

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**ORDER WRO 2005-0002-EXEC**

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In the Matter of the Petition for Reconsideration  
**OF THE CALIFORNIA FARM BUREAU FEDERATION,  
VARIOUS COUNTY FARM BUREAUS,  
AND INDIVIDUAL PETITIONERS**

Regarding Annual Water Right Fee Determinations

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**ORDER DENYING RECONSIDERATION**

BY THE EXECUTIVE DIRECTOR:<sup>1</sup>

**1.0 INTRODUCTION**

The California Farm Bureau Federation (Farm Bureau), various county farm bureaus, and other persons or entities collectively referred to herein as “Petitioners,”<sup>2</sup> petition the State Water Resources Control Board (SWRCB) for reconsideration and a refund of water right fees assessed by the State Board of Equalization (BOE) on October 18, 2004.<sup>3</sup> Petitioners challenge the SWRCB’s decision to impose the water right fees on several constitutional grounds, including a claim that the fees constitute an unconstitutional tax in violation of Article III A of the California Constitution (commonly referred to as “Proposition 13”). They request the SWRCB to reconsider the water right fees and to vacate and rescind both SWRCB Resolution No. 2004 – 0061, which adopted fee regulations amending the water right and water quality certification

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<sup>1</sup> SWRCB Resolution No. 2002 - 0104 delegates to the Executive Director the authority to supervise the activities of the SWRCB. Unless a petition for reconsideration raises matters that the SWRCB wishes to address or requires an evidentiary hearing before the SWRCB, the Executive Director’s consideration of petitions for reconsideration of disputed fees falls within the scope of the authority delegated under Resolution No. 2002 - 0104. Accordingly, the Executive Director has the authority to refuse to reconsider a petition for reconsideration, deny the petition, or set aside or modify the fee assessment.

<sup>2</sup> The term “Petitioners” is used for ease of reference in this Order and does not confer the legal status of petitioner.

<sup>3</sup> Although Petitioners refer to fees assessed on October 17, 2004, BOE assessed the fees on October 18, 2004.



subd. (b.) A petition is timely filed only if the SWRCB or BOE receives it within 30 days of the date the assessment is issued. (*Ibid.*)

The SWRCB may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the SWRCB's regulations. (§ 770, subd. (a)(1).) Alternatively, after review of the record, the SWRCB also may deny the petition if the SWRCB finds that the decision or order in question was appropriate and proper, set aside or modify the decision or order, or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)

This Order addresses the principal issues raised by the Farm Bureau and the individual petitioners. To the extent that this Order does not address all of the issues raised by Petitioners, the SWRCB finds that either these issues are insubstantial or that Petitioners have failed to meet the requirements for a petition for reconsideration under the SWRCB's regulations. (§§ 768-769, 1077.)

### **3.0 LEGAL AND FACTUAL BACKGROUND**<sup>5</sup>

The SWRCB's Division of Water Rights (Division) is the entity primarily responsible for administering the state's water right program. The primary source of funding for the water rights program is regulatory fees deposited in the Water Rights Fund in the state treasury. Legislation enacted in 2003 [Sen. Bill No. 1049 (2003-2004 Reg. Sess.), Stats. 2003, ch. 741] required the SWRCB to adopt emergency regulations revising and establishing water right fees and revising fees for water quality certification. (Wat. Code, §§ 1525, 1530.) Pursuant to this legislation, the SWRCB revises the fee schedule each fiscal year, so that the fees will generate revenues consistent with the amount set forth in the annual Budget Act. (*Id.* § 1525, subd. (d).) BOE is responsible for collecting the annual fees. (*Id.* § 1536.)

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<sup>5</sup> SWRCB Order WRO 2004-0010-EXEC, which denied reconsideration of petitions for reconsideration filed by the Farm Bureau and certain individual petitioners, contains a discussion of the history of, and basis for, the SWRCB's water right and water quality certification fee program.

