

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WRO 2004 - 0045 - EXEC

In the Matter of the Petition for Reconsideration of the
**NORTHERN CALIFORNIA WATER ASSOCIATION,
THE CENTRAL VALLEY PROJECT WATER ASSOCIATION, AND INDIVIDUAL
PETITIONERS**

Regarding Annual Water Right Fee Determinations

ORDER DENYING RECONSIDERATION

BY THE EXECUTIVE DIRECTOR¹

1.0 INTRODUCTION

The Northern California Water Association (NCWA), the Central Valley Project Water Association (CVPWA) and other persons and entities, collectively referred to herein as "Petitioners,"² petition the State Water Resources Control Board (SWRCB) for reconsideration and a refund of water right fees assessed by the State Board of Equalization (BOE) on October 18, 2004. In general, Petitioners allege that the SWRCB's decision to impose the water right fees constitutes an abuse of discretion, is not supported by substantial evidence, and is illegal. They request the SWRCB to vacate and rescind SWRCB Resolution No. 2004 - 0061, which adopted emergency regulations amending the water right and water quality certification

¹ SWRCB Resolution No. 2002 - 0104 delegates to the Executive Director the authority to supervise the activities of the SWRCB. Unless a petition for reconsideration raises matters that the SWRCB wishes to address or requires an evidentiary hearing before the SWRCB, the Executive Director's consideration of petitions for reconsideration of disputed fees falls within the scope of the authority delegated under Resolution No. 2002 - 0104. Accordingly, the Executive Director has the authority to refuse to reconsider a petition for reconsideration, deny the petition, or set aside or modify the fee assessment.

² The term "Petitioners" is used for ease of reference and does not confer the legal status of petitioner on NCWA and CVWPA. According to the SWRCB's regulations governing reconsideration of fees, only fee payers may petition for reconsideration. (Cal. Code Regs., tit. 23, § 1077.) Persons who were assessed an annual water right permit or license fee, who have met the regulatory requirements for a filing a petition for reconsideration, and are properly considered petitioners for purposes of this Order are identified in Attachment 1.

fees, and to refund Petitioners' payments. Petitioners also request the SWRCB to hold the petition for reconsideration in abeyance pending resolution of litigation over the SWRCB's adoption of water right fees in 2003.³ The SWRCB finds that its decision to impose the fees was appropriate and proper and denies Petitioners' petition for reconsideration that is based on legal arguments. Certain Petitioners have raised factual issues relating to their fee bills; only one claim is meritorious and the SWRCB has directed BOE to act appropriately. Accordingly, the SWRCB denies reconsideration of that meritorious claim on the basis that it is now moot and also denies reconsideration of the factual claims that are without merit.

2.0 GROUNDS FOR RECONSIDERATION

A fee payer may petition for reconsideration of the SWRCB's determination that the fee payer is required to pay a fee, or the SWRCB's determination regarding the amount of the fee. (Cal. Code Regs., tit. 23, § 1077.)⁴ A fee payer may petition for reconsideration on any of the following grounds: (1) irregularity in the proceeding, or any ruling, or abuse of discretion, by which the fee payer was prevented from having a fair hearing; (2) the fee determination is not supported by substantial evidence; (3) there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced; or (4) error in law. (§§ 768, 1077.) Pursuant to Water Code section 1537, subdivision (b)(4), the SWRCB's adoption of the regulations may not be the subject of a petition for reconsideration. When an SWRCB decision or order applies those regulations, a petition for reconsideration may include a challenge to the regulations as they have been applied in the decision or order.

A petition for reconsideration of a fee assessment must include certain information, including the name and address of the petitioner, the specific board action of which petitioner requests reconsideration, the reason the action was inappropriate or improper, the reason why the petitioner believes that no fee is due or how the petitioner believes that the amount of the fee has been miscalculated, and the specific action which petitioner requests. (§§ 769, subd. (a)(1)-(6),

³ In December 2003 NCWA and CVPWA filed suit against the SWRCB and BOE challenging the SWRCB's adoption of fee regulations for Fiscal Year 2003-2004. In November 2004 they filed suit challenging the 2004-2005 fees. The litigation is pending.

⁴ All further regulatory references are to the SWRCB's regulations located in title 23 of the California Code of Regulations unless otherwise indicated.

1077, subd. (a).) A petition for reconsideration of a fee assessed by BOE must include a copy of the notice of assessment. (§ 1077, subd.(a).) Section 769, subdivision (c) of the regulations further provides that a petition for reconsideration shall be accompanied by a statement of points and authorities in support of the legal issues raised in the petition.

If the subject of the petition relates to an assessment of a fee by BOE, the SWRCB's decision regarding the assessment is deemed adopted on the date of assessment by BOE. (§ 1077, subd. (b).) A petition is timely filed only if the SWRCB or BOE receives it within 30 days of the date the assessment is issued. (*Ibid.*)

The SWRCB may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the SWRCB's regulations. (§ 770, subd. (a)(1).) Alternatively, after review of the record, the SWRCB also may deny the petition if the SWRCB finds that the decision or order in question was appropriate and proper, set aside or modify the decision or order, or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)

This Order addresses the principal issues raised by NCWA and CVPWA and the individual petitioners. To the extent that this Order does not address all of the issues raised by Petitioners, the SWRCB finds that either these issues are insubstantial or that Petitioners have failed to meet the requirements for a petition for reconsideration under the SWRCB's regulations. (§§ 768-769, 1077.)

3.0 LEGAL AND FACTUAL BACKGROUND⁵

The SWRCB's Division of Water Rights (Division) is the entity primarily responsible for administering the state's water right program. The primary source of funding for the water rights program is regulatory fees deposited in the Water Rights Fund in the state treasury. Legislation enacted in 2003 (Senate Bill 1049, 2003-04 Reg. Sess., Stats. 2003, ch. 741) required the

⁵ SWRCB Order WRO 2004-0011-Exec, which denied reconsideration of petitions for reconsideration filed by NCWA, CVPWA, and certain individual petitioners, contains an extensive discussion of the history of, and basis for, the SWRCB's water right and water quality certification fee program.

SWRCB to adopt emergency regulations revising and establishing water right fees and revising fees for water quality certification. (Wat. Code, §§ 1525, 1530.) Pursuant to this legislation, the SWRCB revises the fee schedule each fiscal year, so that the fees will generate revenues consistent with the amount set forth in the annual Budget Act. (*Id.* § 1525, subd. (d).) BOE is responsible for collecting the annual fees. (*Id.* § 1536.)

In Fiscal Year 2004-2005, the Budget Act of 2004 appropriates \$10.79 million for the state's water right program, including \$10.362 million for water right administration by the SWRCB and \$0.428 million for water right fee collection by BOE.⁶ The appropriation includes an appropriation of \$9.69 million from the Water Rights Fund. In accordance with the Water Code fee provisions, the SWRCB sets a fee schedule each fiscal year so that the amount collected and deposited into the Water Rights Fund during that fiscal year will support the appropriation made from the Water Rights Fund in the annual Budget Act, taking into account money in the fund from other sources.⁷ In Fiscal Year 2003-2004, the SWRCB collected \$7.44 million in water right fees and water quality certification fees deposited in the Water Rights Fund.⁸ This amount exceeded the \$4.6 million appropriation from the Water Rights Fund made under the Budget Act of 2003 (Stats. 2003, ch. 157) by \$2.82 million.⁹ The 2004-2005 budget assumes that the Water Rights Fund will have a balance of \$0.89 million at the end of the year. Taking into account the over-collection of fees from last fiscal year, the amount to remain in reserve, and the \$1.5 million

⁶ The budget figures referenced in this Order for Fiscal Year 2004-2005 are based on the line item appropriations in the Budget Act of 2004. (Stats. 2004, ch. 208.) These figures are subject to adjustment based on control sections in the Budget Act. (See, e.g., *id.* § 3.60.) After these adjustments are made, the precise amounts budgeted will be slightly different than the line appropriations indicated in the Budget Act, but the differences are not material for purposes of any of the issues addressed in this Order.

