

**STATE WATER RESOURCES CONTROL BOARD
ANNUAL FEES REPORT
FISCAL YEAR 2006-2007**

REPORT TO THE LEGISLATURE

OCTOBER 2007

**STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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I. EXECUTIVE SUMMARY

The State Water Resources Control Board (State Water Board) is providing this report on the expenditure of annual fees to comply with Water Code Section 13260.3, which states “On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.” This report presents these expenditures and discusses the following core regulatory programs and activities:

- National Pollutant Discharge Elimination System (NPDES) Permit Program
- NPDES Storm Water Program
- Waste Discharge Requirements
 - Discharge of Wastewater to Land (Non-15) Program
 - Land Disposal (Sub-15) Program
- Confined Animal Facilities Program
- Surface Water Monitoring Program
- Groundwater Monitoring Program
- 401 Certification Program
- Agricultural Waiver Program

The mission of the State Water Board is to “preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.” This mission is accomplished, in part, through the regulation of facilities that discharge wastewater into surface waters, ground waters and landfills of the state.

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are to be deposited in the Waste Discharge Permit Fund (WDPF). Water Code section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code section 13260 further requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act.

II. EXPENDITURE OF ANNUAL FEES COLLECTED PURSUANT TO WATER CODE SECTION 13260

As Table 1 shows, total WDPF revenue for FY 2006-07 was approximately \$65 million, including \$62.4 million in fee revenue, \$176 thousand in fines and penalty revenue, and \$2.4 million in other revenue. Total expenditures were \$68.1 million. Revenue fell short of expenditures by \$3 million or 4.7 percent. Revenue fell short of the budget of \$68.2 million by \$3.1 million or 4.8 percent.

Table 1. WDPF Financial Summary

Budget	\$68,176,648
Revenue	
Fee Revenue	\$62,434,579
Fines and Penalty Revenue	\$176,200
Other Revenue ¹	\$2,446,207
Total Revenue	\$65,056,986
Expenditures	
NPDES Permit	\$14,178,702
NPDES Storm Water	\$16,498,943
WDR – Discharge to Land	\$14,024,211
WDR – Land Disposal	\$5,777,715
Confined Animal Facilities	\$2,095,882
SWAMP	\$10,002,741
GAMA	\$1,907,307
401 Certification	\$2,775,389
Agricultural Waivers	\$391,139
Subtotal	\$67,652,028
Other Expenditures ²	\$496,000
Total Expenditures	\$68,148,028
Over/(Under)	(\$3,091,042)

¹Income from surplus money investments and escheat of unclaimed checks

²Various state operations charges for other agencies

The State Water Board's current annual fee schedules were adopted on September 21, 2006 for FY 2006-07. Even though expenditures were expected to increase by more than 15 percent in FY 2006-07, the State Water Board did not raise fees to cover these

increasing costs. With a fund balance that has been growing over the last few years due to greater than expected revenue growth in the Storm Water Program, fines and penalty revenue, reversions from unencumbered contract funds, and General Fund augmentations in the NPDES and Agricultural Waiver programs, the State Water Board held fees steady and let the Fund absorb the \$3 million deficit.

III. DISCUSSION OF CORE REGULATORY PROGRAMS

A. NPDES PERMIT PROGRAM

Water pollution degrades surface waters, making them unsafe for drinking, fishing, swimming and other activities. NPDES permits are required for all point source pollution discharges of waste into California's surface waters to prevent pollution and loss or impairment of beneficial uses of the waters, prevent damage to or loss of aquatic species and habitat, and prevent human health problems and waterborne diseases. Point sources are discrete conveyances such as pipes or man-made ditches. Industrial, municipal, and other facilities must obtain a permit if their discharges go directly to surface waters. Individual homes that are connected to a municipal sewer system, use a septic system, or do not have a surface discharge do not need a NPDES permit.

The NPDES Permit Program is mandated by the Federal Clean Water Act and administered by the state. The Clean Water Act requires the United States Environmental Protection Agency (US EPA) to set effluent limits on discharges to surface waters to ensure protection of the receiving water. The Clean Water Act requires all persons who want to discharge pollutants to first obtain a NPDES permit. Pollutant discharges without a NPDES permit are illegal.

The Clean Water Act allows the US EPA to delegate the NPDES Permit Program to state governments, enabling states to perform many of the permitting, administrative, and enforcement aspects of the program. The US EPA retains oversight responsibilities in states that have been authorized to implement Clean Water Act programs. Since its introduction in 1972, the NPDES Permit Program has significantly improved the nation's water quality.

B. NPDES STORM WATER PROGRAM

Storm water discharges are runoff from land and impervious areas such as paved streets, parking lots and building rooftops during rainfall and snow melt-off. These discharges often contain pollutants in quantities that could adversely affect water quality. Discharges of pollutants to storm water conveyance systems are significant sources of pollution to surface waters. Federal law designates these discharges as point source discharges subject to a NPDES permit.

