CLASSIFIED AS SUBTERRANEAN STREAMS AND THE SWRCB'S IMPLEMENTATION OF THOSE LAWS

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"WATER COMMISSION BILL"

1 Section 1- Subject to vested and existing rights, all
2 water or the use thereof, including surplus and flood waters,
3 may be appropriated for any useful or beneficial purpose as
4 provided by this act and not otherwise; provided, that no
5 water or the use thereof for the generation of electricity, or
6 electrical or other power shall be appropriated for a longer
7 period than forty years. (Or if you don't like the forty
8 years, write an indeterminate franchise section.)

9 Section 2- Riparian proprietors are, for the purposes
10 of this act, hereby defined to be the owners of riparian lands,
11 Riparian lands are, for the purposes of this act, defined here-
12 by to be such lands, in continuous tracts or adjacent and con-
13 tiguous subdivisions, which abut upon the banks of streams and
14 are the property of the owners of the banks of said streams,
15 and which naturally drain directly into the streams on the
16 banks of which they abut. But riparian lands passing out of
17 the ownership of riparian proprietors in tracts or subdivisions
18 not abutting directly on the banks of streams to which they
19 were riparian, or passing in such tracts or subdivisions from
20 the ownership of one riparian proprietor to other ownership,
21 shall thereupon cease to be considered to be riparian lands.
22 And riparian lands not directly abutting on the banks of
23 streams shall not be deemed or considered to be riparian lands
24 by reason of becoming the property of riparian proprietors,
25 and lands which have ceased to be riparian lands shall not
26 thereafter be deemed to be riparian lands. Riparian propriet-
27 ors may, as riparian proprietors, take water from the streams
28 to which their lands are riparian and conduct it only for use-
29 ful and beneficial purposes, and only upon their riparian lands
30 which are riparian to the streams from which they take said

1 water. Provided, however, that such water, after being so
2 conducted, or so much of said water as will naturally return
3 to said stream, after being so used, shall be allowed to re-
4 turn to the stream. Provided also that each said riparian
5 proprietor desiring so to take and use said water shall, with-
6 in one year after having been notified by the State Water Com-
7 mission so to do, or may, in his discretion, at any time prior
8 to being so notified by the said Commission, file with the
9 said Commission, in writing and under oath and upon blanks
10 furnished by the said Commission, a statement showing the
11 following things: The amount of water, measured in second
12 feet at the point of diversion, he is already taking, by ap-
13 propriation or otherwise, and using for a beneficial or useful
14 purpose upon his said riparian lands; also the amount of water,
15 measured in second feet at the point of diversion, he proposes
16 to take and use, as a riparian proprietor, for a beneficial or
17 useful purpose on his said riparian lands; also the source
18 from which he proposes to take such water and the point of
19 diversion from said source; also the particular beneficial
20 use or purpose to which he proposes to put said water after
21 diverting it; also the correct number of acres comprised in
22 the riparian lands upon which he proposes to conduct and use
23 said water. The said notice by the said Commission shall be
24 given by registered mail addressed to the last known post-
25 office address of the said riparian proprietor and also by
26 publication once a week for ten consecutive weeks in a news-
27 paper of general circulation, published in the county or
28 counties in which said riparian lands are situated. Or, if
29 there be no such newspapers published in said county or count-
30 ies, then and in that case said notice shall be given by pub-

1 lication in the same manner in such newspaper published in the
2 county next adjacent to such riparian lands. The said notice by
3 publication may, in the discretion of the said Water Commission, be
4 addressed in one notice, published as above, to each and all the
5 riparian proprietors on any certain stream or branch thereof, or on
6 any certain stream system or part thereof. But when said notice ap-
7 plies to such stream system it shall be published as above provided
8 in each county in which there is situated such riparian lands owned
9 by the said riparian proprietors. If said statement of the said
10 riparian proprietor be not filed with the State Water Commission
11 within one year after said notice shall have been given as provided
12 above, then and in that case said riparian proprietor shall be
13 deemed to have forfeited and abandoned any right he, as riparian
14 proprietor, may have had to the water, or the use thereof, in the
15 stream or streams to which his lands are riparian and concerning
16 which he has been notified by the said Commission to file his said
17 statement. If, however, the riparian proprietor shall, either of
18 his own motion or in pursuance of the said notice from the said
19 Commission, file said statement as above specified and required,
20 then he shall, within four years from the date of filing said
21 statement with the said Commission, complete the putting of the
22 said water upon his said riparian lands and to the said beneficial
23 use and purpose, but in quantity not exceeding the amount set forth
24 in said statement to said Commission and only for the beneficial
25 use or purpose specified in said statement. But if any riparian
26 proprietor shall neglect or refuse to complete the putting of
27 said water upon his said riparian lands and to the said bene-
28 ficial use or purpose within the said fours, then and in that
29 case the said riparian proprietor shall be deemed to have for-
30 feited and abandoned any right which, as riparian proprietor,
he may have had to that portion of the said water he had not put