⁷ Other sources of money in the Water Rights Fund, in addition to fee collections made during the fiscal year, include unexpended reserves from fee collections in previous years (see Wat. Code, § 1525, subd. (d)(3)) and money transferred from other funds. The budget allocation of \$9.69 million from the Water Rights Fund includes \$1.5 million to pay for work described in Assembly Bill 2121 (Stats. 2004, ch. 943). The Budget Act provides for the transfer of funds from the Resources Trust Fund, which is supported by tidelands oil revenues, to cover this work, but in the event that those funds are not available, the Governor's Office has directed the Division not to perform the work described in Assembly Bill 2121. The water right fees have not been set to cover this work.

⁸ Fees associated with water quality certification for Federal Energy Regulatory Commission (FERC) licensing are deposited in the Water Rights Fund. (Wat. Code, § 1551, subd. (c).)

⁹ The 2003-2004 fee calculations were based on a fee revenue target of \$4.4 million, which was the amount specified in the Governor's proposed budget. The final budget, which included the adjustments called for by control sections in the Budget Act, provided for a \$4.6 million allocation from the Water Rights Fund.

to be funded through a transfer from the Resources Trust Fund to the Water Rights Fund, the SWRCB determined that the fee schedule should be set so that fee collections deposited in the Water Rights Fund would amount to \$6.26 million this fiscal year. Assuming a non-collection rate of 15 percent,¹⁰ the SWRCB determined that the total amount to be billed is \$7.36 million.

On September 30, 2004, the SWRCB adopted emergency regulations amending the water right and water quality certification fee schedules to meet the requirements of the Water Code and the Budget Act. (SWRCB Resolution No. 2004-0061.) The emergency regulations became effective on October 14, 2004, and on October 18, 2004, BOE sent out most of the notices of determination for annual permit and license fees under section 1066 of the SWRCB's regulations.

4.0 FEE DETERMINATIONS COVERED BY THE PETITION

According to the NCWA-CVPWA petition, Petitioners are NCWA, CVPWA, and persons identified in the caption of the petition. The SWRCB also has received a number of separately filed letters referencing either the NCWA petition, Petitioner's counsel (Somach, Simmons, & Dunn), or the January 2004 Stipulation and Order between NCWA, CVWPA, BOE, and the SWRCB. The SWRCB will consider the persons identified in Exhibit B of the NCWA-CVWPA petition and the persons filing separate letters of reference to be petitioners under the NCWA-

¹⁰ This assumption is based on the rate of collection in Fiscal Year 2003-2004. Although over a quarter of the fee payers did not pay their fees by the end of the last fiscal year, most of the delinquent fee payers owed relatively small amounts of money. Most fee payers who owed larger amounts paid their fees on time. The figures available to the SWRCB indicate that during Fiscal Year 2003-2004, BOE collected 88 percent of the amount billed. There is some uncertainty as to whether fee collections this year will run as high as last year. In fact, several larger fee payers who paid their fees for Fiscal Year 2003-2004 on time failed to do so this year. (See § 1074, subd. (d) [annual fees are due and payable 30 days after BOE issues a notice of assessment].) The SWRCB anticipates that after it has acted on pending petitions for reconsideration and BOE issues notices of redetermination, these larger fee payers will pay their fees in order to avoid late penalties. (See *id.*, subd. (g)(1) [allowing postponement of payment during the pendency of a petition for reconsideration, subject to interest from the original due date].) The assumption made when the SWRCB adopted the fee regulations for Fiscal Year 2004-2005 -- that collection rates would approximate those for Fiscal Year 2003-2004 -- still provides the most reliable basis available for projecting fee collections.

CVWPA petition if they otherwise meet the requirements for a petition for reconsideration. Attachment 1 identifies the persons considered to be petitioners for purposes of this order.¹¹

A number of petitioners failed to provide the SWRCB with a copy of the notice of assessment. (See § 1077, subd. (a).) Although the SWRCB requires strict adherence to the statute and regulations governing a petition for reconsideration, it can accept a timely filed petition if the petition substantially complies by providing all of the required information, in a manner that is clearly identified and readily accessible, even though the information may not be in the proper format. In this case, the SWRCB has accepted certain letters referencing the petition that did not include a notice of assessment as long as the petitioner included and clearly identified the same information contained in a notice: the fee payer's name, either the water right or BOE identification number, the amount assessed, and the billing period or assessment date. This includes petitioners who submitted a copy of a Statement of Account, instead of a copy of the assessment, where the Statement of Account includes an October 18 assessment.

It bears emphasis, however, that the requirement for including a copy of the notice of assessment serves an important function. A petition is not acceptable simply because the information provided in the notice of assessment might be available somewhere in the materials included in or incorporated by reference in the petition. The SWRCB receives a very large number of petitions for reconsideration on annual fees,¹² which must be decided in a relatively brief period, and the information included in the notice of assessment is necessary to properly process the petitions for reconsideration. To the extent the SWRCB is required to track down this information because the petitioner fails to comply with the requirements specified in SWRCB regulations, the processing of petitions for reconsideration would be delayed, and for many petitions the staff time that would have to be devoted to the effort would be disproportionate to the amount of the fee involved. In the future, the SWRCB may deny a petition for

¹¹ This order and Attachment 1 use the SWRCB identification number in identifying the fee payers. SWRCB identification numbers start with "application" or "A," which refers to the permittee or licensee's water right application number.

¹² For example, over three hundred persons or entities protested the fee assessments sent out on October 18, 2004.

reconsideration for failure to meet the applicable petition requirements, including a failure to include a copy of the notice of assessment if required under the regulations.

The SWRCB will not consider late-filed letters referencing the NCWA-CVPWA petition for reconsideration or late amendments to the petition. A petition for reconsideration must be received by either BOE or the SWRCB within 30 days of the date of the assessment is issued, i.e., November 17, 2004, for bills issued on October 18, 2004. (§ 1077, subd. (b).) The SWRCB received several letters referencing the NCWA-CVPWA petition after the deadline of November 17, 2004, and will not reconsider the fee assessments that are the subject of those letters.

The SWRCB's review in this Order is limited to annual permit and license fee assessments issued on October 18, 2004. (Wat. Code § 1537, subd. (b)(2); Cal. Code Regs., tit. 23, § 1077.) Requests for reconsideration of fees that had not been issued when the petitions for reconsideration were filed are premature because there was no SWRCB determination to review at that time. BOE assessed other annual fees on November 23, 2004, after the petition period for fees assessed on October 18 had closed, and will issue additional assessments for some annual fees that were not included in October 18 or November 23 assessments. Those later-assessed fees are not properly within the scope of review of the October 18 fee assessments.¹³ Petitioners' contentions that may be relevant to later-issued assessments, but are not relevant to any of the fee determinations that were issued on October 18, will not be considered in this order.¹⁴ Additionally, the SWRCB will not consider allegations that Petitioners seek to incorporate by reference in other documents, such as the complaint, if the Petitioners have failed to include points and authorities in support of the legal issues raised. (§ 769, subd. (c).)

¹³ Properly filed petitions requesting reconsideration of those later-issued assessments will be considered separately as appropriate. Prematurely filed petitions are not timely and will not be considered further.

¹⁴ For example, Petitioners' arguments regarding the impairment of contracts will not be considered in this Order because the fee assessments issued to the Bureau of Reclamation's (USBR) water supply contractors are not within the scope of the SWRCB's review of the October 18 annual permit and license fees.

