

**STATE WATER RESOURCES CONTROL BOARD MEETING
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 16, 2015**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064, AND 1066 OF THE CALIFORNIA CODE OF REGULATIONS.

DISCUSSION

Water Code section 1525 requires the State Water Resources Control Board (State Water Board) to adopt, by emergency regulation, a schedule of fees to recover the costs incurred in connection with the State Water Board's Water Rights Program. Water Code section 1525 further requires the State Water Board to adjust the fees annually to conform to the amounts appropriated by the Legislature. Water Code section 1551 requires that all water rights fee revenue be deposited in the Water Rights Fund (WRF). Similar provisions in Water Code section 13160.1 govern water quality certification fees. The current fee schedules were adopted on September 23, 2014.

Financial Condition of the Water Rights Fund

[Attachment 1](#) shows an analysis of the fund condition for the WRF. The adjusted beginning balance for Fiscal Year (FY) 2014-15 was \$3.7 million. Total estimated revenue is approximately \$17.2 million and total expenditures are approximately \$17.7 million, resulting in a \$595,000 decrease in the fund with an ending balance of \$3.1 million and a fund reserve of 17.7 percent. Since FY 2011-12, the fund reserve has been drawn down to offset the fee increases that would otherwise be necessary to meet budgetary expenditures.

Proposed Changes

At the September 23, 2014 State Water Board meeting staff proposed to implement a gradual fee increase over the next three years, from FY 2014-15 through FY 2016-17. As [Attachment 1](#) shows, this requires partial fee increases in FY 2014-15 and FY 2015-16 made possible by drawing down the fund reserve and an increase in FY 2016-17 to raise sufficient revenue to meet projected budgetary expenditures and maintain a prudent fund reserve. This proposal reduces the need for a one-time large fee increase for any given fiscal year.

State Water Board staff proposes to increase the annual water right permit and license per acre-foot charge for FY 2015-16 from the current rate of \$0.058 to \$0.063 for each acre-foot in excess of 10 acre-feet to conform to the amounts appropriated by the Legislature. [Attachment 2](#) shows the impact of the gradual fee increases for fee payers currently paying over \$41,100.

State Water Board staff proposes to adjust the caps on water right application and petition filing fees based on the consumer price index. Currently, the caps for water right application and petition filing fees are set at \$489,848 for applications and for change petitions involving water transfers, and \$6,153 for most other change petitions. The adjustment will increase the current water right application and change petition fee cap of \$489,848 by the increase in the consumer price index of 1.8 percent to \$498,665 and increase the current cap for other change petitions by an increase in the consumer price index of 1.8 percent, from \$6,153 to \$6,264.

POLICY ISSUE

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

FISCAL IMPACT

- 1) Increase annual Water Rights fees to conform to the amounts appropriated by the Legislature: Under the current fee schedules, if fees are not raised for FY 2015-16, the fund is projected to end with a fund reserve of approximately 6% and revenue will be short of budgetary expenditures by \$1.9 million. This would require a 22% fee increase for FY 2016-17 to maintain the desired 10 percent fund reserve.
 - Increase the per acre-foot charge from \$0.058 to \$0.063 per acre-foot in excess of 10 acre-feet.

- 2) Adjust the caps on water right application and petition filing fees based on the consumer price index: Currently, the caps for water right application and petition filing fees are set at \$489,848 for applications and for change petitions involving water transfers, and \$6,153 for most other change petitions. The adjustments will:
 - Increase the current application cap of \$489,848 by the increase in the consumer price index of 1.8 percent to \$498,665.
 - Increase the current change petition cap of \$6,153 by the increase in the consumer price index of 1.8 percent to \$6,264.

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.

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.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION 2015-

ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, DIVISION 3, CHAPTER 5, SECTIONS 1062, 1064, AND 1066 OF THE CALIFORNIA CODE OF REGULATIONS.

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 conform to the amounts appropriated by the Legislature for specified regulatory activities. (See Cal. Code Regs., tit. 23, § 1525, subd. (d)(3).)
4. 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.
5. 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.
6. The water right fee regulations and schedules will be 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.
7. These emergency regulations will take effect upon filing with the Secretary of State.

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts an [emergency regulation](#) revising title 23, division 3, chapter 5, sections 1062, 1064 and 1066 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 September 16, 2015.

Jeanine Townsend
Clerk to the Board