

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF ADMINISTRATIVE SERVICES  
DECEMBER 1, 2015**

**ITEM 6**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING THE WATER RIGHTS FEE SCHEDULE IN CALIFORNIA CODE OF REGULATIONS, TITLE 23, DIVISION 3, CHAPTER 5, SECTION 1062 TO INCLUDE A NEW FEE FOR TEMPORARY PERMITS FOR DIVERSION TO UNDERGROUND STORAGE DURING HIGH FLOW EVENTS

**DISCUSSION**

On November 13, 2015, the Governor signed Executive Order B-36-15 requiring the State Water Board to prioritize temporary water rights permits to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events this winter and spring for local storage or recharge and later beneficial uses.

Staff is proposing to amend the current FY 2015-16 water right fee schedule to add a fee for applications for temporary permits filed under Water Code section 1425 solely for the purposes of diverting water from high flow events to underground storage for later beneficial uses. For any application for a temporary permit, or application for renewal of a temporary permit, staff is proposing a fee of \$100 plus \$1.00 for every 100 acre-feet of water the applicant diverts to underground storage under the permit in excess of 10,000 acre-feet.

**POLICY ISSUE**

Should the State Water Board approve a resolution to adopt an emergency regulation to change the current water right fee schedule as proposed by staff?

**FISCAL IMPACT**

No fiscal impact.

**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.

<p>State Water Board action on this item will assist the Water Boards in reaching Goals 3 and 5 of the Strategic Plan Update: 2008-2012 to increase sustainable local water supplies available and ensure adequate water flows for fish and wildlife habitat, and to improve transparency and accountability.</p>
---

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

ADOPTING EMERGENCY REGULATIONS AMENDING THE WATER RIGHTS FEE SCHEDULE IN CALIFORNIA CODE OF REGULATIONS, TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062 TO INCLUDE A NEW FEE FOR TEMPORARY PERMITS FOR DIVERSION TO UNDERGROUND STORAGE DURING HIGH FLOW EVENTS.

### WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. The Water Code further delegates authority to the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Rights Fund in the State Treasury. (Wat. Code, §§ 1525, 1530, 1551, 13160.1.) The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a fee schedule that will generate revenues necessary to support expenditures of amounts appropriated by the Legislature from the Water Rights Fund for specified regulatory activities that make up the water rights program. (See Wat. Code, § 1525, subd. (d)(3).) The State Water Board also takes into account the need to maintain a prudent reserve in the Water Rights Fund when it sets fees. (*Ibid.*)
4. The State Water Board finds that, in accordance with section 1552 of the Water Code, the funds collected from water right fees and deposited in the Water Rights Fund will be used for administration of the water rights program, while maintaining a prudent reserve. These administrative costs, including the State Water Board's costs of administering the water right program and the costs of the Board of Equalization in collecting and paying refunds of water right fees, constitute costs of state operations, plus costs of purchasing and leasing of supplies, equipment and material, and maintaining financial reserves. Because the fees are used for these purposes, they are exempt from the California Environmental Quality Act as provided in section 21080, subdivision (b)(8) of the Public Resources Code.
5. The Budget Act of 2015 delegates to the Department of Finance the authority to make specified adjustments to the amounts appropriated by the Legislature. The State Water Board has considered the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with amounts appropriated by the Legislature, that are required to support the water right program.
6. State Water Board staff prepared recommended revisions to the State Water Board's water right fee regulations in accordance with the Water Code and the fee revenue requirements as appropriated by the Legislature.
7. The water right fee regulations and schedules are contained in title 23, division 3, chapter 5 (commencing with, section 1062) and chapter 28, article 1, section 3833.1 of the California Code of Regulations.

# DRAFT

8. During abnormally high flow events there is water available for appropriation that could be diverted to underground storage for later beneficial use. This emergency regulation sets a new fee schedule for temporary permits for the diversion and later use of these flows.
9. This [emergency regulation](#) will take effect upon filing with the Secretary of State.

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts an emergency regulation revising title 23, division 3, chapter 5, section 1062 of the California Code of Regulations as recommended by staff.

## CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 1, 2015.

---

Jeanine Townsend  
Clerk to the Board