5.0 PETITIONERS' ARGUMENTS REGARDING THE CONSTITUTIONALITY OF THE FEES AND THE ADMINISTRATION OF THE FEES ARE WITHOUT MERIT

Petitioners raise a variety of challenges to the water right fees and Resolution No. 2004-0061, including claims that (i) the administration of the water rights fees violates due process; (ii) the fees constitute an unconstitutional tax; (iii) the fees are arbitrary and capricious, exceed the SWRCB's authority, and violate Government Code section 11010; and (iv) the fees are illegal because they were calculated using data in the SWRCB's water right database. With the exception of the first argument concerning administration of the fees, these issues were all raised in the petition that NCWA and the CVWPA previously filed challenging annual fees issued in Fiscal Year 2003-2004. The SWRCB denied that petition in Order WRO 2004-0011-Exec. In large part, the NCWA-CVWPA petition now before the SWRCB repeats the same arguments verbatim, and the Petitioners have not provided any new arguments, new information, or supporting authorities that materially change any of the issues raised in the earlier petition. With respect to the issues that were raised in the previous petition and are repeated in the petition now before the SWRCB, this Order adopts the reasoning of Order WRO 2004-0011-Exec, and incorporates that order by reference.¹⁵ Nonetheless, in light of Petitioners' apparent confusion over the relationship of the water right fees to the regulatory water right program, this Order will further address that issue, as well as Petitioner's new issue regarding the administration of water right fees.

5.1 The Administration of the Water Right Fees Comports With the Fee Regulations and Due Process

In their lead argument, Petitioners contend that the administration of the water right fees violates Petitioners' due process rights. Petitioners allege that some Notices of Determination for the 2004-2005 annual water right fees were sent out under the SWRCB's letterhead, thus rendering

¹⁵ Order WRO 2004-0011-Exec also discusses issues that are not properly raised in connection with the petition currently before the SWRCB, including issues concerning fees assessed to USBR water supply contractors. To the extent Order WRO 2004-0011-Exec addresses issues that are not properly before the SWRCB in this Order and are not relevant to the issues decided in this Order, the incorporation by reference of Order WRO 2004-0011-Exec does not extend to those issues and those issues have not been decided by this Order.

them invalid because the notices do not indicate that BOE is the assessing agency as is required by section 1074, subdivision (d) of the fee regulations. Section 1074, subdivision (d), however, simply states that an annual fee is due and payable after 30 days of an assessment by BOE. The regulation does not specify a letterhead format for annual water right fees form, nor does it preclude the SWRCB's name and address from appearing on the form. BOE mailed the Notices of Determination for Fiscal Year 2004-2005 annual permit and license fees in BOE envelopes, included an enclosed pre-printed envelope with BOE's address for return of the payment, and printed its seal and form number BOE-1210 (S1) Rev. 11(1-04) on the notice. Moreover, the second page of the notice states: "Note: This billing was issued by the State Board of Equalization (BOE) on behalf of the State Water Resources Control Board." (See, e.g., NCWA-CVPWA Petition for Reconsideration, Ex. B, Notice of Determination for Alfred G. Montna & Gail E. Montna.)¹⁶ These facts clearly demonstrate that BOE assessed the annual fees in accordance with section 1074, subdivision (d).

Petitioners also contend that the Notices of Determination and Statements of Account are so ambiguous that they are arbitrary, capricious, and invalid. Petitioners further object that BOE mailed fees out on different dates, mailed duplicate bills for the same water right, or otherwise violated Petitioners' due process rights under sections 1074, subdivision (d) and 1077, subdivision (b) of the regulations. At the direction of the SWRCB, BOE mailed approximately 11,900 annual permit and license fees for Fiscal Year 2004-2005 on October 18, 2004. The annual fees for contractors of the USBR, 401 Certification Program, applications, petitions and some permits and licenses needing record changes were not mailed at that time, but there is no statutory or constitutional requirement that all fee assessments be mailed to each and every fee payer on the same day. Each fee assessment is identified as a "Notice of Determination." The notices correctly identify the following critical information: the issue date of October 18, 2004, the fee period of July 1, 2004 through June 30, 2005, the required fee amount, the due date of November 17, 2004, and the information concerning petitions for reconsideration.

¹⁶ Petitioners frequently only submitted the first page of the Notice of Determination in their exhibits.

Petitioners' claim that they were confused appears to stem from the mailing of other forms used by BOE in its normal billing and collection process. Throughout the year, BOE mails out the following notices: (1) Redetermination Notices for revisions to a past fee, (2) Demand and Final Demand Notices for late payments, and (3) Statements of Account that provide information on the status of accounts. This year, Statements of Account were mailed on October 25, which is close to the October 18 mailing date of the Notices of Determination. The statements reflect the status of account and payment for last fiscal year and this fiscal year. As Petitioners' own exhibits indicate, the Notices of Determination and Statements of Account are clearly labeled as such. (NCWA-CVPWA Petition, Ex. C, D.) The Notices of Determination provide notice to fee payers of the water right fees due and payable. Additionally, the notices explain how to petition for reconsideration of a determination. The information provided in the Statements of Account about the status of fees assessed in the October 18 Notices of Determination is consistent with those Notices of Determination, including the same amount due and due date.¹⁷ Petitioners' claims that the documents are ambiguous and that their due process rights have been violated are unsubstantiated.

Petitioners also claim that the regulation requiring that a petition for reconsideration include a copy of the notice of assessment is unreasonable and arbitrary. (§ 1077, subd. (a).) Petitioners first imply that they do not know which document to include with a petition for reconsideration because "nowhere on the Notice of Determination or Statements of Account is the term 'assessment' used" and that such a document doesn't actually exist. (NCWA-CVPWA Petition for Reconsideration, p. 7.) Contrary to Petitioners' assertion, their own Exhibit C expressly refers to the above "assessment." Moreover, section 1061, subdivision (b) of the regulations defines "assessment" as "an amount owing, as in a notice of determination or similar billing document issued by [BOE]" Thus, it is clear that the Notice of Determination is the appropriate document for purposes of section 1077, subdivision (a).

¹⁷ As explained herein, notwithstanding section 1077, subdivision (a) of the regulations, the SWRCB has accepted a petition if a petitioner subject to an October 18 assessment has submitted a Statement of Account that includes an October 18 assessment.

Petitioners contend that it is unreasonable and unnecessary for the SWRCB "to demand attachment of a document that the [SWRCB] has in its possession," i.e., the notice of assessment. (*Id.*) Petitioners are mistaken in their claim that the SWRCB typically possesses Notices of Determination. BOE does not send the notices of determination to the SWRCB and the SWRCB normally does not receive a Notice of Determination unless mail is returned or a petition for reconsideration is filed. More importantly, section 1077, subdivision (a) is a reasonable refinement of section 769, subdivision (a)(2) of the SWRCB's regulations, which requires a petitioner to identify the specific board action of which a petitioner requests review. As discussed above, the inclusion of the Notice of Determination in a petition provides a clear basis for the SWRCB to determine precisely which fees are properly before the SWRCB as part of a petition for reconsideration. Providing a copy of the Notice of Determination requires little effort by a petitioner, and helps to ensure that the SWRCB considers the correct action in light of the volume of annual fees it processes and fee petitions it receives. Petitioners' claims on this subject are without merit.

5.2 The Water Right Fees are Reasonably Related to the Fee Payers' Burden on and Benefits From the Regulatory System

The gravamen of Petitioners' argument is that the water right fees are not regulatory fees, but are illegal taxes in violation of the California Constitution. In support of this argument, Petitioners repeatedly allege that the water right fees are not reasonably related to the payer's burden on or benefits from the regulatory system. The SWRCB properly denied Petitioners' constitutional arguments in SWRCB Order WRO 2004-0011-Exec, which is incorporated by reference, and in general, those arguments will not be addressed herein. Nonetheless, it may be helpful to further elucidate the relationship between the water right fees and the SWRCB's water right program.

Under California Constitution, article XIII A (Proposition 13), the state cannot impose a new tax or tax increase except by statute approved by a two-thirds vote of each house of the Legislature.¹⁸ The Legislature, however, can authorize a state agency to charge a regulatory fee

¹⁸ Section 3 of Proposition 13 states:

From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in
[footnote continues on next page]

through a statute enacted by a majority vote. A regulatory fee is a fee “charged in connection with regulatory activities, which fees do not exceed the reasonable cost of providing services necessary to the activity for which the fee is charged and which are not levied for unrelated revenue purposes.” (*Sinclair Paint Co. v. State Board of Equalization* (1997) 15 Cal.4th 866, 876 [64 Cal.Rptr.2d 447].)

