

VIA ELECTRONIC MAIL

June 22, 2016

State Water Resources Control Board
ATTN: Jeanine Townsend, Clerk to the Board
1001 I Street, 24th Floor
Sacramento, California 95814
DAS-DrinkingWaterFees@waterboards.ca.gov

Re: Proposed Drinking Water Fee Regulations Public Comments

Dear Ms. Townsend:

California Water Association (“CWA”) submits the following comments on the proposed drinking water fee regulations (the “Regulations”) that were released for public review and comment by the State Water Resources Control Board (the “Board”) on April 29, 2016.

CWA is a statewide association that represents the interests of 108 investor-owned water utilities (“IOUs”) that are subject to the jurisdiction of the California Public Utilities Commission (“CPUC”). Its members provide safe, reliable, and high-quality water services to approximately 6 million Californians. CWA appreciates this opportunity to comment on the Regulations as it will impact the water companies and their respective customers.

CWA supports the Board’s efforts to revise the existing drinking water fee schedule, as required by the California Safe Drinking Water Act (“SDWA”). CWA agrees with the need to establish fees at a level that fully funds the Board’s Drinking Water Program, consistent with the mandate of SB 83 (2015).¹ However, in striving for a robust Drinking Water Program that is responsive to the needs of all water utilities and agencies, CWA urges the Board to structure the drinking water fee schedule in a manner that minimizes the disproportionality in the proposed fee schedule.

¹ “Each public water system shall submit an annual fee according to a fee schedule established by the state board . . . for the purpose of reimbursing the state board for the costs incurred by the state board for conducting activities mandated [under the SDWA]. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the state board’s costs in conducting these activities, including a prudent reserve in the Safe Drinking Water Account.” Health & Safety Code § 116565, subd. (a) (*Operative July 1, 2016*).

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Of perhaps greater importance, however, is the need for the Board to bring forward practices from the traditional fee-for-service model, and institutionalize them, along with additional mechanisms needed to ensure accountability of the Drinking Water Program to the public water systems, under the new per-connection fee structure. Necessary mechanisms include:

- (1) continued tracking and reporting of staff time;
- (2) performance standards and tracking/reporting of key metrics;
- (3) robust annual reports to the public; and
- (4) specified criteria for future fee increases.

Without such mechanisms, regulatory activities and oversight will likely decrease even while fees are increased, thereby exacerbating disparities between the amount of fees paid and the regulatory requirements associated with particular systems. All of these important issues should be resolved before the Board adopts final drinking water fee regulations.

I. The Fees Imposed on Large Public Water Systems Should Reflect the Level of Regulatory Oversight Provided to These Systems.

CWA supports the Board's efforts to have the drinking water fee system schedule make the Drinking Water Program sustainable, in terms of budgetary support, and CWA supports some subsidy to smaller systems or systems with proven needs. However, the fee structure currently proposed would impose fees on Large Public Water Systems that are burdensomely disproportionate to the actual level of regulatory oversight provided to these systems. This disproportionality must be reduced in order to ensure that the new schedule can be universally accepted.

Currently, the drinking water fees for Large Public Water Systems are calculated based on the number of hours of service that the system receives from the Drinking Water Program ("fee-for-service"). Each system is invoiced biannually by the Board's Division of Administrative Services. Those invoices itemize the regulatory services provided, the hours expended for each line item, and corresponding fees. This fee structure and the corresponding billing system ensure that the amount of fees charged to each system reflects the actual cost of providing regulatory programs and services to that system.

Under the draft Regulations, beginning in Fiscal Year 2016-17 all Community Water Systems would be assessed on a per-connection basis, with two tiers, depending on the size of the system (wholesale water systems will be invoiced under a different schedule). For many Large Public Water Systems, this new methodology would dramatically increase their annual fees as compared to their fees under the current fee-for-service model.

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Because the cost of providing regulatory oversight to these systems is not linear with the number of service connections, the total amount of fees imposed on a per-connection basis for Large Public Water Systems will be excessive and disproportionate under the draft Regulations.

To illustrate the disparity, Table 1 below analyzes the fee increase to CWA member San Jose Water Company (“SJWC”) in terms of full-time equivalent (“FTE”), a measure of how many full-time employees would be required to perform specified work.