1 upon his said lands for the said useful or beneficial purpose.
2 But no riparian proprietor shall hereunder conduct upon his
3 riparian lands more of the unappropriated water of the stream to
4 which his lands are riparian than a proportionate share thereof
5 calculated from the relative average owned by him on said stream
6 as compared to the total acreage of riparian lands on said streams.
7 And any riparian proprietor who, having conducted water as herein
8 provided upon his riparian lands shall neglect, refuse or cease,
9 for a period of three successive years, to put said water, or any
10 portion thereof, to the beneficial use or purpose set forth in his
11 said statement to the said Commission, shall be deemed to have for-
12 feited and abandoned any right he may have had as riparian prop-
13 rietor to such portion of said water as he may have refused, neg-
14 lected or ceased to have put to such beneficial use or purpose.
15 And the State Water Commission is hereby given the power and au-
16 thority and is hereby directed and authorized to bring the nec-
17 essary suit or other proceeding in the Superior Court of the coun-
18 ty in which are situated for the purpose of judicially declaring
19 such abandonment and forfeiture as are in this act mentioned, and
20 to carry such suit or other proceeding to final settlement in the
21 courts of last resort.

22 Section 3- Water or the use of water which has heretofore
23 been appropriated, or which shall hereafter be appropriated, or
24 which has been acquired under riparain proprietorship, or which
25 shall hereafter be acquired under riparian proprietorship, for
26 one specific purpose shall not be deemed to be appropriated
27 or acquired for any other or different purpose, except under a
28 separate and distinct appropriation therefor made as provided
29 in this act. And any person, firm, association or corporation
30 applying for a license to appropriate water or the use of water
31 shall state in the application for said license the specific use

1 to which it is proposed to put such water or the use thereof.

2 But no appropriation shall be made for more than one beneficial
3 purpose in any one appropriation.

4 Section 4- (a) For the purpose of carrying out the provisions
5 of this act a state water commission consisting of five persons
6 is hereby created and established. Three members of said com-
7 mission shall be appointed by the governor for the term of four
8 years and shall consist of one engineer, one lawyer, one business
9 man; provided, however, that of the members first appointed one shall
10 be appointed to hold office until the first day of January, nineteen
11 hundred and , one until the first day of January, nine-
12 teen hundred and , and one until the first day of
13 January, nineteen hundred and . The governor and state
14 engineer are hereby made ex officio members of the said com-
15 mission in addition to three members appointed by the
16 governor. The commissioners shall elect one of their number
17 president of the commission. The appointed members of said
18 commission shall receive as compensation for services ren-
19 dered by them as said members the sum of per day
20 for each day's service actually rendered and the total compen-
21 sation of any one member shall not exceed \$5,000 per annum.

22 (b) Whenever a vacancy in the state water commission shall occur,
23 the governor shall forthwith appoint a qualified person to fill
24 the same for the unexpired term. The legislature, by a two thirds
25 vote of all members elected to each house, or the governor, may
26 remove any one or more of said commissioners from office for
27 dereliction of duty or corruption or incompetency, (provide for
28 sworn charges and public hearing).

29 The commission shall have a seal bearing the following
30 inscription: "Water Commission State of California. The seal
31 shall be affixed to all authentications of copies of records

1 and to such other instruments as the commission shall direct.

2 All courts shall take judicial notice of said seal.

3 Section 5- All water or the use of water which has been here-
4 tofore appropriated and which has not been put, or which has
5 ceased to be put, or which may hereafter cease to be put, or
6 which may hereafter be appropriated and cease to be put, to some
7 useful or beneficial purpose, or which is not now in process of
8 being put to useful purpose or beneficial use as provided in this
9 act, with due diligence in proportion to the magnitude of the work
10 necessary properly to utilize for the purpose of such appropri-
11 ation such water or such use of water, is hereby declared to be
12 unappropriated. And the state water commission is hereby
13 authorized, empowered and directed to bring the necessary suits
14 or other proceedings to have such water or the use thereof
15 judicially determined to be unappropriated, as is in this section
16 the same is declared to be unappropriated, and to carry such suit
17 or proceeding to final adjudication in the courts of last resort.
18 Such suits or proceedings shall be brought by the said commission
19 in the Superior Court of the county or counties in which said
20 water is situated.