Regarding cost-fee ratios, a state agency must demonstrate “(1) the estimated costs of the service or regulatory activity, and (2) the basis for determining the manner in which the costs are apportioned, so that charges allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on or benefits from the regulatory activity.” (*California Association of Professional Scientists v. Department of Fish and Game* (2000) 79 Cal.App.4th 935, 945-950 [94 Cal.Rptr.2d 535] (hereinafter *CAPS*) (citing *Beaumont Investors v. Beaumont-Cherry Valley Water Dist.* (1985) 165 Cal.App.3d 227, 235 [211 Cal.Rptr. 567])). A regulatory fee, however, does not require a precise cost-fee ratio to survive as a fee. (*CAPS, supra*, 79 Cal.App.4th at p. 950.) In *CAPS*, the court recognized that flexibility is an inherent component of reasonability and that regulatory fees, unlike other types of fees, often are not easily correlated to a specific, ascertainable cost due to the complexity of the regulatory scheme, the multifaceted responsibilities of the responsible agency and its employees, intermingled funding sources, and accounting systems that are not designed to track specific tasks. (*Id.* at p. 950.) Thus, the SWRCB has discretion and flexibility in developing a regulatory fee structure as long as it is reasonable.

The Legislature has authorized the SWRCB to charge regulatory fees to water users. Water Code section 1525, subdivision (c) requires the SWRCB to set the fee schedule so that the total amount of fees collected equals the amount necessary to recover the water right program’s costs. The SWRCB must set a fee schedule that will generate revenues in the amount the Budget Act sets for water right fee revenues, and it must review and revise the fees each fiscal year as necessary to conform to the revenue levels set forth in the annual Budget Act. If the revenue

methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

collected is greater or less than the amount set in the annual Budget Act, then the SWRCB may further adjust the annual fees to compensate for the over or under collection of revenue. (Wat. Code, § 1525, subd. (d)(3).) In accordance with the Water Code, the water right fees are calculated solely to cover the costs of the SWRCB's regulatory program and not to generate additional revenue.

In addition, the Legislature created a special fund, the Water Rights Fund, to assure that the fees are used for water right program costs and not for unrelated revenue purposes. (See Wat. Code, § 1550). All water right fees and all water quality certification fees for FERC licensed hydroelectric projects are deposited in the Water Rights Fund. (*Id.* § 1551.) These funds may be expended only for specified purposes, all of which involve administration of the water rights program, administration of water quality certification for FERC licensed hydroelectric projects, a program carried out by the Division, or administration of the fees by the SWRCB and BOE. (*Id.* § 1552.)

Thus, the evidence in the record, including the Budget Act and the Governor's Budget clearly demonstrate that the estimated program costs that form the basis of the water right fees are reasonable. The amount budgeted for the water rights program provides a good estimate of what the costs of the SWRCB's regulatory program plus the BOE's costs for collection will be.¹⁹ Appropriations from the Water Right Fund are less than total program costs, the fees are calculated based on the amounts appropriated from the Water Rights Fund, and the fees are not used for any other purpose. The estimated costs of the regulatory activity for which the fees are assessed have been clearly established, and the fees do not exceed the estimated costs of that regulatory activity.

Petitioners contend that the fees exceed the reasonable cost of the SWRCB's regulatory activity because the Water Code authorizes the SWRCB to recover costs for the Division's entire operations and not just the costs of its regulatory activities. They argue that costs associated with

¹⁹ The Governor's Budget includes expenditures from previous fiscal years, as well as the amount the Governor proposes to be appropriated for the upcoming fiscal year. This information clearly indicates that the amount budgeted for the water rights program is a fair estimate of the amount that will be expended.

certain activities of the SWRCB, such as its adjudicatory functions, are not within the scope of costs authorized by Water Code section 1525. As Water Code section 1525, subdivision (c) recognizes, regulatory costs include those costs incident to the issuance of a permit or license, such as administration, monitoring, and enforcement. (*CAPS, supra*, 79 Cal.App.4th at p. 945.) Petitioners argue that adjudicative hearings and public workshops related to the administration of water rights are “unrelated to the existing regulatory program.” But these activities are an integral part of the regulatory program. Adjudicative hearings often are necessary before the SWRCB to apply or enforce regulatory requirements. Public workshops enable the SWRCB to obtain input from water right holders and the affected public on both specific regulatory decisions under consideration and on broader proposals to more effectively administer the regulatory program. A water right hearing, for example, may be integral to the determination of whether or under what conditions a water right permit should be issued, what enforcement action should be taken in response to a permit violation, or what permit terms should be considered to coordinate operations under permits to divert from the same stream. All of the costs of the SWRCB’s water right program are within the scope of the costs that may be recovered through fees under Water Code section 1525, subdivision (c), and all of these costs may be recovered through regulatory fees.

The evidence in the record also demonstrates that the fee schedule allocates program costs among fee payers so that the charges allocated to a payer bear a fair or reasonable relationship to the payer’s burdens on or benefits from the regulatory activity. The basis for this conclusion is summarized below, and discussed in greater detail in a memorandum prepared in connection with the SWRCB’s adoption of the fee schedule for this fiscal year.²⁰

In establishing the fees, the SWRCB decided that annual permit and license fees should fund most of the program in Fiscal Year 2004-2005. These fees are based in part on the principle that the activities of the fee payers create the need for the regulatory program, and they benefit from it. As the Legislative Analyst observed: “Since water rights holders benefit directly from all

²⁰ Memorandum to File by Victoria A Whitney, Chief, SWRCB Division of Water Rights (Oct. 6, 2004), entitled “Water Rights Fee Program Summary and Recommended Fee Schedule for Fiscal Year 2004-2005.”

aspects of the water rights program—including permit issuance and compliance monitoring—we conclude that the existing fee structure should be revised so that fee revenues replace all General Fund support budgeted for the board's program.” (Legislative Analyst’s Office, Analysis of the 2003-04 Budget Bill at p. B-125.) The fact that each fee payer benefits from the regulation of other fee payers, and that diversion and use by one fee payer may affect the need for regulation of others, simply underscores the point that the fee system can provide for a fair and reasonable allocation of costs, based on the fee payers’ burdens on or benefits from the regulatory activity.

For example, most of the Division’s costs are related to actions that are for the primary purpose of managing existing water rights. These actions include the following: conducting compliance inspections of existing diversion facilities; processing petitions to amend permit or license conditions; conducting field inspections of permitted diversion projects to determine the amount of water beneficially used prior to issuing a water right license; monitoring and enforcement to determine when permits and licenses should be revoked for non-use; administering the requirements for SWRCB approval of changes in point of diversion, place of use, or purpose of use; and investigating complaints alleging violation of permit or license conditions, waste of water, or violation of the public trust. Moreover, a substantial portion of the cost of processing applications and petitions is devoted to protecting other water right holders, including providing notification to permit and license holders when applications or petitions are filed, considering protests filed by those permit and license holders, and determining whether and on what conditions to approve new appropriations. Similarly, much of the environmental review costs associated with processing new applications involves consideration of the cumulative impacts of the proposed diversion in combination with the diversions of others holding permits and licenses to divert from the same stream system. Thus, each water right holder both benefits from, and imposes a burden on, the Division’s administration of water rights.

Permit and license holders also benefit from the activities of the SWRCB to prevent unauthorized diversions, including review of diversions made under claim of riparian or pre-1914 rights to make sure that diversions do not exceed what is authorized under those rights. Unauthorized diversions deprive permit and license holders of water to which they are entitled. Where unappropriated water is available, and the ultimate effect of enforcement is to require a

permit for a previously unauthorized diversion, that action still serves to provide better regulatory control over diversions, providing better protection for those holding previously issued permits and licenses, as well as to require the diverter to pay its fair share of fees.