There are two types of storm water permits: individual and general permits. An individual permit is a NPDES permit specifically tailored to a single facility. Once a facility submits the appropriate application(s), the permitting authority develops a permit based on the information contained in the application (e.g., type of activity, nature of discharge, receiving water quality). A general permit is a NPDES permit that covers several facilities that have the same type of discharge. A general permit applies the same or similar conditions to all dischargers covered under the same permit. Using a general permit to cover numerous facilities reduces paperwork for permitting authorities and permit holders and ensures consistency of permit conditions for similar facilities.

Storm water activities are separated into three major categories: construction, industrial and municipal.

- **Construction Activities.** Storm water runoff from construction activities can have a significant impact on water quality. As storm water flows over a construction site, it picks up pollutants like sediment, debris, and chemicals. Polluted storm water runoff can harm or kill fish and other wildlife. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion. The NPDES Storm Water Program requires operators of construction sites one acre or larger (including smaller sites that are part of a larger common plan of development) to obtain authorization to discharge storm water under a NPDES construction storm water permit.
- **Industrial Activities.** Runoff from activities that take place at industrial facilities, such as material handling and storage, often discharge industrial pollutants to nearby storm sewer systems and water bodies. This may adversely impact water quality. To limit pollutants in storm water discharges from industrial facilities, the NPDES Storm Water Program regulates these activities. Operators of industrial facilities included in one of the 11 categories of "storm water discharges associated with industrial activity" that discharge storm water to a municipal separate storm sewer system or directly to waters of the United States require authorization under a NPDES industrial storm water permit.¹ If an industrial facility has a Standard Industrial Classification code or meets the narrative description listed in the 11 categories, the facility operator must determine if the facility is eligible for coverage under a general or an individual NPDES industrial storm water permit. In some cases, a facility operator may be eligible for a conditional/temporary exclusion from permitting requirements.
- **Municipal Activities.** Under the NPDES Storm Water Program, operators of large, medium and regulated small municipal separate storm sewer systems (MS4s) require authorization to discharge pollutants under a NPDES storm water permit. Medium and large MS4 operators are required to submit

¹40 CFR 122.26 (b)(14)(i)-(xi)

comprehensive permit applications and are issued individual permits while small MS4 operators are covered under a general permit.

C. WASTE DISCHARGE REQUIREMENTS

The Water Code requires the State Water Board to establish policies to protect the state's waters through the development of Water Quality Control Plans (Basin Plans) and the issuance of waste discharge requirements (WDRs). The purpose of Basin Plans and WDRs is to ensure, to the greatest extent possible, that discharges to the state's waters do not adversely affect the quality and beneficial uses of such waters.

WDRs are issued under state authority to regulate discharges to waters of the state (surface water and groundwater). WDRs are issued to dischargers who discharge waste to land. The disposal method may be either agricultural or non-agricultural irrigation, ponds, landfills, monofills, or leachfields.

Discharge of Wastewater to Land Program

The Discharge of Wastewater to Land Program regulates discharges that include percolation through disposal ponds, discharges through leach fields, and irrigation of landscapes and farmland. Regulatory requirements for wastewater discharges to land are contained in California Code of Regulations (CCR) Title 23. To comply with the effluent limitations in WDRs, wastewater usually must be treated before being discharged. These discharges, unless waived under Water Code Section 13269, must meet waste discharge requirements.

Land Disposal Program

The Land Disposal Program regulates waste discharges to land for treatment, storage and disposal in waste management units. Waste management units include waste piles, surface impoundments, and landfills. Regulatory requirements for hazardous waste discharges are contained in CCR Title 23, Chapter 15. Regulatory requirements for non-hazardous waste discharges are contained in CCR Title 27.

D. CONFINED ANIMAL FACILITIES

Confined animal facilities (CAFs) are agricultural operations where animals are kept and raised in confined situations. CAFs generally congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. Animal waste and wastewater can enter water bodies from spills or breaks of waste storage structures (due to accidents or excessive rain), and non-agricultural application of manure to cropland. CAFs that meet the regulatory definition of a concentrated animal feeding operation have the potential of being regulated under either the NPDES or WDR permitting programs.

E. SURFACE WATER MONITORING

The Surface Water Ambient Monitoring Program (SWAMP) is a comprehensive statewide monitoring program designed to assess the condition of surface waters throughout the state of California.