21
22 Section 6- The State Water Commission is hereby authorized and
23 empowered to investigate for the purposes of this act all stream
24 systems, portions of stream systems or other sources of water
25 supply, and to take testimony in regard to the rights to water
26 or the use of water thereon or therein, and to determine whether
27 or not such water or any portion thereof, or the use of said
28 water or any portion thereof heretofore, filed upon or appro-
29 priated by any person, firm, association, or corporation is un-
30 appropriated. The findings and conclusions of the Commission

1 on questions of fact shall be prima facie correct, and unless
2 changed by judicial decree, on a suit brought in a court of com-
3 petent jurisdiction within three years after the passage of this
4 act, shall be conclusive.

5 Section 7. A majority of the commissioners shall constitute
6 a quorum for the transaction of any business, for the performance
7 of any duty or for the exercise of any power of the commission.
8 No vacancy in the commission shall impair the right of the remain-
9 ing commissioners to exercise all the powers of the commission.
10 The act of a majority of the commissioners when in session as a
11 board shall be deemed to be the act of the commission; but any
12 investigation, inquiry or hearing which the commission has power
13 to undertake or to hold may be undertaken or held by or before any
14 commissioner designated for the purpose by the commission. The
15 findings of such commissioner shall be furnished to all parties to
16 the hearing prior to the approval or confirmation of such finding,
17 order or decision by the Commission. Either party to such hearing
18 shall have the right to appeal to the whole Commission prior to
19 their approval of the findings of such commissioner. And every
20 finding, order or decision made by a commissioner so designated,
21 pursuant to such investigation, inquiry or hearing, when approved
22 by the Commission and ordered filed in its office, shall be and be
23 deemed to be the finding, order or decision of the Commission.

24 The Commission may allow, under the provisions of this act,
25 the appropriation of unappropriated water or the use thereof, and
26 of water or the use thereof which is not now appropriated or being
27 used for a beneficial purpose, or which has ceased to be applied
28 to beneficial use, or which may hereafter be declared, in accord-
29 ance with the provisions of this act, to have ceased to be applied
30 to beneficial use.

1 Section 8. Underground water, for the purpose of this
2 act, is defined as any water that occurs or is found beneath
3 the surface of the ground.

4 Section 9. An overlying land owner, for the purpose of
5 this act, is defined as the owner of a tract of land under any
6 portion of which such water is situated.

7 Section 10. Overlying land, for the purpose of this act,
8 is defined as a tract of land overlying in whole or in part such
9 underground water.

10 Section 11. Owners of overlying land shall have the right
11 to use such underground water on such overlying land only, and
12 such use shall be for useful and beneficial purposes only, and
13 may be had without appropriating the same or filing notice of
14 appropriation.

15 Section 12. Where an overlying land owner has developed
16 and used, for useful and beneficial purpose, underground water
17 on overlying land, for a period of five years consecutively
18 last past, such overlying land may be segregated into more than
19 one tract, and all of such overlying land shall be entitled to
20 continue the same use of such underground water, for useful and
21 beneficial purposes only, as though said tract of land should
22 continue to be held in one ownership.

23 Section 13. The right to appropriate underground water for
24 use on other than overlying land may be acquired by filing appli-
25 cation for appropriation of such underground water with the said
26 Water Commission of the State of California, and complying with
27 all conditions required from appropriation of water from streams
28 of water in the State of California; provided such development
29 and use of water shall not in any way diminish the supply of
30 water theretofore developed and used by other overlying land

1 owners on their own land, or the supply of water theretofore
2 appropriated by other overlying land owners under the provisions
3 of this act and used on other than overlying lands. And provided
4 further that said appropriation, use and development shall be for
5 useful and beneficial purposes only.

6 Section 14. When underground water has been developed and
7 used for useful and beneficial purposes on other than overlying
8 land, for a period of at least one year prior to the passage of
9 this act, such use of water shall be considered a vested right,
10 and may be continued on other than overlying lands or for domest-
11 ic use or other beneficial purposes, in such quantity as the same
12 shall have been used for useful and beneficial purposes for a
13 period of at least one year prior to the passage of this act.
14 But failure so to use such water for a period of two years after
15 its use has been begun, shall be construed as an abandonment of
16 the right to use such water on other than overlying land.

