

**STATE WATER RESOURCES CONTROL BOARD
BOARD WORKSHOP – DIVISION OF WATER RIGHTS
SEPTEMBER 7, 2005**

ITEM 10

SUBJECT:

CONSIDERATION OF PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE STATE WATER RESOURCES CONTROL BOARD'S WATER RIGHT AND WATER QUALITY CERTIFICATION FEE SCHEDULES IN TITLE 23, DIVISION 3, OF THE CALIFORNIA CODE OF REGULATIONS

DISCUSSION:

In Fiscal Year (FY) 2005-06, the Budget Act requires the State's water rights program administered by the State Water Resources Control Board (State Water Board), including the water rights fee collection efforts of the State Board of Equalization, to be supported by fee revenues amounting to \$9.588 million. The State Water Board estimates that mid-year budget adjustments will increase this amount to \$9.716 million. The Water Code requires the State Water Board to annually adopt emergency regulations revising and establishing fees to be deposited in the Water Rights Fund in the State Treasury. The emergency regulations may include provisions concerning the administration and collection of the fees.

The State Water Board must annually set a fee schedule that will generate revenues to the Water Rights Fund consistent with the Budget Act for the fiscal year. The State Water Board may adjust the fees set each year to account for over- or under-collections the previous year. Fees may be assessed for actions specified in the Water Code and may be expended to support regulatory activities specified in the Water Code.

By June 30, 2005, the Water Right Fund held \$11.177 million, of which \$8.01 million was collected in FY 2004-05 from water right fees and water quality certification fees associated with water right actions. Roughly \$376,000 of this amount is encumbered for special obligations, leaving about \$1.831 million in excess of the State Water Board's allocation specified in the Budget Act of 2004.

The Division of Water Rights assumes for the purposes of calculating the fees that the budget target for FY 2005-06 is \$7.885 million (\$9.716 - \$1.831 million). Assuming a non-collection rate of 10 percent, the total amount to be billed is \$8.761 million.

The proposed regulations would set fees for water right and water quality certification programs to collect fee revenues to cover the cost of these programs. If the proposed fee schedule is adopted by the State Water Board, the general result will be to: (1) increase annual fees for permits and licenses that allow diversions of more than 10 acre-feet per annum (afa), (2) increase annual fees for applications that allow diversions of more than 10 afa, (3) decrease annual fees for projects under review for 401 Certification for FERC licensing, (4) decrease annual fees for projects issued FERC licenses pursuant to 401 certification, (5) increase filing fees for the largest (in terms of quantity of water to be appropriated or transferred) applications, petitions, and water transfers, and (6) decrease filing fees for small hydroelectric generating facilities that meet the criteria for a Class 28 categorical exemption under the California Environmental Quality Act. Fees for roughly half of the current fee payers will remain unchanged from last year. The water right and water quality certification fee regulations and schedules will be contained in division 3 of title 23 of the California Code of Regulations.

POLICY:

Should the State Water Board adopt the proposed resolution?

FISCAL IMPACT:

The Budget Act for FY 2005-06 requires the water right program to be supported by fee revenues amounting to \$9.716 million, inclusive of a mid-year budget adjustment. The proposed fee schedule is anticipated to result in collections of \$7.885 million, which in combination with existing resources in the Water Rights Fund will provide the required revenues.

RWQCB IMPACT:

None.

STAFF RECOMMENDATION:

Staff recommends that the State Water Board adopt the proposed resolution.