In Fiscal Year 2004-2005, the Budget Act of 2004 appropriates \$10.79 million for the state's water right program, including \$10.362 million for water right administration by the SWRCB and \$0.428 million for water right fee collection by BOE.<sup>6</sup> The appropriation includes an appropriation of \$9.69 million from the Water Rights Fund. In accordance with the Water Code fee provisions, the SWRCB sets a fee schedule each fiscal year so that the amount collected and deposited into the Water Rights Fund during that fiscal year will support the appropriation made from the Water Rights Fund in the annual Budget Act, taking into account money in the fund from other sources.<sup>7</sup> In Fiscal Year 2003-2004, the SWRCB collected \$7.44 million in water right fees and water quality certification fees deposited in the Water Rights Fund.<sup>8</sup> This amount exceeded the \$4.6 million appropriation from the Water Rights Fund made under the Budget Act of 2003 (Stats. 2003, ch. 157) by \$2.84 million.<sup>9</sup> The 2004-2005 budget assumes that the Water Rights Fund will have a balance of \$0.89 million at the end of the year. Taking into account the over-collection of fees from last fiscal year, the amount to remain in reserve, and the \$1.5 million to be funded through a transfer from the Resources Trust Fund to the Water Rights Fund, the SWRCB determined that the fee schedule should be set so that fee collections deposited in the Water Rights Fund would amount to \$6.24 million this fiscal year. Assuming a non-collection rate of 15 percent,<sup>10</sup> the SWRCB determined that the total amount to be billed is \$7.34 million.

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<sup>6</sup> The budget figures referenced in this Order for Fiscal Year 2004-2005 are based on the line item appropriations in the Budget Act of 2004. (Stats. 2004, ch. 208.) These figures are subject to adjustment based on control sections in the Budget Act. (See, e.g., *id.* § 3.60.) After these adjustments are made, the precise amounts budgeted will be slightly different than the line appropriations indicated in the Budget Act, but the differences are not material for purposes of any of the issues addressed in this Order.

<sup>7</sup> Other sources of money in the Water Rights Fund, in addition to fee collections made during the fiscal year, include unexpended reserves from fee collections in previous years (see Wat. Code, § 1525, subd. (d)(3)) and money transferred from other funds. The budget allocation of \$9.69 million from the Water Rights Fund includes \$1.5 million to pay for work described in Assembly Bill 2121 (Stats. 2004, ch. 943). The Budget Act provides for the transfer of funds from the Resources Trust Fund, which is supported by tidelands oil revenues, to cover this work, but in the event that those funds are not available, the Governor's Office has directed the Division not to perform the work described in Assembly Bill 2121. The water right fees have not been set to cover this work.

<sup>8</sup> Fees associated with water quality certification for Federal Energy Regulatory Commission (FERC) licensing are deposited in the Water Rights Fund. (Wat. Code, § 1551, subd. (c).)

<sup>9</sup> The 2003-2004 fee calculations were based on a fee revenue target of \$4.4 million, which was the amount specified in the Governor's proposed budget. The final budget, which included the adjustments called for by control sections in the Budget Act, provided for a \$4.6 million allocation from the Water Rights Fund.

<sup>10</sup> This assumption is based on the rate of collection in Fiscal Year 2003-2004. Although over a quarter of the fee payers did not pay their fees by the end of the last fiscal year, most of the delinquent fee payers owed relatively small amounts of money. Most fee payers who owed larger amounts paid their fees on time. The figures available to the SWRCB indicate that during Fiscal Year 2003-2004, BOE collected 88 percent of the amount billed. There is  
*[footnote continues on next page]*

On September 30, 2004, the SWRCB adopted emergency regulations amending the water right and water quality certification fee schedules to meet the requirements of the Water Code and the Budget Act. (SWRCB Resolution No. 2004-0061.) The emergency regulations became effective on October 14, 2004, and on October 18, 2004, BOE sent out most of the notices of determination for annual permit and license fees.<sup>11</sup> (§ 1066.)