Moreover, a regulatory program is for the protection of the health and safety of the public, which benefits from the orderly management of the state's water resources; accordingly, a regulatory fee is enacted for purposes broader than assigning the privilege to use a service or to obtain a permit. Fees may be charged because the activities of the fee payer create the need for the regulatory program, even if the program provides no clear benefit to the fee payer, other than the benefits of greater predictability and uniformity.²¹ In particular, the costs of environmental protection may be shifted from the general public to persons who propose or carry out activities that impact the state's natural resources, without subverting Proposition 13's objectives. (*CAPS, supra*, 79 Cal.App.4th at p. 950. See also, *San Diego Gas & Electric Co. v. San Diego County Air Pollution Control District* (1988) 203 Cal.App.3d 1132, 1148 [250 Cal.Rptr. 420, 430][finding that shifting pollution control costs from the tax-paying public to the pollution-causing industries to be a reasonable way to achieve Proposition 13's goal of tax relief]; *Brydon v. East Bay Mun. Util. Dist.* (1994) 14 Cal.App.4th 178 [29 Cal.Rptr.2d 128] [approving an inclined rate structure for water customers as a regulatory fee, in part, because it achieved the regulatory goal of water conservation].)

In sum, the fee allocation bears a reasonable relationship to the fee payers' burdens on and benefits from water right regulatory activity.

///

///

²¹ The courts have concurrent jurisdiction to apply many of the requirements applied as part of the SWRCB's regulatory program. (See generally, *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 426 [189 Cal.Rptr. 346, 350].) The existence of a regulatory program means that these requirements are applied more predictably and more uniformly than if these requirements were applied only through private actions in court. Regulatory proceedings will also be less expensive than litigation. In these respects a regulatory program may be seen as a benefit to regulated entities, even where regulation focuses on protecting the public from harm threatened by regulated activities instead of protecting the interests of the regulated entities.

6.0 FACTUAL CLAIMS RAISED BY PETITIONERS REGARDING ANNUAL PERMIT OR LICENSE FEES

Certain individual petitioners raised factual claims specific to their annual permit or license fees. As discussed below, these claims have no merit.

6.1 Marian Anderson

On behalf of Licensee Marian Anderson, NCWA claims that the “water rights subject to [Application 005151] are pre-1914 water rights” and therefore should not be subject to a fee. According to section 1066 of the regulations, a person who holds a water right permit or license must pay an annual fee. The Division issued a water right fee to Ms. Anderson pursuant to water right Application 005151, and not a pre-1914 right dating back to 1876 as NCWA alleges. As the SWRCB previously informed Ms. Anderson in SWRCB Order WRO 2004-0011-Exec, if Ms. Anderson wishes to rely solely on a pre-1914 water right, she may request revocation of her license to avoid payment of water right fees in the next fiscal year.

6.2 Feather Water District

Feather Water District (Feather) has received an annual fee bill for its right to divert 39,125 acre-feet per annum (afa) of water from the Feather River (A014803) and expects to receive a bill based on its water supply contract to buy 20,000 afa of Sacramento River water from USBR. Feather does not proffer a specific objection to the annual water right fee, but instead objects to paying a fee for its water supply contract. As discussed above, the SWRCB’s determination regarding annual permit and license fees passed through to USBR contractors are not within the scope of this Order. (§§ 769, subd. (2)-(3); 1077, subd. (a)-(b).) Once Feather receives an assessment for those fees, it may file a petition for reconsideration of those fees in accordance with statutory and regulatory petition requirements.

6.3 Stevinson Water District

Stevinson Water District (Stevinson) states that it has “overfiled” its water rights to “provide the maximum protection of those rights” and alleges that it should not pay fees based on the overfiling. (A001730; A001885; A006111; A005724; A007012.) Annual permit and license fees are based on the total annual amount of diversion authorized by the permit or license, and

Stevinson's fees were calculated accordingly. (§ 1066.) The fees were not based on Stevinson's claimed pre-1914 appropriative rights nor were they based on deliveries of water from Merced Irrigation District. Stevinson may request revocation or reduction in its licensed rights of any duplicative licensed amounts if it wants to avoid paying fees next fiscal year on the "overfiling."

6.4 Sutter Extension Water District

Sutter Extension Water District (Sutter) objects to the annual fee imposed for License 9063 (A010529) on the basis that License 9063 is not exercised continuously, and the total amount that may be diverted under the license is limited pursuant to a contract with the Department of Water Resources. The SWRCB has determined, however, that annual fees should be based on the face value of permits and licenses, not on any reductions in that amount that are the result of voluntary agreements or on limitations on the amount of water available under the water right holder's priority in any given year due to hydrologic variability. Limitations to which a water right holder voluntarily agrees under contract with other parties are not enforceable by the SWRCB and may change as a result of subsequent negotiations with the other parties. The face value of permits and licenses provides a reasonable and objective basis for allocating annual fees among permittees and licensees.

The SWRCB calculated the annual fee for License 9063 consistent with the SWRCB's regulations. The fee was based on the total amount authorized to be diverted, which was calculated by multiplying the authorized rate of diversion by the length of time in the authorized season of diversion. (§ 1066, subs. (a) & (b)(1).) License 9063 authorizes the diversion of water at the rate of 234 cubic feet per second (cfs) from April 1 to October 31. The license does not limit the total amount that may be diverted in a given year. Sutter may request the SWRCB to impose a maximum annual limitation amount on its license to restrict the authorized diversion amount to be consistent with the amount it diverts under its own right pursuant to its contract with the Department of Water Resources if it wants to reduce its fees in future years.

6.5 Reclamation District No. 2068

Reclamation District No. 2068 protests fees of \$2,529.54 and \$599.75 that apply to Applications 002318 and 024961, respectively. The district argues that because it holds multiple water rights

with a combined use limitation, the fee should be based on that limitation and not on the total annual amount of water that it is authorized to divert under an individual water right. Section 1066, subdivision (b)(2) of the regulations, however, specifies that if a "permit or license contains an annual diversion limitation that is applicable only to that permit or license, and the limitation is less than the calculated diversion volume," then the fee shall be based on that limitation. If, however, a person holds multiple water rights with a combined annual diversion limitation, but the person may divert the full amount of water under a particular right, then the fee shall be based on the face value of that individual right. (§ 1066, subd. (b)(3).) The fees assessed for the district's water rights that contain a combined annual use limit should not be reduced and no correction in the fees is required. The district may request revocation of unused portions of permits or licenses to avoid payment of water right fees beginning with Fiscal Year 2005-2006.

6.6 Yolo County Flood Control and Water Conservation District

Yolo County Flood Control and Water Conservation District (Yolo County) objects to the annual fee that was assessed for both Permit 12848 (A011389) and Permit 12849 (A015975).

Originally, both permits authorized the direct diversion of 1,000 cfs from October 1 through June 30. In addition, Permit 12848 authorized the diversion to storage of 250,000 afa, and Permit 12849 authorized the diversion to storage of 1,480,000 afa. Both permits were subject to a combined limitation of 1,000 cfs by direct diversion and 1,480,000 afa by storage. In Order WR 76-14, the SWRCB amended each permit to limit the total amount of water that may be directly diverted and diverted to storage under that permit to 431,000 afa. These are separate limitations on each permit, not a combined limitation. The SWRCB properly calculated the fee for each permit based on the total amount authorized to be diverted under each permit: 431,000 afa.