Administered by the State Water Board, the SWAMP Program was developed to integrate the existing water quality monitoring activities of the state and regional water boards, and coordinate with monitoring programs of other agencies, dischargers, and citizen groups. Under the SWAMP Program, the State Water Board is responsible for statewide monitoring efforts and oversees regional water board monitoring activities, while the regional water boards establish monitoring priorities for the water bodies in their jurisdictions for site-specific monitoring. To ensure statewide consistency, the SWAMP Program also specifies the protocols and methods to be used for sampling, data analysis, and data reporting.

Monitoring for the SWAMP Program is conducted through the Department of Fish and Game and US Geological Survey master contracts and regional water board monitoring contracts. Among other uses, the State Water Board uses SWAMP data to evaluate water bodies for potential listing under section 303(d) of the Clean Water Act.² WDPF funding for the SWAMP Program comes from an 18.5 percent surcharge assessed to holders of NPDES and storm water permits.

F. GROUNDWATER MONITORING

Groundwater is one of California's most valuable natural resources. Nearly half of California's population relies on groundwater for its drinking water supplies. Groundwater is the source of about 30 percent of the water for urban and agricultural use in average years and can increase to about 40 percent when surface supplies are reduced in drought years. The Legislature and the public have become increasingly concerned about groundwater quality and public supply well closures due to the detection of chemicals such as the gasoline additive MTBE, solvents from industrial sources, and more recently perchlorate.

To address these concerns, Water Code Section 10780 et al. was added in 2001 to require the State Water Board to integrate existing monitoring programs and design new program elements, as necessary, for the purpose of establishing a comprehensive monitoring program capable of assessing each groundwater basin. To meet this mandate, the State Water Board created the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

²Section 303(d) of the Clean Water Act requires states to identify waters that do not meet applicable water quality standards after the application of certain technology-based controls.

The primary objective of the GAMA Program is to comprehensively assess statewide groundwater quality and gain an understanding about contamination risk to specific groundwater resources. Ambient groundwater monitoring collects physical, chemical, or biological information and data in order to evaluate the status of groundwater resources and trends of improvement or deterioration in groundwater quality, which can focus attention on priority areas where groundwater quality protection or restoration efforts are necessary. WDPF funding for the GAMA Program comes from a nine percent surcharge assessed to holders of WDR permits and confined animal facilities operating under either a WDR or NPDES permit.

G. 401 CERTIFICATION PROGRAM

Section 404 of the Clean Water Act establishes a program to regulate discharges of dredge and fill material into waters of the United States, including wetlands. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to lands that support farming and forestry activities.

A permit review process controls regulated activities. An individual permit is usually required for potentially significant impacts; however, for most discharges that will have only minimal adverse impacts, the Army Corps of Engineers often grants up-front general permits. These may be issued on a national, regional, or statewide basis for particular categories of activities (for example, minor road crossings, utility line backfill, and bedding) as a means to expedite the permitting process.

Under Section 401 of the Clean Water Act, states and tribes can review and approve, condition, or deny all federal permits or licenses that might result in a discharge to state or tribal waters, including wetlands. The major federal licenses and permits subject to Section 401 are Section 402 and 404 permits (in nondelegated States), Federal Energy Regulatory Commission hydropower licenses, and Rivers and Harbors Act Section 9 and 10 permits. States and tribes may choose to waive their Section 401 certification authority. States and tribes make their decisions to deny, certify, or condition permits or licenses primarily by ensuring the activity will comply with state water quality standards. In addition, states and tribes look at whether the activity will violate effluent limitations, new source performance standards, toxic pollutants, and other water resource requirements of state/tribal law or regulation.

H. AGRICULTURAL WAIVER PROGRAM

The Agricultural Waiver Program regulates discharges from irrigated agricultural lands, which includes irrigation return flow, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants,

including pesticides, sediments and nutrients from cultivated fields into surface water. Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater bodies have also suffered pesticide, nitrate and salt contamination.

Historically, most regional water boards regulated discharges from irrigated lands under waivers authorized by Water Code Section 13269, which allows the regional water boards to waive the requirement for waste discharge requirements if it is in the public interest to do so. Although waivers are always conditional, historically they had few conditions. In general, they required that discharges not cause violations of water quality objectives, but they did not require water quality monitoring.

In 1999, Water Code Section 13269 was amended to require the regional water boards to review and renew their waivers or replace them with waste discharge requirements. Waivers not reissued automatically expired on January 1, 2003. To comply with this new law, regions 3, 4, 5, and 9 adopted new conditional waivers for agricultural discharges. The other regional water boards have allowed their waivers for agricultural discharges to expire.

In 2003, Water Code Section 13269 was amended to authorize the State Water Board to assess fees for conditional waivers. On June 16, 2005, the State Water Board adopted an acreage-based fee schedule for FY 2005-06 and began collecting fees to offset the cost of developing and enforcing conditional agricultural waivers.

Requests for Information

Questions concerning the information provided in this report or requests for additional information should be sent to:

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