#### **4.0 FEE DETERMINATIONS COVERED BY THE PETITION**

The Farm Bureau's petition for reconsideration identifies itself, 53 county farm bureaus representing themselves and the interests of their individual members in their respective counties, Bruce W. Blythe, Harry E. Blythe, Jr., Lawrence B. Groteguth, William A. Gruenthal, Horace G. Kelsey, Anna M. Mesquita, Bob J. Murphy, and Patricia Pereira as petitioners. A number of persons or entities also filed petitions incorporating the Farm Bureau petition by reference. In its Exhibit 1, the Farm Bureau identifies water right holders that it purports to represent under the doctrine of associational standing. A threshold issue is whether the Farm Bureau, county farm bureaus, and individuals identified in Exhibit 1 may be considered petitioners under the SWRCB's regulations governing reconsideration of fees.

Each person who seeks reconsideration of fee assessment must independently meet the statutory and regulatory requirements for reconsideration of a fee assessment. As explained above, only a fee payer may petition for reconsideration of the SWRCB's determination that the fee payer is required to pay a fee, or the SWRCB's determination regarding the amount of the fee. (§ 1077.) A petition for reconsideration of a fee assessed by BOE must include certain information,

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some uncertainty as to whether fee collections this year will run as high as last year. In fact, several larger fee payers who paid their fees for Fiscal Year 2003-2004 on time failed to do so this year. (See § 1074, subd. (d) [annual fees are due and payable 30 days after BOE issues a notice of assessment].) The SWRCB anticipates that after it has acted on pending petitions for reconsideration and BOE issues notices of redetermination, these larger fee payers will pay their fees in order to avoid late penalties. (See *id.*, subd. (g)(1) [allowing postponement of payment during the pendency of a petition for reconsideration, subject to interest from the original due date].) The assumption made when the SWRCB adopted the fee regulations for Fiscal Year 2004-2005 -- that collection rates would approximate those for Fiscal Year 2003-2004 -- still provides the most reliable basis available for projecting fee collections.

<sup>11</sup> Petitioners state that the SWRCB, through BOE, assessed the water right fees without "any hearing or other forum that would allow presentation of evidence." Petitioners, however, do not claim that they requested such a hearing. Moreover, Petitioners have had ample opportunity to present information to the SWRCB and participate in the development of the fee regulations during the public workshops, stakeholder meetings, and board meeting at which the SWRCB considered the regulations.

including the specific order or decision for which it seeks review and a copy of the notice of assessment.<sup>12</sup> (§§ 769, 1077.) The reason for requiring this specificity is to enable the SWRCB to know exactly which fee determinations are before it, for purposes of its own review, for purposes of notifying BOE which bills to adjust if the SWRCB finds merit to the petitions, and for purposes of judicial review.<sup>13</sup> If a petition does not meet these requirements, then it is defective under the SWRCB's statute and regulations governing reconsideration.

A petition cannot be extended to other water right holders by invoking a category or class of fee determinations, as the Farm Bureau appears to do by drawing upon the doctrine of associational standing. To allow such an extension would convert the SWRCB's adjudicative action in reviewing a decision or order into a quasi-legislative proceeding, and also would contravene the SWRCB's reconsideration requirements if any person does not individually meet those requirements. Accordingly, the SWRCB finds that, to the extent that the Farm Bureau petition seeks to petition on behalf of a class or category of water right holders, the petition fails to adequately identify the fee payers or the specific fee determination it seeks to have reviewed, and thus fails to include the information required to be included in a petition for reconsideration. Accordingly, only those persons who were assessed a fee on October 18, 2004, and met the SWRCB's reconsideration requirements are considered petitioners for purposes of this order. Those petitioners are identified in Attachment 1.<sup>14</sup> The Farm Bureau's petition is dismissed to

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<sup>12</sup> A number of petitioners failed to provide the SWRCB with a copy of the notice of assessment. (See § 1077, subd. (a).) Although the SWRCB requires strict adherence to the statute and regulations governing a petition for reconsideration, it can accept a timely filed petition if the petition substantially complies by providing all of the required information, in a manner that is clearly identified and readily accessible, even though the information may not be in the proper format. In this case, the SWRCB has accepted certain letters referencing the petition that did not include a notice of assessment as long as the petitioner included and clearly identified the same information contained in a notice: the fee payer's name, either the water right or BOE identification number, the amount assessed, and the billing period or assessment date.