Table 1 – Fee Increase to SJWC in Terms of Full-Time Equivalent (FTE)

	Annual Fees	Hours Expended	Hourly Rate (average)	FTE
Last year actual values from invoices	\$71,447	467	\$153	0.22
Projected under the Regulations	\$441,142	467*	\$153*	1.4

* Hours expended and average hourly billing rate are assumed to remain the same as last year.

Table 1 shows that the fee schedule set forth in the Regulations provides for six times the FTE to support exactly the same level of service that currently is being provided to SJWC, a Large Public Water System. Nothing in the Regulations explains such a sudden and dramatic expansion in the regulatory functions to be carried out by the Drinking Water Program. Of note, further, is that SJWC’s hourly rate paid to the State Water Board would balloon from \$153 per hour to nearly \$943 per hour.

Another CWA member, California Water Service Co., which serves approximately 2 million people through nearly 500,000 service connections in dozens of communities throughout California, would see its annual fees almost double from approximately \$570,000 per year to nearly \$1,030,000 per year. As with San Jose Water Company, there will be no commensurate increase in oversight needed or service provided under the new fee.

A. CWA Supports the Intent of the Water Community Option.

CWA concurs with the California Municipal Utilities Association that the “Water Community Option” alternative fee schedule outlined in the comment letter submitted by the Association of California Water Agencies (“ACWA”) does a much better job of more equitably allocating the costs of the Drinking Water Program because it reduces the inordinate increases on the state’s largest water systems. Unfortunately, not all of CWA’s 14 largest members benefit

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from the ACWA option, so even that approach is not optimal. Still, the Water Community Option has support from the regulated water community.

The Water Community Option recovers the same amount in total fees as the draft Regulations, and it includes subsidies or support for smaller water systems. But unlike the Regulations, the Water Community Option maintains a crucial nexus between the amount of fees imposed on Large Public Water Systems and the level of regulatory oversight provided to these systems. CWA respectfully requests that the Board consider and adopt an approach that continues the direction of this alternative fee proposal.

II. The Final Regulations Should Provide for Accountability of the Drinking Water Program to Public Water Systems and the Customers They Serve.

CWA supports the Board's efforts to increase accountability in the Drinking Water Program, such as the inclusion of several activities in the Annual Performance Report. However, additional measures are needed, especially as the Board transitions to the new fee structure. The Regulations lack mechanisms needed to ensure accountability and oversight of the Drinking Water Program under a new connections-based fee structure. Without such mechanisms, regulatory activities and oversight may decrease even while fees increase, thereby exacerbating disparities between the amount of fees paid and the level of regulatory services provided to particular systems.

A. Maintain Tracking and Reporting of Drinking Water Program Staff Time Attributed to Specific Water Systems.

As discussed on page 2 of this comment letter, under the current fee-for-service model the Drinking Water Program provides biannual invoices to each Large Water System. These invoices detail the Drinking Water Program staff time dedicated to each system. This accounting and billing system provides for transparency and accountability; specifically, it allows public water systems and their customers to review and understand the fee-based regulatory activities that are being provided to their system.

This accountability cannot be lost if the Board adopts a connection-based fee structure. Therefore, inclusion of a requirement that the Drinking Water Program maintain its current system for accounting for staff time and resources attributable to each public water system is a must. CWA respectfully requests that the Board include language in its resolution adopting the final drinking water fee regulation that requires ongoing tracking and reporting, including providing a statement or summary of this information at least annually to each public water system.

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Additionally, CWA requests that the accounting or summary statements provided to public water systems include a breakdown of costs attributable to specific projects, especially for permitting work. This breakdown is needed by water suppliers regulated by the CPUC because it allows these water suppliers to appropriately allocate the costs related to new or refurbished capital projects versus the recurring annual system sanitary inspections that are annually charged to expense. For water suppliers regulated by CPUC, having the ability to allocate Drinking Water Program fees to capital projects results in a significantly lower impact to customers' monthly bills.

