

2009-10 Fee Schedules

(3) The fees for discharges of dredge and fill material shall be as follows, not to exceed \$40,000, plus applicable surcharge(s).⁶

Type of Discharge	Fees
(A) Fill & Excavation ⁷ Discharges. Size of the discharge area expressed in acres to two decimals (0.01 acre) (436 square feet) rounded up.	\$640 Base Price + (Discharge area in acres x \$2,752)
(B) Dredging Discharges ⁸ Dredge volume expressed in cubic yards.	\$640 Base Price + (Dredge volume in cubic yards x \$0.102)
(C) Dredging Discharges (Sand Mining). Aggregate extraction in marine waters where source material is free of pollutants and the dredging operation will not violate any basin plan provisions.	\$1,024.
(D) Channel and Shoreline Discharges Includes linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment and channelization projects. (Note): The fee for channel and shoreline linear discharges will be assessed under the "Fill and Excavation" or "Channel and Shoreline" schedules, whichever results in the higher fee.	\$640 Base Price + (Discharge length in feet x \$6.40)
(E) Discharges to Non-federal (e.g. "Isolated") Waters. Discharges to waters or portions of waterbodies not regulated as "waters of the United States," including waters determined to be "isolated" pursuant to the findings of <i>Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers</i> (2001) 121 S. Ct. 675.	Double the applicable fee schedules except for (G) restoration projects

- ⁶ i. For "excavation" the area of the discharge is the area of excavation; if the excavated material is then discharged to waters, an additional "fill" fee will be assessed.
- ii. When a single project includes multiple discharges within a single dredge and fill fee category, the fee for that category shall be assessed based on the total area, volume, or length of discharge (as applicable) of the multiple discharges. When a single project includes discharges that are assessed under multiple fee categories, the total fee shall be the sum of the fees assessed under each applicable fee category; however a \$500 base fee, if required, shall be charged only once.
- iii. Fees shall be based on the largest discharge size specified in the original or revised report of waste discharge or Clean Water Act (CWA) section 401 water quality certification application, or as reduced by the applicant without any State Board or Regional Board intervention.
- iv. If water quality certification is issued in conjunction with dredge or fill WDRs or is issued for a discharge regulated under such preexisting WDRs, the current annual WDR fee as derived from this dredge and fill fee schedule shall be paid in advance during the application for water quality certification, and shall comprise the fee for water quality certification.
- v. Discharges requiring water quality certification and regulated under a federal permit or license other than a US Army Corps of Engineers CWA section 404 permit or a Federal Energy Regulatory Commission License shall be assessed a fee determined from CCR 23, Section 2200(a).

⁷ "Excavation" refers to moving sediment or soil in shallow waters or under no-flow conditions where impacts to beneficial uses are best described by the area of the discharge. It typically is done for purposes other than navigation. Examples include trenching for utility lines, other earthwork preliminary to construction, and removing sediment to increase channel capacity.

⁸ "Dredging" generally refers to removing sediment in deeper water to increase depth. The impacts to beneficial uses are best described by the volume of the discharge and typically occur to facilitate navigation. For fee purposes it also includes aggregate extraction within stream channels where the substrate is composed of coarse sediment (e.g., gravel) and is reshaped by normal winter flows (e.g., point bars), where natural flood disturbance precludes establishment of significant riparian vegetation, and where extraction timing, location and volume will not cause changes in channel structure (except as required by regulatory agencies for habitat improvement) or impair the ability of the channel to support beneficial uses.

2009-10 Fee Schedules

<p>(F) Low Impact Discharges. Projects may be classified as low impact discharges if they meet all of the following criteria:</p> <ol style="list-style-type: none"> 1. The discharge size is less than all of the following: (a) for fill, 0.1 acre, and 200 linear feet, and (b) for dredging, 25 cubic yards. 2. The discharger demonstrates that: (a) all practicable measures will be taken to avoid impacts; (b) where unavoidable temporary impacts take place, waters and vegetation will be restored to pre-project conditions as quickly as practicable; and (c) where unavoidable permanent impacts take place, there will be no net loss of wetland, riparian area, or headwater functions, including onsite habitat, habitat connectivity, floodwater retention, and pollutant removal. 3. The discharge will not do any of the following: (a) directly or indirectly destabilize a bed of a receiving water; (b) contribute to significant cumulative effects; (c) cause pollution, contamination, or nuisance; (d) adversely affect candidate, threatened, or endangered species; (e) degrade water quality or beneficial uses; (f) be toxic; or (g) include "hazardous" or "designated" material. 4. Discharge is to a water body regulated as "Waters of the United States." 	<p>\$640 Flat Fee.</p>
<p>(G) Restoration Projects. Projects undertaken for the sole purpose of restoring or enhancing the beneficial uses of water. This schedule does not apply to projects required under a regulatory mandate or to projects that include a non-restorative component, e.g., land development, property protection, or flood management.</p>	<p>\$640 Flat Fee</p>
<p>(H) General Orders. Projects which are required to submit notification of a proposed discharge to the State and/or Regional Board pursuant to a general water quality certification permitting discharges authorized by a federal general permit or license, (e.g., a U.S. Army Corps of Engineers nationwide permit). Applies ONLY if general water quality certification was previously granted.</p>	<p>\$77 Flat Fee</p>
<p>(I) Amended Orders Amendments of WDR's or water quality certifications previously issued for one-time discharges not subject to annual billings.</p> <ol style="list-style-type: none"> (a) Minor project changes, not requiring technical analysis and involving only minimal processing time. (b) Changes to projects eligible for flat fees (fee categories C, F, G, and H) where technical analysis is needed to assure continuing eligibility for flat fee and that beneficial uses are still protected. (c) Project changes not involving an increased discharge amount, but requiring some technical analysis to assure that beneficial uses are still protected and that original conditions are still valid, or need to be modified. (d) Project changes involving an increased discharge amount and requiring some technical analysis to assure that beneficial uses are still protected and that original conditions are still valid, or need to be modified. (e) Major project changes requiring an essentially new analysis and re-issuance of WDR's or water quality certification. 	<ol style="list-style-type: none"> (a) No fee required (b) Appropriate flat fee (c) \$640 flat fee (d) Additional fee assessed per increased amount of discharge(s) per Section 2200 (a)(3) (plus \$640 base price). (e) New fee assessed per Section 2200 (a)(3).