<sup>13</sup> The SWRCB receives a very large number of petitions for reconsideration on annual fees, which must be decided in a relatively brief period, and the information included in the notice of assessment is necessary to properly process the petitions for reconsideration. For example, over three hundred persons or entities petitioned the fee assessments sent out on October 18, 2004. To the extent the SWRCB is required to track down this information because the petitioner fails to comply with the requirements specified in SWRCB regulations, the processing of petitions for reconsideration would be delayed, and for many petitions the staff time that would have to be devoted to the effort would be disproportionate to the amount of the fee involved.

<sup>14</sup> This order and Attachment 1 use the SWRCB identification number in identifying the fee payers. SWRCB identification numbers start with "application" or "A," which refers to the permittee or licensee's water right application number.

the extent it seeks review of any fee determinations other than the fee determinations identified for petitioners listed in Attachment 1.

The SWRCB will not consider late-filed letters referencing the Farm Bureau petition for reconsideration or late amendments to the petition. A petition for reconsideration must be received by either BOE or the SWRCB within 30 days of the date of the assessment is issued, i.e., November 17, 2004, for bills issued on October 18, 2004. (§ 1077, subd. (b).) The SWRCB received several letters referencing the Farm Bureau petition after the deadline of November 17, 2004, and will not reconsider the fee assessments that are the subject of those letters.

The SWRCB's review in this Order is limited to annual permit and license fee assessments issued on October 18, 2004. (Wat. Code § 1537, subd. (b)(2); Cal. Code Regs., tit. 23, § 1077.) Requests for reconsideration of fees that had not been issued when the petitions for reconsideration were filed are premature because there was no SWRCB determination to review at that time. BOE assessed other annual fees on November 23, 2004, after the petition period for fees assessed on October 18 had closed, and will issue additional assessments for some annual fees that were not included in October 18 or November 23 assessments. Those later-assessed fees are not properly within the scope of review of the October 18 fee assessments.<sup>15</sup> Petitioners' contentions that may be relevant to later-issued assessments, but are not relevant to any of the fee determinations that were issued on October 18, will not be considered in this order.<sup>16</sup> Additionally, the SWRCB will not consider allegations that Petitioners seek to incorporate by reference in other documents, such as the complaint, if the Petitioners have failed to include points and authorities in support of the legal issues raised. (§ 769, subd. (c).)

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<sup>15</sup> Properly filed petitions requesting reconsideration of those later-issued assessments will be considered separately as appropriate. Prematurely filed petitions are not timely and will not be considered further.

<sup>16</sup> For example, Petitioners' arguments regarding the impairment of contracts will not be considered in this Order because the fee assessments issued to the Bureau of Reclamation's (USBR) water supply contractors are not within the scope of the SWRCB's review of the October 18 annual permit and license fees.

## **5.0 PETITIONERS' ARGUMENTS REGARDING THE CONSTITUTIONALITY OF THE FEES AND THE ADMINISTRATION OF THE FEES ARE WITHOUT MERIT**

Petitioners raise a variety of constitutional challenges to Senate Bill 1049<sup>17</sup> and the fee regulations, including claims that the fees (1) constitute an unconstitutional tax in violation of Proposition 13; (2) unconstitutionally deprive Petitioners of their property rights without due process of law; (3) unconstitutionally deprive Petitioners of their property rights and constitute a taking; and (4) unconstitutionally deprive Petitioners of their equal protection rights. Petitioners raised these same issues in the petition that the Farm Bureau previously filed challenging annual fees issued in Fiscal Year 2003-2004. The SWRCB denied that petition in Order WRO 2004-0010-EXEC. In large part, the Farm Bureau petition now before the SWRCB repeats the same arguments verbatim, and the Petitioners have not provided any new arguments, new information, or supporting authorities that materially change any of the issues raised in the earlier petition.<sup>18</sup> With respect to the issues that were raised in the previous petition and are repeated in the petition now before the SWRCB, this Order adopts the reasoning of Order WRO 2004-0010-EXEC, and incorporates that order by reference.<sup>19</sup> Nonetheless, because further explanation of the relationship of the water right fees to the regulatory water right program may improve