B. Establish Performance Standards and Require Tracking and Reporting of Metrics.

Through the Drinking Water Program, the Division of Drinking Water provides critical services and programs for all public water systems. Such services include inspections and final permitting of completed tanks, wells, and other facilities, which in the past generally have been conducted within a reasonable amount of time. In order to ensure that current service levels are maintained under the new fee structure, CWA respectfully requests that the Board include language in its resolution adopting the final regulations that establishes the following performance standards for the Drinking Water Program:

1. Turnaround time on processing variances and waivers needed in local jurisdictions;
2. Turnaround time on inspection and final permitting of completed tanks, wells, and other facilities requiring new or amended permits; and
3. Number of planned sanitary surveys for each small water and large water systems.

Regardless of how fees are assessed, it is critical to ensure that all systems continue to receive an appropriate level of service in a timely fashion.

C. Require Annual Reporting for the Drinking Water Program to Inform Water Systems and the Public about the Program's Performance and Achievements.

CWA commends the Board for implementing detailed annual reporting in connection with the Drinking Water State Revolving Fund, and CWA respectfully requests that the Board develop a similarly robust annual reporting system for the Drinking Water Program. Specifically, CWA supports ACWA's recommendation that the Board include language in its resolution adopting the final regulations that directs staff to develop an annual report on the Drinking Water Program performance metrics to be presented to the Board at a public meeting no less frequently

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than once per year – comparable to what the Board does now with its annual reports on the Drinking Water and Clean Water State Revolving Fund Programs.

In addition to providing the Board with an update on the Drinking Water Program's performance, the report would give members of the public, including public water systems and their customers, an opportunity to provide feedback on the level of service provided by the Drinking Water Program. This will help ensure that water systems continue to obtain the service, oversight and support that they require.

D. Set Criteria for Future Fee Increases.

Implementation of connection-based fee structure instead of the current fee-for-service structure, may lead to a breakdown in the nexus between the amount of fees imposed and the level of regulatory activities and oversight provided by the Drinking Water Program. To help preserve the crucial relationship between fees and regulatory oversight, CWA requests an amendment to the Regulations that defines the criteria for future fee increases.

Final regulations should require that future drinking water fee increases be tied to specific items such as:

1. Compensation rates and benefits cost increases, as opposed increases in the number of staff; and
2. Losses in grants and other sources of funding that previously supported the Drinking Water Program.

The above items represent minimum criteria that should be included in the final regulations; additional criteria may be desirable.

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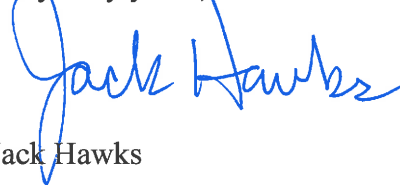
III. Conclusion

CWA agrees with the Members of the State Water Resources Control Board that a fully funded, robust and sustainable Drinking Water Program inures to the benefit of all water utilities. To this end, CWA understands the desire of the Board to move from a fee-for-service system to a per-connection fee for removing the current financial shortfalls and doubt that befall the Drinking Water Program. CWA also understands that a number of non-fee and fee-related conditions should be part and parcel of the new fee schedule regime.

First, it is essential that the final regulations provide for equitable distribution of fees and reduce the excessive burden that the Regulations would impose on Large Public Water Systems. Second, CWA respectfully requests that the Board require ongoing tracking and reporting of staff time (including project-specific cost breakdowns), and establish performance standards and require annual reporting for the Drinking Water Program. Finally, the final regulations should set criteria for future fee increases. In CWA's view, it is critical for the Board to include these elements with the final regulations.

CWA appreciates the Board's efforts to update the drinking water fee schedule and the opportunity to provide these comments and participate in the development of the Regulations. CWA urges the Board to revise the Regulations consistent with CWA's suggestions.

Very truly yours,



Jack Hawks

cc: The Honorable Felicia Marcus, Chair
The Honorable Frances Spivy-Weber, Vice-Chair
The Honorable Dorene D'Adamo, Member
The Honorable Tam M. Doduc, Member
The Honorable Steven Moore, Member
Mr. Tom Howard, Executive Director
Mr. Jonathan Bishop, Chief Deputy Director
Ms. Cindy Forbes, Deputy Director, Division of Drinking Water
Mr. John Russell, Deputy Director, Division of Administrative Services