17 Section 15. Overlying land owners, as defined in this
18 act, shall have the right to file complaints against any person
19 developing or having developed, water, and carrying, or having
20 carried, such developed water away from overlying lands, as
21 follows:

22 (a) Where such development and carrying away of water can
23 be shown to be diminishing the supply of water of such complaining
24 overlying land owner who is using underground water for useful
25 and beneficial purposes on overlying land only.

26 (b) Where such development and carrying away of water is
27 shown to be diminishing the supply of water of one who has
28 secured the right under this act to develop water on overlying
29 land and to use the same on other than overlying land.

30 Such complaint shall be in writing on blank forms provided

1 by the Water Commission of the State of California, shall be
2 sworn to and filed with said water commission within one year
3 after the first diminishing of water, which it is sought to
4 prevent, occurs.

5 Section 16. The water commission shall investigate
6 such complaint and notify all parties concerned of the time
7 and place of hearing thereon, and the commission shall file
8 its findings within three months after the hearing on such
9 complaint, and such findings shall be prima facie correct.

10 Section 17. Riparian proprietors or appropriators of
11 water from the streams of water or from underground waters of
12 the State of California may file complaints against overly-
13 ing land owners who are developing water and carrying the
14 same away from overlying land for use on other than overly-
15 ing land, where it is claimed that such development and
16 carrying away of water is diminishing the supply of water of
17 such riparian owner or appropriator of water from the streams
18 of water or underground water of the State of California.

19 Section 18. Such complaint shall be filed with the
20 water commission of the State of California within one year
21 after the first diminishing of water, which it is sought
22 to prevent, occurs. Such complaint shall be made on blank
23 forms provided by the water commission of the State of Cali-
24 fornia and shall be sworn to in the presence of a notary by
25 such complaining riparian proprietor or appropriator of water.

26 Section 19. The water commission shall investigate such
27 complaint and notify all parties concerned as to the time and
28 place of hearing and shall file its findings within three
29 months after the final hearing on such complaint, and such
30 findings shall be prima facie correct.

1 Section 20. Upon application for the right to appropri-
2 ate and use underground water on other than over-lying land,
3 for useful and beneficial purpose, the State Water Commission
4 may grant a temporary permit for such development and carrying
5 away of underground water. But such temporary permit may be
6 revoked by the Water Commission at any time within eighteen
7 months after the granting of the same, where it is shown to the
8 satisfaction of said water commission that such development and
9 carrying away of such water by authority of such temporary per-
10 mit is preventing over-lying land owners who are using such
11 underground water on over-lying land, or others who have ac-
12 quired the right to use and are using such underground water on
13 other than overlying land, from securing the water to which
14 they are entitled or, in lieu of such revocation of said per-
15 mit, the water commission may determine the amount of damage
16 accruing to adverse claimants by reason of the development and
17 carrying away of such water, by authority of said temporary
18 permit, and assess said damage against the grantee of said
19 temporary permit; and the amount of such damage, so determined
20 and assessed, shall be paid to the party so damaged by the
21 party causing such damage; and thereupon the said temporary
22 permit shall remain in full force and effect so long as the
23 conditions imposed by the water commission are complied with,
24 and not otherwise.

25 Section 21. (a) The complaint of an overlying land
26 owner against another overlying land owner shall not be valid
27 where the person complained of is developing and using only his
28 proportional part of such underground water for useful and
29 beneficial purposes only upon his own overlying land.

30 (b) The complaint of an overlying land owner, riparian

1 proprietor, or appropriator of underground water or stream
2 flow, against one who has complied with the provisions of this
3 act and the regulations of the Water Commission of the State of
4 California for the developing and carrying away of underground
5 water from overlying land shall not be valid unless filed with
6 the Water Commission of the State of California within one year
7 after the actual development and carrying away of such water.

8 Section 22. No complaint of any riparian proprietor or
9 appropriator of water from any stream of the State of California
10 charging the diminishing of the water of the stream shall be
11 valid where such complaint is based on the action of an overly-
12 ing land owner in developing and using only his proportional
13 part of such water for beneficial and useful purpose upon his
14 own overlying land only.