**State Water Resources Control Board
Water Quality Fee Stakeholder Meeting
March 1, 2010
10:00 – 12:00 p.m.
Cal/EPA Building
1001 I Street
Sacramento, CA
Training Room 1 East/West, First Floor
Conference call-in number is (916) 227-1132**

AGENDA

1. Welcome and Introductions

2. Review Waste Discharge Permit Fund Financial Condition
 - Attachment 1 – WDPF Revenue and Expenditures for FY 2009-10
 - Attachment 2 – WDPF Fund Condition
 - Attachment 3 – WDPF Budgetary Cost Drivers
 - Attachment 4 – WDPF Revenue and Expenditures by Program

3. Projected Revenue and Budgeted Expenditures for FY 2010-11
 - Attachment 5 – WDPF Projected Revenue and Expenditures for FY 2010-11

4. Discuss Outstanding Issues

5. Next Meeting

**State Water Resources Control Board
Water Quality Fee Regulations
Stakeholder Meeting
March 1, 2010**

Authority

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 also 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. The State Water Board's current annual fee schedules were adopted on October 6, 2009.

Waste Discharge Permit Fund Financial Condition

As Attachment 1 shows, total estimated WDPF revenue for FY 09-10 is expected to be \$74.7 million, including \$74.1 million in fee revenue and \$602,000 in other revenue. Total expenditures are expected to be \$76.5 million. Expenditures are expected to exceed revenue by \$1.7 million.

Attachment 2 shows a nine-year analysis of the fund condition for WDPF. The FY 09-10 beginning balance of \$8.2 million includes \$1.5 million in fines and penalty revenue not available for expenditure for core regulatory activities, which leaves an adjusted beginning balance of \$6.7 million. Total estimated revenue is approximately \$74.7 million, including \$74.1 million in fee revenue and \$602,000 in other revenue. Total expenditures, including projected furlough savings are \$76.5 million, resulting in a \$1.7 million loss with an ending balance of \$4.9 million and a fund reserve of 6.5 percent.

For FY 10-11, the projected beginning balance is approximately \$4.9 million. Under the current fee schedule rates, total revenue is anticipated to be \$75.6 million and total expenditures are anticipated to be \$84.5 million, resulting in a loss of \$8.9 million and a deficit of \$3.9 million. In order to maintain a 6.5 percent fund reserve, the State Water Board expects to raise fees by approximately \$9.5 million to generate \$85 million in revenue.

Attachment 3 lists the cost drivers since FY 02-03 along with a breakdown of FY 10-11 cost drivers by program. In most years, the cost drivers represent a mix of one-time and ongoing costs.

Attachment 4 shows revenue and expenditures by program since FY 04-05.

Attachment 5 shows projected FY 10-11 revenues based on the existing fee schedule and projected fee revenue needed to meet anticipated budgetary expenditures by program. Overall, the State Water Board expects to raise fees by \$9.5 million to cover budgeted expenditures.

NPDES

The Governors Proposed Budget authorizes a \$1.4 million General Fund savings by shifting \$1.4 million in General Fund support for the NPDES Program to fees. Projected revenue is \$17.3 million and anticipated budgeted expenditures are \$18.9 million. A revenue increase of \$1.6 million is needed to meet anticipated budgeted expenditures. The Water Board has established a NPDES workgroup, which has been meeting monthly to discuss methods for assessing NPDES fees.

WDR

Projected revenue is \$17.2 million and anticipated budgeted expenditures are \$17.1 million. No fee increase is needed.

Land Disposal - Closed

Projected revenue is \$6.3 million and anticipated budgeted expenditures are \$6.3 million. No fee increase is needed.

