

May 25, 2005

Address Block

I am writing this letter to provide information about the State Watermaster Service Program (Program) which is administered by the California Department of Water Resources (DWR) Northern District office and to update you on some recent changes in the Water Code. Copies of this letter are being sent to each water right holder under State Watermaster Service in the Northern District. I am also sending copies to each member of the Board of Supervisors, the Superior Courts, and the State legislators who represent and serve the counties served by the Program.

Last year, the State Legislature passed and Governor Schwarzenegger signed the Budget Act and Senate Bill 1107, which together made a significant change in the funding for the Program. Under the new law, General Fund support was eliminated and the water right holders will be required to pay all costs associated with the Program.

Prior to 2004, the Program was funded 50 percent from the State General Fund and 50 percent by water right holders. However, the Program billing rates had not increased for many years, despite increased costs to administer the Program. Most watermaster service area's fees remained nearly constant for more than 12 years and some service area fees remained nearly constant for 20 years. Therefore by the year 2004 many of the water right holders were only paying 25 percent or less of the actual costs of the program.

Because the Program is critical to successful farming and ranching in the adjudicated areas, DWR used funds from its other programs to help support the watermaster related activities. DWR's local assistance programs, for example, have funded salaries and travel expenses, supported construction of water flow control devices, including tools and material for headgates and measuring weirs, and vehicles and fuel. Unfortunately, those funds have also been reduced in recent years due to the State's budget crisis and therefore all future costs associated with the Program must now shift back to the water right holders.

In developing the work plan for the current fiscal year, July 2004 through June 2005, DWR budgeted funds to help maintain diversion and water control structures. These improvements were scheduled to be made in all the Watermaster service areas and would have over time improved the efficiency and effectiveness of the Program. The estimate of these charges for FY 2004-2005, was included in the initial billing sent in August 2004.

DWR's initial billing estimates, sent out in August 2004 for the 2004-05 watermaster season, received significant comment. As a result of these comments, DWR revised and reduced its Program billing for the current fiscal year. Funds for deferrable costs such as construction of structures were reduced, as was the level of service for office and engineering support, and overtime. Water right holders billing increases for the 2004-05 fiscal year were held to no more than double the previous year's rates instead of the almost four-fold increase needed to pay for the actual costs as now required by State law.

Water right holders in the Shasta and Scott Watermaster Service areas were also assisted by funding from the federal government to offset the impacts related to the listing of the coho salmon. Along the West Coast of the United States there are 6 distinct groups, or evolutionarily significant units (ESUs), of coho salmon. Three of these ESUs, Central California, Southern Oregon/Northern California Coasts, and Oregon Coasts, were listed as threatened under the federal Endangered Species Act in October 1996, May 1997, and August 1998, respectively. Because of the coho salmon being listed for the Klamath River and its tributaries, of which the Scott River and Shasta River are tributaries and provide good habitat for the coho salmon and the Scott and Shasta are served by State Watermaster Service, the federal government provided funds to DWR to avoid the take of coho salmon. DWR was able to obtain a contract with the Bureau of Reclamation to fund, for last year, some of these costs which helped to offset the increase in fees caused by the General Fund reduction for those diverters in the Shasta and Scott Valleys, thus eliminating any increase in the current year's billing for these water right holders. DWR is attempting to extend this agreement for the coming year.

The purpose of these one-year only deferments and subsidized funds is to provide an opportunity for the water right holders to conduct appropriate planning to transition to a fee arrangement or to prepare to pay these higher fees for a Program administered by the State. This fee arrangement is necessary for a sustainable, adequate, legally-defensible Program. We realize that some water right holders also need time to consider making arrangements for another provider to assume the watermaster service responsibilities.

To be clear, DWR can not maintain adequate watermaster service indefinitely with this fiscal year's budget. To insure a long-term sustainable, safe, and legally defensible Program, equipment must be maintained and replaced and the appropriate level of staff services must be provided. The coming year budget will reflect an appropriately funded Program and you can expect an increase in your watermaster service bill that reflects the total cost of the program.