15 Section 23. When the commission shall have investigated
16 the right to water or to the use of water in any stream system
17 or part of any stream system, or other source of water supply,
18 it shall cause a notice to be prepared declaring that fact and
19 also setting a date and place when and where a hearing shall be
20 had to determine such right. At such time any party or parties
21 claiming any right, title or interest in or to the water of such
22 stream system, part of stream system, or other source of water
23 supply, or in or to the use of said water, may present to said
24 water commission any facts, by deposition or oral sworn testi-
25 mony, in support of any such claim. At least thirty days before
26 the date when such testimony is to be presented, said notice
27 shall be served personally upon all claimants the names and
28 addresses of whom are known. Where the person on whom service
29 is to be made resides out of the state, or has departed from
30 the state or can not after due diligence be found within

1 the state, or at the place designated in any notice he may have
2 filed under section one thousand one hundred and sixty-three of
3 the Civil Code, or is a foreign corporation having no managing
4 or business agent, cashier or secretary within the state, and
5 the fact appears by affidavit to the satisfaction of the com-
6 mission, the commission may make an order that the service be
7 made by publication of the notice, and a copy of said notice
8 shall be recorded in the office of the county recorder of every
9 county in which the stream system, or part thereof under inves-
10 tigation is situated, at least thirty days prior to the date as
11 hereinabove provided. Where all of the claimants are not per-
12 sonally served as provided herein said notice shall be publish-
13 ed once a week for four successive weeks in some newspaper of
14 general circulation in each county in which the stream system
15 or portion of stream system or other source of water supply
16 under investigation is situated. Such publication shall be
17 completed at least thirty days prior to the date set for the
18 presentation of such testimony, and shall be a notice to all
19 persons, except as herein provided, and shall be equivalent to
20 personal service upon all claimants whose addresses are not
21 known. A copy of said notice shall also be posted in a con-
22 spicuous place for thirty days prior to said date of hearing
23 in the office of the water commission. Where the claimant to
24 any of the rights under investigation is an association of per-
25 sons, or a domestic or foreign corporation, personal service
26 upon the president, secretary or manager thereof, or upon the
27 person designated by law to receive service of process, shall
28 be service upon all of the members thereof, or of the corpora-
29 tion, for the purposes of this act. When the notice of such
30 hearing is recorded as herein provided any subsequent transfer

1 of any rights therein shall be made subject to such notice,
2 and no additional service need be made upon persons acquiring
3 such right subsequent to the date of record. For the purpose
4 of this act, the commission is empowered to resort to any
5 source of information available. The evidence introduced at
6 such hearing shall be reduced to writing and certified under
7 the seal of this commission. The commission shall make and
8 file in its office in writing its findings of fact upon all
9 matters concerning which evidence shall have been introduced
10 before it, which in its judgment have bearing on the matters
11 sought to be determined by said hearing. The findings of the
12 commission so made and filed, when properly certified under
13 the seal of the commission, shall be admissible in evidence
14 in any action, proceeding or hearing before the commission or
15 any court in which the commission, the state or any officer,
16 department or institution thereof, or any county, city and
17 county, municipality or other body politic, or any claimant
18 whose rights are affected by said determination, may be in-
19 terested, whether arising under the provisions of this act or
20 otherwise. After such hearing, the commission may, upon good
21 cause shown, or upon its own motion, order a reinvestigation
22 of such rights and grant a rehearing to the parties interest-
23 ed therein and may permit additional affidavits to be filed
24 or new testimony to be presented, but no such rehearing or
25 reinvestigation shall be had unless requested within one year
26 from the date of such determination.

27 Section 24. (a) The commission and each commissioner
28 shall have the power to administer oaths, certify to all of-
29 ficial acts, and to issue subpoenas for the attendance of
30 witnesses and the production of papers, maps, books, accounts,

1 documents and testimony in any inquiry, investigation, hearing
2 or proceeding in any part of the state. Each witness who
3 shall appear by order of the commission or a commissioner,
4 shall receive for his attendance the same fees and mileage al-
5 lowed by law to witnesses in civil cases, which amount shall
6 be paid by the party at whose request such witness is sub-
7 poenaed. When any witness who has not been required to attend
8 at the request of any party shall be subpoenaed by the commis-
9 sion, his fees and mileage shall be paid from the funds ap-
10 propriated for the use of the commission in the same manner as
11 other expenses of the commission are paid. Any witness sub-
12 poenaed except one whose fees and mileage may be paid from the
13 funds of the commission, may, at the time of service, demand
14 the fee to which he is entitled for travel to and from the
15 place at which he is required to appear, and one day's attend-
16 ance. If such witness demands such fees at the time of ser-
17 vice, and they are not at that time paid or tendered, he shall
18 not be required to attend before the commission or commissioner
19 as directed in the subpoena. All fees and mileage to which
20 any witness is entitled under the provisions of this section
21 may be collected by action therefor instituted by the person
22 to whom such fees are payable.