Land Disposal - Open

Historically, the Water Boards' costs of regulating open landfills has been supported by tipping fees levied by CalRecycle (formally known as the California Integrated Waste Management Board) and deposited into the Integrated Waste Management Account (IWMA). The Governor's Proposed Budget for this activity for FY 10-11 is \$6.7 million. Due to declining revenue in the IWMA, however, the Governors Proposed Budget shifts \$2.4 million of this budget authority from IWMA to the Waste Discharge Permit Fund. Consequently, the State Water Board expects to assess \$2.4 million in fees in order to make up the decline in tipping fee revenue and meet anticipated budgeted expenditures. The State Water Board anticipates using the existing Land Disposal fee schedule, discounted by approximately 15 percent, to assess fees at the appropriate revenue level.

Storm Water

Projected revenue is \$18.8 million and anticipated budgeted expenditures are \$21.2 million. A revenue increase of \$2.4 million is needed to meet budgeted expenditures. The State Water Board anticipates raising all Storm Water fees 13.0 percent to generate the required revenue to support budgeted expenditures.

401 Certification

Projected revenue based on the existing fee schedule is \$1.9 million and budgeted expenditures are \$3.4 million. A revenue increase of \$1.5 million is needed to meet budgeted expenditures. The State Water Board is currently evaluating different options for raising fees to meet targeted revenue levels.

Confined Animal Facilities (CAF)

Projected revenue is \$2.8 million and anticipated budgeted expenditures are \$2.8 million. No fee increase is needed.

SWAMP

At the full surcharge rate of 21 percent, projected revenue is expected to be \$8.1 million and budgeted expenditures are \$7.3 million. Since program revenue is expected to exceed expenditures, the State Water Board anticipates reducing the surcharge rate of 21 percent to 19.5 percent for FY 10-11.

GAMA

At the full surcharge rate of 9.5 percent, projected revenue is expected to be \$3.1 million and budgeted expenditures are \$2.4 million. Since program revenue is expected to exceed expenditures, the State Water Board anticipates reducing the surcharge rate of 9.5 percent to 7.7 percent for FY 10-11.

Agricultural Waivers

The Governors Proposed Budget authorizes a \$1.7 million General Fund savings by shifting \$1.7 million in General Fund support for the Irrigated Lands Regulatory Program to fees. Projected revenue is \$667,000 and anticipated budgeted expenditures are \$2.2 million. A revenue increase of \$1.5 million is needed to meet anticipated budgeted expenditures. The State Water Board anticipates increasing the current 12 cents per acre charge to approximately 42 cents per acre to meet budgeted expenditures.

**State Water Resources Control Board
WDPF Revenue and Expenditures
FY 2009-10 (\$000)**

FY 2009-10 (Current Year Forecast)			
Program	Revenue	Budgeted Expenditures	Over/(Under)
NPDES	\$15,344	\$16,848	(\$1,504)
WDR	\$17,182	\$15,901	\$1,281
Land Disposal	\$6,340	\$6,456	(\$116)
Stormwater	\$19,654	\$19,219	\$435
401 Cert	\$2,232	\$3,228	(\$996)
CAF	\$2,829	\$2,550	\$278
SWAMP	\$7,457	\$8,927	(\$1,469)
GAMA	\$2,434	\$2,663	(\$228)
Ag Waivers	\$667	\$394	\$272
Fee Revenue	\$74,139	\$76,186	(\$2,047)
Other ¹	\$602	\$314	\$288
Total	\$74,741	\$76,500	(\$1,759)

Footnotes:

¹ Other Revenue includes income from surplus money investments and escheat of unclaimed checks and Other Budgeted Expenditures includes various state operations chargers for other agencies.

State Water Resources Control Board WDPF Fund Condition (\$000)

	Actuals							Forecast		
	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11 (w/o Fee Increase)	FY 10-11 (with Fee Increase)
BEGINNING BALANCE										
Prior year adjustments ¹	\$6,000	\$8,808	\$11,201	\$14,244	\$19,131	\$17,288	\$9,795	\$8,204	\$4,946	\$4,946
Restricted Revenue ²		(\$343)	\$381	\$1,807	\$1,247	\$1,807	(\$56)	(\$1,500)		
Adjusted Beginning Balance	\$6,000	\$8,808	\$10,858	\$14,625	\$20,378	\$19,095	\$9,739	\$6,704	\$4,946	\$4,946
Revenue										
Regulatory Fees	\$34,009	\$53,699	\$59,978	\$60,561	\$62,435	\$60,958	\$77,340	\$74,139	\$74,949	\$84,433
Other ³		\$1,019	\$2,968	\$2,968	\$2,622	\$3,038	\$2,027	\$602	\$602	\$602
Total Revenue	\$34,009	\$53,699	\$60,997	\$63,529	\$65,057	\$63,996	\$79,367	\$74,741	\$75,551	\$85,035
Expenditures										
Water Bd. State Operations ^{4,5}	\$28,736	\$51,305	\$57,607	\$58,726	\$67,651	\$72,977	\$80,597	\$76,185	\$84,080	\$84,080
Other State Operations ⁶	\$2,465	\$1	\$4	\$297	\$496	\$319	\$305	\$314	\$410	\$410
Total Expenditures	\$31,201	\$51,306	\$57,611	\$59,023	\$68,147	\$73,296	\$80,902	\$76,499	\$84,490	\$84,490
Gain/(Loss)	\$2,808	\$2,393	\$3,386	\$4,506	(\$3,090)	(\$9,300)	(\$1,535)	(\$1,758)	(\$8,939)	\$545
ENDING BALANCE	\$8,808	\$11,201	\$14,244	\$19,131	\$17,288	\$9,795	\$8,204	\$4,946	(\$3,993)	\$5,491
Fund Reserve	28.2%	21.8%	24.7%	32.4%	25.4%	13.4%	10.1%	6.5%		6.5%