Yolo County objects to these fees on the basis that the permits are subject to a combined diversion limit. Yolo County maintains that assessing a fee for each permit based on the maximum amount authorized to be diverted under that permit constitutes double counting. Where multiple permits or licenses are subject to a combined diversion limitation, the SWRCB's regulations still require annual fees to be based on the total amount that may be diverted under

each individual permit or license. (§ 1066, subd. (b)(3).) In any particular year, Yolo County may divert the entire authorized amount under either of its permits. To the extent the permits are dissimilar (i.e., the permits authorize diversions from different points of diversion, to different places of use, or for different purposes of use), these differences afford Yolo County greater flexibility in its operations. Moreover, in this case, the combined diversion limit for Permits 12848 and 12849 was effectively superseded by the 431,000 afa limitation imposed on each individual permit. The amount that may be diverted under both permits combined—832,000 afa— is less than the combined limitation of 1,000 cfs and 1,480,000 afa. Similarly, the annual fees assessed for the permits are less what they would have been if they had been assessed based on the outdated combined diversion limit.

7.0 FACTUAL ISSUE RAISED BY NORTH MARIN WATER DISTRICT

North Marin Water District requests a reduction of its annual license fee under water right Application 013599 because its license limits the quantity of water that may be diverted to 4,490 afa. The Division agrees that the correct fee is \$212, which the district has paid, and not the amount billed of \$243.32. The Division has corrected its database and directed BOE to take appropriate action.

///

///

///

8.0 CONCLUSION


For the reasons discussed above, the SWRCB finds that its decision to impose water right fees was appropriate and proper or that it has remedied any erroneous fee bills, thus rendering those claims moot. To the extent that this order does not address all of the issues raised in the petition for reconsideration, the SWRCB finds that either these issues are insubstantial or that Petitioners have failed to meet the requirements for a petition for reconsideration under the SWRCB's regulations. The petition for reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT the petition for reconsideration is denied.

Dated: _____

12-22-04



Celeste Cantú
Executive Director

Attachment 1

| NAME | SWRCB ID |
|-----------------------------------|-----------------|
| 2017 RANCH LTD PARTNERSHIP | A016185 |
| AGENCY 5 | A005549 |
| ALGER JR, IRVING G | A010828 |
| ALTA VISTA RANCH | A030536 |
| ANDERSON, MARIAN | A005151 |
| ATKINSON II, THOMAS S | A007641D3 |
| ATKINSON II, THOMAS S | A015856C |
| BABER, JACK W | A001617 |
| BABER, JUDITH S | A012087 |
| BABER, JUDITH S | A022696 |
| BANTA-CARBONA IRRIGATION DISTRICT | A001933 |
| BANTA-CARBONA IRRIGATION DISTRICT | A005248 |
| BENGARD, TERRY M | A022489 |
| BENGARD, TOM | A020874 |
| BENGARD, TOM | A020925 |
| BENGARD, TOM | A020926 |
| BENGARD, TOM | A020927 |
| BENGARD, TOM | A021536 |
| BENGARD, TOM | A021537 |
| BENGARD, TOM | A021665 |
| BROWNS VALLEY IRRIGATION DISTRICT | A008986 |
| BROWNS VALLEY IRRIGATION DISTRICT | A013130 |
| BROWNS VALLEY IRRIGATION DISTRICT | A013873 |
| BROWNS VALLEY IRRIGATION DISTRICT | A023757 |
| BROWNS VALLEY IRRIGATION DISTRICT | A027302 |
| CALAVERAS COUNTY WATER DISTRICT | A000077A |
| CALAVERAS COUNTY WATER DISTRICT | A005648D |
| CALAVERAS COUNTY WATER DISTRICT | A011792B |
| CALAVERAS COUNTY WATER DISTRICT | A012910 |
| CALAVERAS COUNTY WATER DISTRICT | A012911 |
| CALAVERAS COUNTY WATER DISTRICT | A012912 |
| CALAVERAS COUNTY WATER DISTRICT | A012912A |
| CALAVERAS COUNTY WATER DISTRICT | A013091 |
| CALAVERAS COUNTY WATER DISTRICT | A013092 |
| CALAVERAS COUNTY WATER DISTRICT | A013093 |
| CALAVERAS COUNTY WATER DISTRICT | A013093A |
| CALAVERAS COUNTY WATER DISTRICT | A018727 |
| CALAVERAS COUNTY WATER DISTRICT | A019148 |
| CALAVERAS COUNTY WATER DISTRICT | A019149 |
| CALAVERAS COUNTY WATER DISTRICT | A022405 |
| CALAVERAS COUNTY WATER DISTRICT | A025901 |
| CARMEL CAVANAGH | A017459 |
| CHOWCHILLA WATER DISTRICT | A011047 |
| CHOWCHILLA WATER DISTRICT | A013175 |
| CLAIBORNE, DARIN | A025024 |
| COLUSA DRAIN MUTUAL WATER COMPANY | A016305 |
| CONTRA COSTA WATER DISTRICT | A005941 |
| CONTRA COSTA WATER DISTRICT | A020245 |
| CONTRA COSTA WATER DISTRICT | A025516A |
| CONTRA COSTA WATER DISTRICT | A025829 |
| CONTRA COSTA WATER DISTRICT | A027893 |

Attachment 1

| NAME | SWRCB ID |
|-------------------------------------|------------|
| CUSHMAN, JACK A | A020803 |
| CUSHMAN, JACK A | A028162 |
| DAVIS RANCHES | A001659 |
| DAVIS RANCHES | A012412 |
| DAVIS RANCHES | A013000 |
| DAVIS RANCHES | A013001 |
| DAVIS RANCHES | A013002 |
| DAVIS RANCHES | A018372 |
| DELTA BREEZE PARTNERS LLC | A011268B01 |
| DELTA BREEZE PARTNERS LLC | A017468A |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A000465 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A004228 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A004768 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A005128 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A006707 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A013156 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A015201 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A018672 |
| EAST BAY MUNICIPAL UTILITY DISTRICT | A025056 |
| EL DORADO IRRIGATION DISTRICT | A000654 |
| EL DORADO IRRIGATION DISTRICT | A001440 |
| EL DORADO IRRIGATION DISTRICT | A001441 |
| EL DORADO IRRIGATION DISTRICT | A001692 |
| EL DORADO IRRIGATION DISTRICT | A005645B |
| EL DORADO IRRIGATION DISTRICT | A006383 |
| EL DORADO IRRIGATION DISTRICT | A007478 |
| EL DORADO IRRIGATION DISTRICT | A011675 |
| EL DORADO IRRIGATION DISTRICT | A015140 |
| FEATHER WATER DISTRICT | A014803 |
| GARCIA FAMILY TRUST TR UA MAR 05 | A028504 |
| GARDEN HIGHWAY MUTUAL WATER COMPANY | A001699 |
| GARDEN HIGHWAY MUTUAL WATER COMPANY | A014415 |
| GARDEN HIGHWAY MUTUAL WATER COMPANY | A015893 |
| GARDEN HIGHWAY MUTUAL WATER COMPANY | A023045 |
| GARDEN HIGHWAY MUTUAL WATER COMPANY | A026098 |
| GLENN-COLUSA IRRIGATION DISTRICT | A000018 |
| GLENN-COLUSA IRRIGATION DISTRICT | A001554 |
| GLENN-COLUSA IRRIGATION DISTRICT | A001624 |
| GLENN-COLUSA IRRIGATION DISTRICT | A008688 |
| GLENN-COLUSA IRRIGATION DISTRICT | A012125 |
| GLENN-COLUSA IRRIGATION DISTRICT | A023005 |
| GLENN-COLUSA IRRIGATION DISTRICT | A030838 |
| GRAY, WILLIAM T | A012994 |
| GROSS, MELVINA R | A007308 |
| HANKE, DENNIS W | A020394 |
| HARLESS, PATRICIA | A026246 |
| IGO ONO COMMUNITY SERVICE DISTRICT | A000784 |
| IGO ONO COMMUNITY SERVICE DISTRICT | A013976 |
| IMPERIAL IRRIGATION DISTRICT | A007482 |
| IMPERIAL IRRIGATION DISTRICT | A007739 |
| IMPERIAL IRRIGATION DISTRICT | A007740 |