23 (b) The superior court of the county or city and county
24 in which any inquiry, investigation, hearing or proceedings
25 may be held by the commission or any commissioner shall have
26 the power to compel the attendance of witnesses and the pro-
27 duction of papers, maps, books, accounts, documents and testi-
28 mony as required by any subpoena issued by the commission or
29 any commissioner. The commission or the commissioner before
30 whom the testimony is to be given or produced, in case of the

1 refusal of any witness to attend or testify or produce any
2 papers required by such subpoena, may report to the super-
3 ior court in and for the county or city and county in which
4 the proceeding is pending, by petition, setting forth that
5 due notice has been given of the time and place of attend-
6 ance of said witness, or the production of said papers, and
7 that the witness has been summoned in the manner prescribed
8 in this act, and that the witness has failed and refused to
9 attend or produce the papers required by the subpoena, be-
10 fore the commission or commissioner, in the cause or pro-
11 ceeding named in the notice and subpoena, or has refused to
12 answer questions propounded to him in the course of such
13 proceeding, and ask an order of said court, compelling the
14 witness to attend and testify before the commission. The
15 court, upon the petition of the commission or such commis-
16 sioner, shall enter an order directing the witness to ap-
17 pear before the court at a time and place to be fixed by
18 the court in such order, the time to be not more than ten
19 days from the date of the order, and then and there show
20 cause why he has not responded to said subpoena. A copy of
21 said order shall be served upon said witness. If it shall
22 appear to the court that said subpoena regularly issued by
23 the commission or a commissioner, the court shall thereupon
24 enter an order that said witness appear before the commis-
25 sion or said commissioner at the time and place fixed in
26 said order, and testify or produce the required papers, and
27 upon failure to obey said order, said witness shall be
28 dealt with as for contempt of court.

29 (c) The commission or any commissioner or any party
30 to a proceeding before the commission or a commissioner may

1 in any investigation or hearing before the commission, cause
2 the deposition of witnesses residing within or without the
3 state to be taken in the manner prescribed by law for like
4 depositions in civil actions in the superior courts of this
5 state, and to that end may compel the attendance of witnesses
6 and the production of books, documents, papers and accounts.

7 (d) No person shall be excused from testifying or
8 from producing any book, map, document, paper or account in
9 any investigation or inquiry by or hearing before the com-
10 missioner or any commissioner, when ordered to do so, upon the
11 ground that the testimony or evidence, book, map, document,
12 paper or account required of him may tend to incriminate him
13 or subject him to penalty or forfeiture. But no person
14 shall be prosecuted, punished or subjected to any penalty or
15 forfeiture for or on account of any act, transaction, matter
16 or thing concerning which he shall, under oath, have been
17 compelled, or shall have testified or produced documentary
18 evidence; provided, that no person so testifying shall be
19 exempt from prosecution or punishment for any perjury com-
20 mitted by him in his testimony. Nothing herein contained
21 shall be construed as in any manner giving to any public
22 utility or person immunity of any kind.

23 Section 25. A full and accurate record of busi-
24 ness or acts performed by the commission or any member
25 thereof in pursuance of the provisions of this act shall be
26 kept and be placed on file in the office of said water com-
27 mission.

28 Section 26. The commission shall take charge and
29 collect the following fees: for copies and records not
30 required to be certified or otherwise authenticated by the

1 commission, ten cents for each folio; for certified copies of
2 official documents and orders filed in its office, fifteen cents
3 for each folio and one dollar for every certificate under seal
4 affixed thereto; for certified copies of evidence and proceed-
5 ings before the commission, fifteen cents for each folio. The
6 commission may fix reasonable charges for publications issued
7 under its authority. All fees charged and collected under this
8 section shall be paid, at least once each week, accompanied by
9 a detailed statement thereof, into the treasury of the state to
10 the credit of the Water Commission.