Footnotes:

- ¹ Most adjustments represent unspent contract dollars that revert to the Fund.
- ² Restricted revenue is revenue received from fines and penalties that must be expended on cleanup and abatement activities. For FY 09-10, it is projected that \$1.5 million will be transferred to the Cleanup and Abatement Account (CAA).
- ³ Other revenue includes fines and penalties, interest from the state's pooled money investment fund, and escheat from unclaimed checks. Forecast years do not include Escheat or Penalties.
- ⁴ FY 09-10 Furlough savings are included in the Water Board State Operations expenditures. No Furlough Savings are projected for FY 10-11.
- ⁵ Water Board Operations for FY 2010-11 reflects a \$339,000 reduction from the January 2010 Governors Proposed Budget that is expected to be included in the May 2010 Revised Budget for an expired BCP.
- ⁶ Other state operations includes appropriations for CalEPA, the State Controller's Office, and prorate.

WDPF Budgetary Cost Drivers FY 2002-03 thru FY 2010-11

Fiscal Year 2002-03

Retirement	\$331,000
Fund Shift	\$14,955,000
Total	\$15,286,000

Fiscal Year 2003-04

BCPs (one-time and ongoing)	\$6,906,000
Fund Shift	\$13,620,000
Pro Rata	\$7,000
Total	\$20,533,000

Fiscal Year 2004-05

Employee Comp	\$71,000
Retirement	\$1,904,000
General Fund Reduction	(\$2,216,000)
Pro Rata	\$335,000
Total	\$94,000

Fiscal Year 2005-06

Employee Comp	\$1,710,000
Retirement	\$912,000
Pro Rata	\$585,000
Total	\$3,207,000

Fiscal Year 2010-11

Fund Shift	\$5,162,000
BCPs (one-time and ongoing)	(\$675,000)
Pro Rata	\$667,000
CS 3.60 (Retirement Adjustment)	\$159,000
Total	\$5,313,000

Fiscal Year 2006-07

Employee Comp	\$1,178,000
Retirement	(\$293,000)
BCPs (one-time and ongoing)	\$9,500,000
Pro Rata	\$98,000
Total	\$10,483,000

Fiscal Year 2007-08

Employee Comp	\$3,209,000
Retirement	\$386,000
BCPs (one-time and ongoing)	\$5,490,000
Pro Rata	(\$55,000)
Total	\$9,030,000

Fiscal Year 2008-09

Employee Comp	\$2,748,000
AG Legal Fees	\$114,000
Retirement	(\$29,000)
BCPs (one-time and ongoing)	(\$729,000)
Pro Rata	(\$75,000)
Total	\$2,029,000

Fiscal Year 2009-10

BCPs (one-time and ongoing)	\$1,120,000
Total	\$1,120,000

Fiscal Year 2010-11 Cost Driver Breakdown

Fund Shift - NPDES	\$1,373,000
Fund Shift - Land Disposal	\$2,027,000
Fund Shift - Ag Waivers	\$1,762,000
BCP - Stormwater (SB 310)	\$158,000
BCP - All Programs (Fee Collections)	\$96,000
BCP Reduction - Stormwater	(\$590,000)
BCP Reduction - GAMA	(\$339,000)
Pro Rata - All Programs	\$667,000
CS 3.60 (Retirement Adjustment)	\$159,000
Total	\$5,313,000

**State Water Resources Control Board
Revenue and Expenditures by Program
(\$000)**

NPDES Permit			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$14,930	\$12,678	\$2,252
2005-06	\$14,123	\$13,355	\$768
2006-07	\$14,014	\$14,179	(\$165)
2007-08	\$14,199	\$18,500	(\$4,301)
2008-09	\$17,729	\$19,235	(\$1,506)
2009-10 (Forecast)	\$15,344	\$16,848	(\$1,504)
Total	\$90,338	\$94,794	(\$4,456)

NPDES Storm Water			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$18,279	\$13,069	\$5,209
2005-06	\$18,476	\$13,720	\$4,757
2006-07	\$21,235	\$16,499	\$4,736
2007-08	\$19,148	\$17,641	\$1,507
2008-09	\$20,565	\$18,250	\$2,315
2009-10 (Forecast)	\$19,654	\$19,219	\$435
Total	\$117,357	\$98,398	\$18,959

WDR			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$10,721	\$10,825	(\$104)
2005-06	\$10,283	\$12,175	(\$1,892)
2006-07	\$11,523	\$14,024	(\$2,501)
2007-08	\$11,935	\$15,285	(\$3,350)
2008-09	\$16,885	\$18,547	(\$1,661)
2009-10 (Forecast)	\$17,182	\$15,901	\$1,281
Total	\$78,529	\$86,758	(\$8,229)