Attachment 1

| NAME | SWRCB ID |
|-----------------------------------|-----------------|
| IMPERIAL IRRIGATION DISTRICT | A007741 |
| IMPERIAL IRRIGATION DISTRICT | A007742 |
| IMPERIAL IRRIGATION DISTRICT | A007743 |
| IMPERIAL IRRIGATION DISTRICT | A008534 |
| JENNINGS, RICHARD L | A000135 |
| JENNINGS, RICHARD L | A000486 |
| JENNINGS, RICHARD L | A010835 |
| KIDCO #11 L P | A012916 |
| KLEIN, RICHARD | A022424 |
| KLEIN, RICHARD | A023619 |
| KNAGGS FARMING COMPANY L P | A001725 |
| KNAGGS FARMING COMPANY L P | A003423 |
| KNAGGS FARMING COMPANY L P | A004351 |
| KNAGGS FARMING COMPANY L P | A004901 |
| KNAGGS FARMING COMPANY L P | A004902 |
| KNAGGS FARMING COMPANY L P | A005359 |
| KNAGGS FARMING COMPANY L P | A012256 |
| KNAGGS FARMING COMPANY L P | A012995 |
| KNAGGS FARMING COMPANY L P | A012996 |
| KNAGGS FARMING COMPANY L P | A012997 |
| KNAGGS FARMING COMPANY L P | A016361B |
| KNAGGS FARMING COMPANY L P | A029471 |
| KNAGGS WALNUT RANCHES COMPANY L P | A013031 |
| LANDINI, MIKE | A019913 |
| LANDINI, MIKE | A024810 |
| LANDINI, MIKE | A024811 |
| LANDINI, MIKE | A025118 |
| LEAL FAMILY TRUST | A008830 |
| LEDBETTER FARMS INC | A013267 |
| LEDBETTER FARMS INC | A013453 |
| LEDBETTER FARMS INC | A022608 |
| LEDBETTER FARMS INC | A027149 |
| LEDBETTER FARMS INC | A029405 |
| LEDBETTER, JAMES | A013277 |
| LEDBETTER, JAMES | A021245 |
| MADERA IRRIGATION DISTRICT | A017311 |
| MADERA-CHOWCHILLA WATER AND POWER | A027456 |
| MATHIS JR, GLENN E | A017501 |
| MATHIS JR, GLENN E | A017502 |
| MATHIS JR, GLENN E | A017503 |
| MATHIS JR, GLENN E | A017504 |
| MATHIS JR, GLENN E | A017505 |
| MAXWELL IRRIGATION DISTRICT | A008631 |
| MAXWELL IRRIGATION DISTRICT | A011955 |
| MAXWELL IRRIGATION DISTRICT | A011956 |
| MAXWELL IRRIGATION DISTRICT | A011957 |
| MAXWELL IRRIGATION DISTRICT | A011958 |
| MAXWELL IRRIGATION DISTRICT | A013735 |
| MAXWELL IRRIGATION DISTRICT | A013919 |
| MAXWELL IRRIGATION DISTRICT | A014378 |
| MAXWELL IRRIGATION DISTRICT | A030445 |

Attachment 1

| NAME | SWRCB ID |
|---|-----------------|
| MERCED IRRIGATION DISTRICT | A001221 |
| MERCED IRRIGATION DISTRICT | A001222 |
| MERCED IRRIGATION DISTRICT | A001224 |
| MERCED IRRIGATION DISTRICT | A010572 |
| MERCED IRRIGATION DISTRICT | A016186 |
| MERCED IRRIGATION DISTRICT | A016187 |
| MERCED IRRIGATION DISTRICT/ EL NIDO IRRIGATION DISTRICT | A006807 |
| MERCED IRRIGATION DISTRICT/ EL NIDO IRRIGATION DISTRICT | A008238 |
| MERCED IRRIGATION DISTRICT/ EL NIDO IRRIGATION DISTRICT | A018774 |
| MERIDIAN FARMS WATER COMPANY | A001074B |
| MERIDIAN FARMS WATER COMPANY | A009737 |
| MJM | A028685 |
| MONTNA, ALFRED G & GAIL E | A006348 |
| MONTNA, ALFRED G & GAIL E | A019083 |
| MOORE, RICHARD | A012411 |
| MOORE, RICHARD | A015811 |
| MURPHY, DONALD D | A024149 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A000534 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A001056 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A001203 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A001413 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A015572 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A022309 |
| NATOMAS CENTRAL MUTUAL WATER COMPANY | A025727 |
| NOBLE, ANDREW | A021231B |
| NOBLE, ANDREW | A021381 |
| NOBLE, ANDREW | A021382B |
| NORTH MARIN WATER DISTRICT | A013599 |
| NORTH MARIN WATER DISTRICT | A013965B |
| NORTH MARIN WATER DISTRICT | A025062 |
| NORTH MARIN WATER DISTRICT | A025079 |
| NORTH MARIN WATER DISTRICT | A025927 |
| OBYSSEUS FARMS PTR | A011058 |
| ORANGE COVE IRRIGATION DISTRICT | A028552 |
| ORANGE COVE IRRIGATION DISTRICT | A028691 |
| ORANGE COVE IRRIGATION DISTRICT | A031186 |
| PAJARO VALLEY WATER MANAGEMENT AGENCY | A030522 |
| PLACER COUNTY WATER AGENCY | A018084 |
| PLACER COUNTY WATER AGENCY | A018085 |
| PLACER COUNTY WATER AGENCY | A018086 |
| PLACER COUNTY WATER AGENCY | A018087 |
| PLACER COUNTY WATER AGENCY | A026637 |
| PLACER COUNTY WATER AGENCY | A029721 |
| PLUMAS MUTUAL WATER COMPANY | A000480 |
| PRINCETON-CODORA-GLENN IRRIGATION | A000770 |
| PRINCETON-CODORA-GLENN IRRIGATION | A017066 |
| PRINCETON-CODORA-GLENN IRRIGATION | A030812 |
| PROVIDENT IRRIGATION DISTRICT | A000462 |
| PROVIDENT IRRIGATION DISTRICT | A000640 |
| PROVIDENT IRRIGATION DISTRICT | A000892 |
| PROVIDENT IRRIGATION DISTRICT | A001422 |

Attachment 1

| NAME | SWRCB ID |
|---------------------------------------|-----------------|
| PROVIDENT IRRIGATION DISTRICT | A010595 |
| PROVIDENT IRRIGATION DISTRICT | A013452 |
| PROVIDENT IRRIGATION DISTRICT | A030813 |
| RECLAMATION DISTRICT #108 | A000576 |
| RECLAMATION DISTRICT #108 | A000763 |
| RECLAMATION DISTRICT #108 | A001589 |
| RECLAMATION DISTRICT #108 | A011899 |
| RECLAMATION DISTRICT #1004 | A000027 |
| RECLAMATION DISTRICT #1004 | A023201 |
| RECLAMATION DISTRICT #2068 | A002318 |
| RECLAMATION DISTRICT #2068 | A024961 |
| REDFERN RANCHES INC | A017000 |
| REIMERS, HOLLIS E | A020603 |
| REIMERS, HOLLIS E | A022776 |
| REIMERS, HOLLIS E | A023740 |
| RIVER BEND VINEYARDS, LTD | A010976 |
| RIVER GARDEN FARMS COMPANY | A000575 |
| RIVER GARDEN FARMS COMPANY | A000577 |
| RIVER GARDEN FARMS COMPANY | A011910 |
| RIVER RANCH PARTNERSHIP | A007641C |
| RIVER RANCH PARTNERSHIP | A015735 |
| SACRAMENTO MUNICIPAL UTILITY DISTRICT | A014963 |
| SACRAMENTO MUNICIPAL UTILITY DISTRICT | A022110 |
| SACRAMENTO MUNICIPAL UTILITY DISTRICT | A026768 |
| SAN JUAN WATER DISTRICT | A005830 |
| SANTA CLARA VALLEY WATER DISTRICT | A005653 |
| SANTA CLARA VALLEY WATER DISTRICT | A005654 |
| SANTA CLARA VALLEY WATER DISTRICT | A007140 |
| SANTA CLARA VALLEY WATER DISTRICT | A007141 |
| SANTA CLARA VALLEY WATER DISTRICT | A007142 |
| SANTA CLARA VALLEY WATER DISTRICT | A007143 |
| SANTA CLARA VALLEY WATER DISTRICT | A008098 |
| SANTA CLARA VALLEY WATER DISTRICT | A008099 |
| SANTA CLARA VALLEY WATER DISTRICT | A008387 |
| SANTA CLARA VALLEY WATER DISTRICT | A008388 |
| SANTA CLARA VALLEY WATER DISTRICT | A009455 |
| SANTA CLARA VALLEY WATER DISTRICT | A011751 |
| SANTA CLARA VALLEY WATER DISTRICT | A013016 |
| SANTA CLARA VALLEY WATER DISTRICT | A013791 |
| SANTA CLARA VALLEY WATER DISTRICT | A013886 |
| SANTA CLARA VALLEY WATER DISTRICT | A019679 |
| SANTA CLARA VALLEY WATER DISTRICT | A021128 |
| SCHAAD, GARRETH B | A000735 |
| SCHAAD, GARRETH B | A017853 |
| SCHAAD, GARRETH B | A028985 |
| SCOTT VALLEY IRRIGATION DISTRICT | A000512 |
| SEMITROPIC WATER STORAGE DISTRICT | A025117 |
| SILVERADO PREMIUM PROPERTIES II L | A024125 |
| SILVERADO PREMIUM PROPERTIES II L | A024268A |
| SILVERADO PREMIUM PROPERTIES II L | A024268B |
| SILVERADO PREMIUM PROPERTIES II L | A024762A |