11 Section 27. Any person, firm, association or corpora-
12 may apply for and secure from the commission a permit for any
13 unappropriated water or the use of unappropriated water within
14 this state in conformity with such rules and regulations as may
15 be adopted from time to time by such Water Commission, and any
16 application made in conformity with such rules and regulations,
17 or with any law applicable to the appropriation of water, shall
18 give a priority of right for such water or the use thereof to
19 the applicant until such application shall have been approved or
20 rejected by said commission; provided that such priority shall
21 continue only so long as the rules and regulations of the Water
22 Commission shall be followed by the applicant. Upon the approv-
23 al of any application by the commission, said approval shall
24 give priority of right, and shall give the right to take and use
25 the amount of water for the period allowed by said commission in
26 the approval of such application, but only to the extent and for
27 the purpose or purposes allowed in said approved application;
28 provided, further, that any application made in a bona fide at-
29 tempt to conform to said rules and regulations, or to any law
30 applicable to the appropriation of Water which shall not be made

1 in conformity therewith, shall secure to the applicant a priority
2 of right until he shall have been notified by said commission in
3 what respect his application is defective, and said applicant
4 shall be allowed fifteen days after notice of said defect in
5 which to file an amended application; provided, further, that any
6 priority of right secured under this section shall not be effect-
7 ive for more than thirty days after service of notice of such
8 approval, personally or by registered mail, on the applicant,
9 unless within said period of thirty days a true copy of said ap-
10 proved application upon which such priority is based shall have
11 been filed in the office of the recorder of the county or city
12 and county in which the water is to be diverted.

13 Section 28. Actual construction work upon the project for
14 which the water or the use thereof is applied for shall begin
15 within six months from the date of the approval of the applica-
16 tion, and the construction of the work thereafter shall be pros-
17 ecuted with reasonable diligence in accordance with the terms of
18 the approved application and the rules and regulations of said
19 commission; and said work shall be completed in accordance with
20 the terms of the approved application, but the period of comple-
21 tion shall not exceed five years from the date of said approval.
22 The Water Commission, however, may, for good cause shown, extend
23 the time within which said work shall be completed, but no such
24 extension shall be for a longer period than one year. And if
25 such work be not so commenced, prosecuted and completed as pro-
26 vided in this act, the Water Commission may, after due notice to
27 the applicant, revoke its approval of the application, and immed-
28 iately upon such revocation any priority of right under said ap-
29 plication shall lapse.

30 Section 29. Immediately upon completion, in accordance with

1 the terms of the permit, of the project under such application,
2 the holder of said permit shall report said completion to the
3 Water Commission, which shall immediately thereafter cause to be
4 made a full inspection and examination of the works constructed
5 and shall determine whether the construction and condition of the
6 project are in conformity with the terms of the approved applica-
7 tion and permit, and shall, if said determination is favorable to
8 the applicant, issue a license which shall give the right to the
9 diversion of such water and the use thereof as may be necessary
10 to fulfill the purpose of the approved application. Said license
11 shall be in such form as may be prescribed by the Water Commiss-
12 ion under the conditions of this act.

13 Section 30. If the purpose of the use of water be for the
14 generation of electricity, or electrical or other power, the li-
15 cense issued therefor shall be effective only for a period of
16 forty years, and if the use of water be for any other purpose
17 than the generation of electricity, or electrical or other power,
18 such license shall be effective for such time as the water so ap-
19 propriated is actually used for the beneficial purpose for which
20 it was appropriated. If it shall appear to the State Water Com-
21 mission at any time after a license is issued to any person,
22 firm, association or corporation, as herein provided, that such
23 person, firm, association, or corporation has not put the water,
24 or use of water, sought to be appropriated under said license to
25 the useful and beneficial use for which it was appropriated, or
26 has ceased to put said water, or use of water, to such useful or
27 beneficial purpose, or has failed to observe any of the terms and
28 conditions in the license as issued, then and in that case the
29 said commission, after due notice to the licensee and a hearing
30 thereon, may revoke said license and declare the water or the use

1 of the water sought to be appropriated thereunder to be unappro-
2 priated and open to further appropriation in accordance with the
3 terms of this act.

4 Section 31. Every person, firm, association, or corporation
5 which shall have secured a license from said Water Commission
6 for the purpose of generating electricity, or electrical or oth-
7 er power shall have a preference right to the renewal of said
8 license upon such terms as the Water Commission may prescribe in
9 accordance with law, and such license shall be renewed upon ap-
10 plication therefor unless the licensee shall have failed to com-
11 ply with the terms and conditions thereof or of this act, or un-
12 less the State, in any manner hereafter authorized, shall deter-
13 mine to acquire such right for its own use; provided, that any
14 application for renewal of such license shall be filed with the
15 Water Commission at a time not less than six months nor more than
16 one year prior to the expiration of the time specified in the li-
17 cense. And provided, further, that no such renewal shall be for
18 a longer period than twenty years.

19 Section 32. Licenses hereafter granted for water or the use
20 of water shall be subject to the right of the State to impose the
21 fees and charges herein provided.