Land Disposal			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$5,287	\$4,634	\$652
2005-06	\$4,669	\$4,534	\$135
2006-07	\$4,784	\$5,778	(\$994)
2007-08	\$4,979	\$6,134	(\$1,155)
2008-09	\$6,335	\$6,772	(\$437)
2009-10 (Forecast)	\$6,340	\$6,456	(\$116)
Total	\$32,394	\$34,308	(\$1,914)

401 Certification			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$3,073	\$3,332	(\$259)
2005-06	\$3,446	\$2,516	\$930
2006-07	\$3,275	\$2,775	\$500
2007-08	\$2,356	\$3,534	(\$1,178)
2008-09	\$2,536	\$3,610	(\$1,075)
2009-10 (Forecast)	\$2,232	\$3,228	(\$996)
Total	\$16,918	\$18,996	(\$2,078)

**State Water Resources Control Board
Revenue and Expenditures by Program
(\$000)**

Confined Animal Facilities			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$882	\$1,378	(\$496)
2005-06	\$1,711	\$1,223	\$488
2006-07	\$705	\$2,096	(\$1,391)
2007-08	\$371	\$2,565	(\$2,194)
2008-09	\$2,815	\$3,093	(\$277)
2009-10 (Forecast)	\$2,829	\$2,550	\$278
Total	\$9,313	\$12,904	(\$3,591)

SWAMP			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$5,278	\$6,582	(\$1,304)
2005-06	\$5,816	\$7,056	(\$1,240)
2006-07	\$4,733	\$10,003	(\$5,269)
2007-08	\$5,712	\$6,918	(\$1,206)
2008-09	\$7,373	\$5,198	\$2,175
2009-10 (Forecast)	\$7,457	\$8,927	(\$1,469)
Total	\$36,370	\$44,684	(\$8,314)

GAMA			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$1,530	\$1,940	(\$410)
2005-06	\$1,468	\$2,033	(\$565)
2006-07	\$1,522	\$1,907	(\$386)
2007-08	\$1,617	\$1,956	(\$339)
2008-09	\$2,434	\$2,253	\$181
2009-10 (Forecast)	\$2,434	\$2,663	(\$228)
Total	\$11,005	\$12,753	(\$1,747)

Agricultural Waivers			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$0	\$3,169	(\$3,169)
2005-06	\$569	\$2,114	(\$1,545)
2006-07	\$644	\$391	\$253
2007-08	\$643	\$445	\$198
2008-09	\$666	\$438	\$227
2009-10 (Forecast)	\$667	\$394	\$272
Total	\$3,188	\$6,952	(\$3,764)

Total WDPF Program Revenue			
Fiscal Year	Revenue	Expenditures	Difference
2004-05	\$59,978	\$57,607	\$2,371
2005-06	\$60,561	\$58,726	\$1,835
2006-07	\$62,435	\$67,652	(\$5,217)
2007-08	\$60,959	\$72,978	(\$12,019)
2008-09	\$77,340	\$77,398	(\$58)
2009-10 (Forecast)	\$74,139	\$76,186	(\$2,047)
Total	\$395,412	\$410,547	(\$15,135)

**State Water Resources Control Board
WDPF Projected Revenue and Expenditures
FY 2010-11 (\$000)**

Program	Base Revenue	Projected Revenue Increase	New Revenue	Projected Total Revenue	Total Expenditures	Over/(Under)
NPDES	\$17,287	9.3%	\$1,609	\$18,896	\$18,896	\$0
WDR	\$17,182	0.0%	\$0	\$17,182	\$17,104	\$78
Land Disposal - Closed	\$6,340	0.0%	\$0	\$6,340	\$6,340	\$0
Land Disposal - Open ¹	n/a	n/a	\$2,370	\$2,370	\$2,370	\$0
Stormwater	\$18,790	13.0%	\$2,446	\$21,235	\$21,236	\$0
401 Cert	\$1,964	74.2%	\$1,457	\$3,421	\$3,421	\$0
CAF	\$2,829	0.0%	\$0	\$2,829	\$2,759	\$70
SWAMP ²	\$7,457	0.6%	\$47	\$7,504	\$7,349	\$154
GAMA ^{3,4}	\$2,434	1.1%	\$27	\$2,461	\$2,411	\$50
Ag Waivers	\$667	229.3%	\$1,529	\$2,195	\$2,195	\$0
Subtotal	\$74,949	12.7%	\$9,483	\$84,433	\$84,080	\$352
Other ⁵	\$602	0.0%	\$0	\$602	\$410	\$192
TOTAL	\$75,551	12.6%	\$9,483	\$85,035	\$84,490	\$544

Footnotes:

- 1 Projected New Revenue for Land Disposal - Open reflects new fee payers in the program that previously did not pay an annual WDR fee.
- 2 SWAMP Surcharge of 21% used for Base Revenue calculation, Surcharge of 19.5% used for Projected Total Revenue.
- 3 GAMA Surcharge of 9.5% used for Base Revenue calculation, Surcharge of 7.7% used for Projected Total Revenue.
- 4 GAMA BCP reduction not currently reflected in Jan-2010 Governors Proposed Budget. Expenditure number reflects anticipated reduction of \$339K.
- 5 Revenue includes income from surplus money investments and escheat of unclaimed checks and Expenditures includes various state operations charges for other agencies.