DWR is very aware of the burden this fee increase will place on our customers. In response, DWR is doing its best to look for ways to reduce costs and to streamline the

Program. DWR has recently installed many new diversion headgates and measuring weirs for customers in some watersheds. Some of these structures and gages were paid for by the California Department of Fish and Game to complement the avoidance of coho salmon take actions being implemented by the federal government. These structures will reduce the time watermasters spend adjusting diversions thereby reducing costs. Also, new real-time stream gages, which can be queried by phone or on the Internet, allow the watermasters to monitor streams remotely and thereby reduce their travel times and costs. DWR is making good progress to reduce the cost of service by streamlining the Program.

These fees support important services provided by the watermasters including: determining the total available water, determining from the decree language the appropriate amount of water to divert at each specified diversion, and setting each diversion. Additionally, the watermasters and the office support staff deal with concerns and complaints, repairs to diversion structures, the maintenance of gaging stations used to monitor stream flows needed for the determination of available water, updates to landownership to assure proper billing, divides water rights when decreed lands are split, updates documents, create construction design plans, purchases materials, meets with State and county officials, attends meetings, and replies to written correspondence. These are the types of services provided by most water districts in the State and the State costs for these services are substantially below that charged for these kinds of services by water districts. Most importantly the watermasters administers court ordered decrees in water short watersheds and reduces the conflicts that lead to the adjudications of these watersheds.

At this time, the next Program related activity for DWR's Northern District is to estimate the cost of providing State Watermaster Service for Fiscal Year 2005-06. Attachment A is text taken from California Water Code sections 4225 through 4229. These sections provide direction to the Department in the preparation of the annual budget. I expect to have this budget completed by June 15, 2005. This estimate will be for service starting July 1, 2005 and ending June 30, 2006. The watermasters are in the process of updating landownership from counties parcel records. Current ownership records are needed to prepare the billing documents. This activity will be completed during the third week in July after most counties have finished updating their tax assessor's records. It takes DWR about a week to gather the information from the eight counties served by the Program. The watermasters also update water right holder information from the State Water Resources Control Board's files. Following the updating of ownership records, the watermasters process the changes, calculate the fee amounts, prepare billing summaries by county and mail out the billings under a cover letter to the county tax collector's offices. We try very hard to mail on or around the 10th of August to meet the prescribed date in

the California Water Code Section 4275. This schedule enables the counties to bill the water right holders sometime around November of 2005. For watermaster service to governmental agencies DWR prepares the billing documents in the same manor as for the counties and mails the documents directly to the governmental agencies.

In response to the fee increase some water right holders have begun to evaluate the option of using a private watermaster service or county-sponsored watermaster service. They are doing this to determine whether a more cost-effective service can be obtained. DWR functions as an agent of the county superior court when providing State Watermaster Service, and will continue to provide information to water users and others, including information that may be used to evaluate other watermaster service arrangements. DWR recognizes the county superior courts are the deciding entity regarding who is to administer the terms of the adjudications. DWR has a long history of successful administration of these adjudications and is planning to continue these services until directed by a county Superior Court to do otherwise.

On another matter, I have received specific questions regarding who is responsible for the construction and maintenance of water diversion structures. I am providing the following explanation in response to these questions. The Water Code directs water right holders (there have been no recent changes to these sections of the code), to establish and maintain to the satisfaction of DWR a substantial and serviceable diversion dam or works in the channel of the stream from which the water is diverted. The owner of a conduit shall construct and maintain to the satisfaction of the DWR a substantial and serviceable headgate in the conduit through which the water is diverted at or near the diversion dam or works. The headgate shall be of such construction that it can be locked and kept closed by the watermaster. The owner of a conduit shall construct and maintain such water flow measuring devices at such points along the conduit as may be required and approved by DWR for the purpose of assisting the watermaster in determining the amounts of water which are being diverted and applied to beneficial use. If the owner of any conduit refuses or neglects to construct and maintain the diversion dam or works, the headgate, or the measuring devices provided for in the Water Code after 30 days' notice by DWR to do so, then the watermaster may close the conduit, and it shall not be opened or any water diverted from the source of supply until the requirements of DWR as to the diversion dam or works, the headgate, or the measuring devices have come into compliance.