22 Section 33. Every person, firm, association or corporation
23 making application for permission to appropriate water or the
24 use thereof under this act shall pay to the State Water Commiss-
25 ion, at the time of filing said application, a fee of two hun-
26 dred and fifty (250) dollars if the purpose of use is for the
27 generation of electricity, or electrical or other power, or a
28 fee of ten (10) dollars if the purpose be other than for the
29 generation of electricity, or electrical or other power. Every
30 person, firm, association or corporation at the time of receiving

1 a license to appropriate water or the use of water, if the pur-
2 pose be for the generation electricity, or electrical or other
3 power, as provided by this act, shall pay said commission when
4 the said license is issued, and annually thereafter, a charge of
5 twenty (20) cents for each theoretical horse power capable of
6 development by the proposed works. * If the purpose of use is
7 for other than the generation of electricity, or electrical or
8 other power, every person, firm, association, or corporation,
9 shall pay to the said commission when said license is issued,
10 and annually thereafter, a charge of twenty-five (25) cents per
11 miner's inch for each miner's inch specified in the license, and
12 for the purpose of this act fifty miner's inches shall be equiv-
13 alent to one cubic foot per second.

14 Section 34. For the purpose of carrying out the provisions
15 of this act the said Water Commission is authorized to pass such
16 necessary rules as it may from time to time deem advisable, and
17 to appoint a secretary who shall have charge of the books and
18 records of said Water Commission and perform such other duties
19 as the Commission may from time to time prescribe, and said Water
20 Commission may also employ such expert, technical, professional
21 and clerical assistance, and upon such terms, as it may deem
22 proper. And for the purpose of carrying out the provisions of
23 this act the sum of fifty thousand dollars is hereby appropriat-
24 ed out of any money in the state treasury not otherwise appropri-
25 ated, and the State Controller is hereby authorized and directed
26 to draw his warrants from time to time upon the requisition of
27 the State Water Commission, approved by the State Board of Con-
28 trol, and the State Treasurer is hereby authorized and directed
29 to pay such warrants.

30 Section 35. All indebtedness incurred for salaries, and all
necessary costs in traveling and other expenses of said Commiss-

1 sion, and each of its members and persons employed by it, while
2 actually engaged in the business of said commission, shall be
3 paid by the state out of the funds hereby appropriated, upon the
4 sworn statement of the person or persons incurring such indebted-
5 ness, and upon the approval of the Water Commission, approved
6 by the State Board of Control, and the State Controller is here-
7 by authorized to draw warrants upon the State Treasurer as pro-
8 vided by law for the payment of similar costs and expenses and
9 the drawing of similar warrants.

10 Section 36. None of the provisions of this act, except as
11 hereinafter provided, shall apply to any city, city and county,
12 municipal water district, or lighting district, nor to the ap-
13 propriation or use of the waters of the state by any city, city
14 and county, municipal water district, or lighting district; pro-
15 vided, however, that every city, city and county, municipal
16 water district, and lighting district shall, within thirty days
17 from the time that it posts and records notices of appropriation
18 as required by law, file with the Water Commission a notice of
19 said appropriation, together with the post office address of the
20 appropriator, the source of the water to be appropriated or
21 used, the nature and amount of the proposed use, the head or
22 amount of water to be utilized, the uses to which the waters are
23 to be applied, the nature, location, character and estimated
24 capacity of the works, and whether the water is to be and will
25 be returned to the stream or source from which it is to be tak-
26 en, and if so, at what point on such stream or source. If the
27 construction contemplates a reservoir for the purposes of stor-
28 ing water for the use of any city, city and county, municipal
29 water district, or lighting district, the notices filed with the
30 Board shall also give the estimated height of the dam and

1 estimated capacity of the reservoir in addition to the other
2 requirements above set forth; and, provided, also, that any
3 city, city and county, municipal water district, or lighting
4 district may participate in any of the investigations herein
5 provided for, involving a right to appropriate or use any of
6 the waters of the state, when such investigation affects the
7 rights or claims of any such city, city and county, municipal
8 water district, or lighting district; and in such case any such
9 city, city and county, municipal water district, or lighting
10 district, the rights of which are so affected, shall be served
11 with notice in the same manner as herein provided for the
12 serving of notice upon persons, associations and corporations.

13 Section 37. All other acts or parts of acts in conflict
14 herewith are hereby repealed.

15 Section 38. This act shall be known as the "Water Com-
16 mission Act".