MEMORANDUM OF UNDERSTANDING

- I. The purpose of this Memorandum of Understanding (MOU) is to clarify the agreements made between the California Integrated Waste Management Board (IWMB) and the State Water Resources Control Board (SWRCB) regarding allocation of Integrated Waste Management Account (IWMA) revenues between these two entities.
- II. The IWMB and SWRCB mutually agree:

Allocation procedures

- The SWRCB and IWMB have agreed on an allocation level of 10.32418% of the tipping fee revenue to the SWRCB.
- By August 15th of each year, the IWMB will contact the SWRCB and request a copy of the year-end statements with actual expenditures to be submitted by August 25th.
- An annual update to the allocation level will be provided on September 1st of each year, if the SWRCB provided year-end statements by the requested date.
- If the year-end statements are not received by the requested date, the IWMB will provide the allocations within five working days of receiving them.
- Any SWRCB changes to expenditure authority including BCPs, employee compensation, changes made pursuant to Department of Finance Budget Letters, and other baseline adjustments will be reported to the IWMB on an ongoing basis so that those changes can be reflected in the Governor's Budget.
- The IWMB and SWRCB will meet annually (first week of September, last week of December, and in the last week of May) to discuss allocation level, and revenue and authority adjustments.
- Only tonnage will be considered when calculating SWRCB's proportional increase or decrease of the tipping fee (only "125600 Other Regulatory Fees" on the Schedule 10R). The reserve, SMIF, and any other miscellaneous revenue will not be considered when calculating the SWRCB's allocation.

- III. Procedures for calculation of the allocation:

Definitions:

Budget Year (BY) figures are "projected".

Current Year (CY) figures are "estimated".

Past Year (PY) figures are "actual".

Expenditure Adjustments:

If the PY revenue allocation is more or less than the actual expenditures:

- If more IWMA was available for the SWRCB than its actual expenditures reported in the Governor's Budget, the difference is carried over as part of the SWRCB's unspent allocation to future years. Any carryover beyond the BY must be made over a mutually negotiated and agreed period.
- If less IWMA was available for SWRCB, the difference between the actual expenditure and the actual available revenue will reduce the allocation level in future years, and the reduction must be made over a mutually negotiated and agreed period.

Revenue Adjustments:

PY adjustments/carryovers:

- Adjust for the changes in the actual revenue in the PY by subtracting the PY actual revenue from the estimated revenue from the previous years Governor's Budget and multiply the result by 10.32418%.

CY adjustments/carryovers:

- Adjust for the changes in the CY by subtracting the estimated revenue in the most recently updated 10R from the projected revenues in the previous Governor's Budget, and multiply the result by 10.32418%.

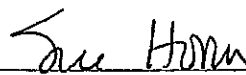
BY Base:

- Determine the Base revenue using the projected BY revenue in the most recently updated 10R.
- Multiply that by the 10.32418% rate to determine the SWRCB revenue allocation level.

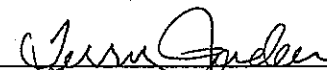
Appropriation Adjustments:

- The SWRCB should submit a BCP/Baseline Adjustment to change their authority if there is more than a \$100,000 difference between the SWRCB's expenditure authority and its revenue allocation. If the difference is greater than \$500,000, then the period over which the adjustment must be made may be negotiated and determined by mutual agreement.

IV. The following IWMB and SWRCB Administration Chiefs mutually agree to the above terms:


for Bill Brown, Administration Chief
State Water Resources Control Board

7/2/02
Date


Terry Jordan, Administration Chief
Integrated Waste Management Board

7/8/02
Date

***Inland Empire Disposal Association
Kern County Waste Management Department
Los Angeles County Waste Management Association
Orange County Waste & Recycling
Regional Council of Rural Counties
Republic Services
Riverside County Waste Management Department
Sanitation Districts of Los Angeles County
Solid Waste Association of North America, CA Chapters
Solid Waste Association of Orange County
Waste Connections
Waste Management***

April 27, 2010

Margo Reid-Brown, Director
Department of Resources Recycling and Recovery (CalRecycle)
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PO Box 4025
Sacramento, CA 95812-4025
Via Email: Margo.Reid.Brown@CalRecycle.ca.gov

Dorothy Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
Via Email: drice@waterboards.ca.gov

Subject: Integrated Waste Management Account Funding of SWRCB/RWQCB programs and Proposed SWRCB WDR Fee on Operating Solid Waste Landfills

Dear Ms. Reid-Brown and Ms. Rice:

We are writing this joint letter to raise our concerns to you regarding a proposed new Waste Discharge Requirement (WDR) fee by the State Water Resources Control Board (SWRCB) on operating solid waste landfills. Historically since January 1994 (with the enactment of AB 1220

(Eastin, 1994), operating landfills have not been subject to such a fee and, instead, the regulatory activities of the SWRCB and Regional Water Quality Control Boards (RWQCBs) related to such facilities has been covered by funding from the Integrated Waste Management Account (IWMA).