To assure the appropriate allocation of available water, timely repairs of diversion structures are essential. DWR watermasters will take all legal measures to affect the repair of the structure if an owner of any conduit refuses or neglects to construct and maintain the diversion dam or works, the headgate, or the measuring devices. DWR

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strongly encourages the owner to complete the repairs themselves in a timely fashion. DWR watermasters are ready to assist owners in their compliance with these provisions of the Water Code.

I hope this letter has provided some useful information. If you would like further details on the State Watermaster Service Program annual work plan and budget, or should you have any questions, please contact our office at (530) 529-7311, or you can reach me at (530) 529-7342. Information on the State Watermaster Service Program may be obtained by visiting the Northern District Internet site at: <http://www.nd.water.ca.gov/PPAs/Watermasters/>.

Sincerely,

Dwight P. Russell, Chief  
Northern District

cc: Water Right Holders  
Board of Supervisors  
County Superior Courts  
California Legislatures

State Watermaster Service is authorized by the California Water Code in Sections 4400 through 4407. The specific cost recovery authorization is contained in Sections 4275 through 4279.

**Section 4225:** The department shall, prior to June 15th of each year, prepare a statement for each service area. The statement shall contain a budget showing the amount of money estimated to be necessary to pay the costs of administration of the service area and the distribution of water therein for the ensuing fiscal year.

**Section 4226:** The budget shall include all of the following:

- (a) Expenses theretofore incurred for the payment of which funds are not available.
- (b) The cost of an annual watermaster report covering the current calendar year to be prepared at the end of said year.
- (c) A reasonable estimate for contingencies.
- (d) Other costs of administration of the service area or of distribution of water therein.

**Section 4227:** The statement shall also contain an apportionment of the amount of the budget among the owners of the various rights to store or divert within the service area.

**Section 4228:** In all cases where a water right is owned by two or more persons, they shall pay in /proportion to their respective interests in the water right, and, when the extent of the several interests is known to the department, the statement prepared by the department shall contain an apportionment of the amount to be paid by the various owners of the water right.

California Water Code Section 4251 continues to direct the Department in the preparation of an annual budget as follows:

**Section 4251:** One-tenth of the budget for the service area shall be apportioned equally among the respective ownerships of all water rights involved, and except as otherwise provided in this article the remaining nine-tenths shall be apportioned among the ownerships of the respective water rights in accordance with the quantities of water that the owners of the respective water rights are entitled to store or divert within the service area.

California Water Code sections 4275 through 4228 directs the Department in the collection of cost associated with State Watermaster Service as follows:

**Section 4275:** Except as provided in Article 5 (commencing with Section 4300), the department, on or before the 15th day of August of each year, shall certify, to the auditor and the board of supervisors of each county having a watermaster service area, or part of a watermaster service area, the amount required, in order to pay the apportionments for the ensuing fiscal year, to be levied on the land used in the storage or diversion, conveyance or distribution of the water stored or diverted under the right and the land on which the water is, or is entitled to be, used.

**Section 4276:** The auditor shall enter the amounts of the respective apportionments against the respective parcels of land as they appear on the current assessment roll. If any parcel is part of a larger parcel, the auditor may enter the apportionment against the larger parcel.

**Section 4277:** The board of supervisors of each county in which there lies a watermaster service area or any portion thereof shall annually, and at the time of levying county taxes, levy on the land within the county and within the watermaster service area apportionments sufficient to raise the amounts certified by the department.

**Section 4278:** Apportionments levied pursuant to this article shall be collected at the same time and in the same manner as county taxes. So far as applicable, all provisions of law relating to the equalization, levy, payment, and collection of county taxes shall apply to such apportionments and all provisions of law relating to the duties of county officers in relation to county taxes shall apply to such apportionments, except as otherwise expressly provided by this chapter, so far as the same are or may be made applicable.

**Section 4279:** All money raised by such apportionments shall be accounted for separately as to each watermaster service area. All such money shall be transmitted by January 1 and July 1 of each year to the department for deposit in the Water Resources Revolving Fund.