Attachment 1

| NAME | SWRCB ID |
|-----------------------------------|-----------------|
| SILVERADO PREMIUM PROPERTIES II L | A024762B |
| SILVERADO PREMIUM PROPERTIES LLC | A004977 |
| SILVERADO PREMIUM PROPERTIES LLC | A013376 |
| SILVERADO PREMIUM PROPERTIES LLC | A014245 |
| SILVERADO PREMIUM PROPERTIES LLC | A015399 |
| SILVERADO PREMIUM PROPERTIES LLC | A021756 |
| SMITH, MAUDRIE M | A029726 |
| SOUTH SUTTER WATER DISTRICT | A010221 |
| SOUTH SUTTER WATER DISTRICT | A014430 |
| SOUTH SUTTER WATER DISTRICT | A014804 |
| SOUTH SUTTER WATER DISTRICT | A022102 |
| SOUTH SUTTER WATER DISTRICT | A023838 |
| SOUTH SUTTER WATER DISTRICT | A026162 |
| SPANFELNER, C DAVID | A025742 |
| SPANFELNER, C DAVID | A028501 |
| SPANFELNER, C DAVID | A028513 |
| SPANFELNER, C DAVID | A028514 |
| SPANFELNER, C DAVID | A028515 |
| SPANFELNER, GARY A | A025743 |
| SPANFELNER, GARY A | A025744 |
| SPANFELNER, GARY A | A028502 |
| SPENCE, WILLIAM A | A017756 |
| SPENCE, WILLIAM A | A017757 |
| SPENCE, WILLIAM A | A017758 |
| SPENCE, WILLIAM A | A017759 |
| SPENCE, WILLIAM A | A017843 |
| SPENCE, WILLIAM A | A018050 |
| SPENCE, WILLIAM A | A018895 |
| SPENCE, WILLIAM W | A017753 |
| SPENCE, WILLIAM W | A017754 |
| SPENCE, WILLIAM W | A017755 |
| SPENCER, MICHAEL | A026144 |
| STAUDENRAUS, ROBERT P | A022630 |
| STEVENSON, JAMES J, A CORPORATION | A001730 |
| STEVINSON WATER DISTRICT | A001885 |
| STEVINSON WATER DISTRICT | A005724 |
| STEVINSON WATER DISTRICT | A006111 |
| STEVINSON WATER DISTRICT | A007012 |
| STOCKTON EAST WATER DISTRICT | A006522 |
| STONY CREEK WATER DISTRICT | A025261 |
| SUTTER EXTENSION WATER DISTRICT | A010529 |
| SUTTER EXTENSION WATER DISTRICT | A011319 |
| SUTTER EXTENSION WATER DISTRICT | A012230A |
| SUTTER EXTENSION WATER DISTRICT | A013349 |
| SUTTER EXTENSION WATER DISTRICT | A014588 |
| SUTTER EXTENSION WATER DISTRICT | A014665 |
| SUTTER EXTENSION WATER DISTRICT | A015177 |
| SUTTER EXTENSION WATER DISTRICT | A015178 |
| SUTTER EXTENSION WATER DISTRICT | A015179 |
| SUTTER EXTENSION WATER DISTRICT | A015587 |
| SUTTER MUTUAL WATER COMPANY | A000581 |

Attachment 1

| NAME | SWRCB ID |
|--|-----------------|
| SUTTER MUTUAL WATER COMPANY | A000878 |
| SUTTER MUTUAL WATER COMPANY | A000879 |
| SUTTER MUTUAL WATER COMPANY | A000880A |
| SUTTER MUTUAL WATER COMPANY | A001160 |
| SUTTER MUTUAL WATER COMPANY | A001758 |
| SUTTER MUTUAL WATER COMPANY | A001763 |
| SUTTER MUTUAL WATER COMPANY | A001769 |
| SUTTER MUTUAL WATER COMPANY | A001772 |
| SUTTER MUTUAL WATER COMPANY | A003195 |
| SUTTER MUTUAL WATER COMPANY | A007886 |
| SUTTER MUTUAL WATER COMPANY | A009760 |
| SUTTER MUTUAL WATER COMPANY | A010658 |
| SUTTER MUTUAL WATER COMPANY | A011953 |
| SUTTER MUTUAL WATER COMPANY | A012470A |
| SUTTER MUTUAL WATER COMPANY | A016677 |
| TRUST OF JESSE HAWKINS CAVE III | A014649 |
| UCC VINEYARDS GROUP | A013269 |
| W P & R L WALLACE DBA WALLACE BROTHERS | A011881 |
| W P & R L WALLACE DBA WALLACE BROTHERS | A023945 |
| WALLACE BROTHERS | A025792 |
| WALLACE BROTHERS | A025793 |
| WALLACE, ROBERT L | A023946 |
| WEST SIDE IRRIGATION DISTRICT | A000301 |
| WEST STANISLAUS IRRIGATION DISTRICT | A001987 |
| WESTCAMP, CHARLES W | A023995 |
| WESTROPE RANCHES, LTD | A006582 |
| WESTROPE RANCHES, LTD | A007989 |
| WOODBIDGE IRRIGATION DISTRICT | A005807 |
| WOODBIDGE IRRIGATION DISTRICT | A010240 |
| WOODBIDGE IRRIGATION DISTRICT | A012648 |
| WOODBIDGE IRRIGATION DISTRICT | A027007 |
| YOLO COUNTY F C & W C DISTRICT | A011389 |
| YOLO COUNTY F C & W C DISTRICT | A015975 |
| YOLO COUNTY F C & W C DISTRICT | A026469 |
| YUBA COUNTY WATER AGENCY | A002197 |
| YUBA COUNTY WATER AGENCY | A003026 |
| YUBA COUNTY WATER AGENCY | A005004 |
| YUBA COUNTY WATER AGENCY | A005631 |
| YUBA COUNTY WATER AGENCY | A005632 |
| YUBA COUNTY WATER AGENCY | A009516 |
| YUBA COUNTY WATER AGENCY | A010282 |
| YUBA COUNTY WATER AGENCY | A015204 |
| YUBA COUNTY WATER AGENCY | A015205 |
| YUBA COUNTY WATER AGENCY | A015563 |
| YUBA COUNTY WATER AGENCY | A015574 |
| YUBA COUNTY WATER AGENCY | A029837 |