The possible imposition of this new fee first came to our attention on Monday March 1, 2010 at a stakeholder meeting convened by SWRCB staff to present proposed WDR fee changes for FY 2010-11. We learned that the reduced funding from the IWMA to SWRCB/RWQCB programs is about \$2.3 million/year (reduced funding from \$6.7 million/year to \$4.4 million/year – a 34% reduction). SWRCB staff informed us at the stakeholder meeting that the \$2.3 million in reduced funding is proposed by CalRecycle and is reflected in the Governor's proposed budget.

In response, the SWRCB proposes to impose new WDR fees on operating solid waste landfills for the first time since 1994 – apparently contrary to the legislative intent of AB 1220. The proposed new fee on operating solid waste landfills is intended to raise \$2.3 million in new funding to replace the like amount that is being cut from the IWMA. These new fees would be imposed on solid waste landfills that, on the average, have themselves been subject to a 30% reduction in waste volumes and revenues since 2005.

SWRCB Fee Proposal is Contrary to Legislative Intent

Public Resources Code (PRC) Section 48004, as amended by AB 1220, clearly indicates that revenues from the IWMA are to be used to support the following purposes:

1. For administration and implementation of PRC Division 30 by CalRecycle, and
2. The SWRCB's and RWQCBs' administration and implementation of Water Code Division 7 at solid waste landfills.

PRC 48004 goes on to state:

- It is the intent of the Legislature that an amount which is sufficient to fund state water board and regional water board regulatory activities for solid waste landfills be appropriated from the (IWMA) account by the Legislature in the annual Budget Act. Those persons who are required to pay the fee imposed pursuant to Section 48000 shall not be required to pay the annual fee imposed pursuant to subdivision (d) of Section 13260 of the Water Code with regard to the same discharge.
- If the (IWMA) fee . . . does not generate revenues sufficient to fund the programs specified in this section, or if the amount appropriated by the Legislature for these purposes is reduced, those reductions shall be equally and proportionally distributed between funding for the solid waste programs of the state water board and the regional water boards and the board.

Thus, it appears that if there is a shortfall in IWMA revenues then the reduced revenues shall be “equally and proportionally” distributed between funding for the SWRCB, RWQCBs and CalRecycle.

Water Code (WC) Section 13260 (d)(3), as amended by AB 1220, also indicates that WDR fees are to be waived for any solid waste landfill that pays a fee into the IWMA:

- Any person who would be required to pay the annual (WDR) fee . . . applicable to discharges of solid waste . . . at a waste management unit that is also regulated under PRC Division 30 . . . and who is or will be subject to the (IWMA) fee . . . in the same fiscal year, shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste management unit . . . upon verification by the state board of payment of the (IWMA) fee imposed . . . and provided that the (IWMA) fee . . . generates revenues sufficient to fund the programs specified in Section 48004 of the Public Resources Code and the amount appropriated by the Legislature for those purposes is not reduced.

Thus, while this section waives the WDR fee for solid waste landfills paying the IWMA fee, such waiver is contingent on sufficient revenues to fund the programs of CalRecycle, SWRCB, and RWQCBs. It is apparently on this basis that the SWRCB is proposing to establish new WDR fees on operating solid waste landfills.

30% Reduction from IWMA Inconsistent with Imposition of 85% of WDR Fee

Although it has not been clearly explained to us, the basis for this new WDR fee to be imposed by the SWRCB appears to be the fact that IWMA revenues are down about 30% as landfill disposal tonnages are down about 30% since 2005. There are a variety of reasons for this including continuing landfill diversion efforts and the effect of the current recession. Clearly, a 30% decline in IWMA receipts is of concern -- but the imposition of a new fee that is 85% of the full WDR fee is simply not appropriate. Those entities operating landfills have all had to reduce their operating costs during these difficult times to reflect reduced revenues, and we respectfully suggest that this program must also do that, since imposition of a new Water Board fee will only create further economic challenges for these facilities.

Further, it is critical that any discussion of a proposed imposition of a WDR fee on operating landfills must be clearly predicated on the commitment that any new fee must remain in effect only until the appropriate level of IWMA funding can be determined.

Request for Meeting with Solid Waste Landfill Stakeholders

The undersigned parties would appreciate an opportunity to discuss this matter more fully with both the staff of CalRecycle and the SWRCB to any action being taken by the SWRCB to impose a new fee on landfill operators. Please contact Chuck White with Waste Management to schedule a meeting to discuss this matter with solid waste landfill owners and operators.

Sincerely,

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Margo Reid-Brown and Dorothy Rice
IWMA and New WDR Fees
April 27, 2010

Page 5 of 5

Cc: Mark Leary, CalRecycle, Mark.Leary@CalRecycle.ca.gov
Tom Estes, CalRecycle, Tom.Estes@CalRecycle.ca.gov
David Ceccarelli, SWRCB, dceccarelli@waterboards.ca.gov
Glen Osterhage, SWRCB, gosterhage@waterboards.ca.gov
David Bott, SWRCB, dbott@waterboards.ca.gov

2009-10 Fee Schedules

CALIFORNIA CODE OF REGULATIONS TITLE 23. Division 3. Chapter 9. Waste Discharge Reports and Requirements Article 1. Fees

Section 2200. Annual Fee Schedules

Each person for whom waste discharge requirements have been prescribed pursuant to section 13263 of the Water Code shall submit, to the State Board, an annual fee in accordance with the following schedules. The fee shall be submitted for each waste discharge requirement order issued to that person.

An ambient water monitoring surcharge will be added to each individual fee as required. The ambient water monitoring surcharge for all discharges pursuant to subdivisions (a) and (c) is 9.5% of the calculated fee; the surcharge for all discharges pursuant to subdivision (b) is 21% of the calculated fee. The surcharge shall be applied to all permits prior to other surcharges prescribed herein.

(a) The annual fees for persons issued waste discharge requirements (WDRs), except as provided in subdivisions (a)(3), (b), and (c), shall be based on the discharge's threat and complexity rating according to the following fee schedule, plus applicable surcharge(s).

ANNUAL FEE SCHEDULE FOR WASTE DISCHARGE REQUIREMENTS			
Threat to Water Quality (TTWQ)	Complexity (CPLX)	Type of Discharge	
		Discharge to Land or Surface Waters¹	Land Disposal²
1	A	\$58,520	\$35,360 ³
1	B	\$36,960	\$28,560
1	C	\$19,943	\$18,360
2	A	\$13,321	\$15,300
2	B	\$8,008	\$12,240
2	C	\$6,006	\$9,180
3	A	\$4,732	\$6,120
3	B	\$2,520	\$4,590
3	C	\$1,120	\$2,040

¹ For this table, discharges to land or surface waters are those discharges of waste to land or surface waters not covered by NPDES permits that are regulated pursuant to Water Code Section 13263 that do not implement the requirements of Title 27 of the California Code of Regulations (CCR). Examples include, but are not limited to, wastewater treatment plants, erosion control projects, and septic tank systems. It does not include discharge of dredge or fill material or discharge from animal feeding operations. WDRs for municipal and domestic discharges with permitted flows of less than 50,000 gallons per day in categories 2-B, 2-C, 3-B and 3-C will receive a 50% fee discount. The design flow shall be used where no permitted flow is present. Municipal and domestic discharges receiving the discount are defined as discharges from facilities that treat domestic wastewater or a mixture of wastewater that is predominately domestic wastewater. Domestic wastewater consists of wastes from bathroom toilets, showers, and sinks from residential kitchens and residential clothes washing. It does not include discharges from food preparation and dish washing in restaurants or from commercial laundromats. Landscape Irrigation General Permits under Water Quality Order Number 2009-0006-DWQ will be assessed a fee associated with TTWQ/CPLX rating of 3B plus any applicable surcharges.

² For this table, land disposal discharges are those discharges of waste to land that are regulated pursuant to Water Code Section 13263 that implement the requirements of CCR Title 27. Examples include, but are not limited to, active and closed landfills and surface impoundments.

³ A surcharge of \$12,000 will be added for Class I Landfills. Class I landfills are those that, during the time they are, or were, in operation, are so classified by the RWQCB under 23 CCR Chapter 15, have WDRs that allow (or, for closed units, allowed) them to receive hazardous waste, and have a permit issued by the Department of Toxic Substances Control under 22 CCR Chapter 10, §66270.1 et seq.

2009-10 Fee Schedules

(1) Threat to water quality (TTWQ)⁴ and complexity (CPLX) of the discharge is assigned by the Regional Board in accordance with the following definitions:

THREAT TO WATER QUALITY

Category "1" – Those discharges of waste that could cause the long-term loss of a designated beneficial use of the receiving water. Examples of long-term loss of a beneficial use include the loss of drinking water supply, the closure of an area used for water contact recreation, or the posting of an area used for spawning or growth of aquatic resources, including shellfish and migratory fish.

Category "2" – Those discharges of waste that could impair the designated beneficial uses of the receiving water, cause short-term violations of water quality objectives, cause secondary drinking water standards to be violated, or cause a nuisance.

Category "3" – Those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses as compared with Category 1 and Category 2.

COMPLEXITY

Category "A" – Any discharge of toxic wastes, any small volume discharge containing toxic waste or having numerous discharge points or ground water monitoring, or any Class 1 waste management unit.

Category "B" – Any discharger not included above that has physical, chemical, or biological treatment systems (except for septic systems with subsurface disposal), or any Class 2 or Class 3 waste management units.

Category "C" – Any discharge for which waste discharge requirements have been prescribed pursuant to Section 13263 of the Water Code not included as a Category "A" or Category "B" as described above. Included would be discharges having no waste treatment systems or that must comply with best management practices, discharges having passive treatment and disposal systems, or dischargers having waste storage systems with land disposal.

(2) For dischargers covered under Statewide General WDRs for Sanitary Sewer Systems (Water Quality Order No. 2006-0003), the TTWQ and CPLX designations are assigned based on the population served by the sanitary sewer system. The table below describes the correlation between population served and TTWQ and CPLX designations to determine the appropriate annual fee:

Population Served ⁵	Threat and Complexity Designation
Less than 50,000	3C
50,000 or more	2C

⁴ In assigning a category for TTWQ, a regional board should consider duration, frequency, seasonality, and other factors that might limit the impact of the discharge.

⁵ Assumes 2.5 persons per equivalent dwelling unit (EDU).