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<sup>17</sup> Pursuant to the California Constitution, an administrative agency such as the SWRCB has no power to declare a statute unconstitutional or unenforceable, or to refuse to enforce a statute on the basis that the statute is unconstitutional or federal law prohibits enforcement of the statute unless an appellate court has made that determination. (Cal. Const., Art. III, § 3.5.) This provision does not prohibit a party from raising a constitutional issue as part of a petition challenging a decision or order applying the statute, however, and any constitutional issues should be raised before the administrative agency if a party wants to preserve those issues for judicial review. Although a state agency cannot declare a statute unconstitutional in the absence of a judicial determination of that issue, the agency retains the power to interpret the statute, and may take constitutional issues into account in determining how the statute should be interpreted. Likewise, where applying and enforcing a statute involves an exercise of discretion, the agency may take constitutional issues into account in deciding how to exercise that discretion.

<sup>18</sup> Petitioners note that they only have filed the petition out of an abundance of caution since “the denial of this petition thus is a foregone conclusion and meaningless act.” Petitioners’ statement is somewhat ambiguous as to whether Petitioners believe filing the petition is a meaningless act or whether the SWRCB’s denial of the petition is a meaningless act. Regardless, in considering the Farm Bureau petition, the SWRCB has afforded each of Petitioners’ arguments the weight it deserves.

<sup>19</sup> Order WRO 2004-0010-EXEC also discusses issues that are not properly raised in connection with the petition currently before the SWRCB, including issues concerning fees assessed to USBR water supply contractors. To the extent Order WRO 2004-0010-EXEC addresses issues that are not properly before the SWRCB in this Order and are not relevant to the issues decided in this Order, the incorporation by reference of Order WRO 2004-0010-EXEC does not extend to those issues and those issues have not been decided by this Order.



Petitioners' understanding of the constitutionality of the water right fees, this Order will further address that issue.

### **5.1 The Water Right Fees are Reasonably Related to the Fee Payers' Burden on and Benefits From the Regulatory System**

The gravamen of Petitioners' argument is that the water right fees are not regulatory fees, but are illegal taxes in violation of the California Constitution. In support of this argument, Petitioners repeatedly allege that the water right fees are not reasonably related to the payer's burden on or benefits from the regulatory system. The SWRCB properly denied Petitioners' constitutional arguments in SWRCB Order WRO 2004-0010-EXEC, which is incorporated by reference. Nonetheless, it may be helpful to further elucidate the relationship between the water right fees and the SWRCB's water right program.

Under Proposition 13, the state cannot impose a new tax or tax increase except by statute approved by a two-thirds vote of each house of the Legislature.<sup>20</sup> The Legislature, however, can authorize a state agency to charge a regulatory fee through a statute enacted by a majority vote. A regulatory fee is a fee "charged in connection with regulatory activities, which fees do not exceed the reasonable cost of providing services necessary to the activity for which the fee is charged and which are not levied for unrelated revenue purposes." (*Sinclair Paint Co. v. State Board of Equalization* (1997) 15 Cal.4th 866, 876 [64 Cal.Rptr.2d 447].)

Regarding cost-fee ratios, a state agency must demonstrate "(1) the estimated costs of the service or regulatory activity, and (2) the basis for determining the manner in which the costs are apportioned, so that charges allocated to a payor bear a fair or reasonable relationship to the payor's burdens on or benefits from the regulatory activity." (*California Association of Professional Scientists v. Department of Fish and Game* (2000) 79 Cal.App.4th 935, 945-950

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<sup>20</sup> Section 3 of Proposition 13 states:

From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

[94 Cal.Rptr.2d 535] (hereinafter *CAPS*) (citing *Beaumont Investors v. Beaumont-Cherry Valley Water Dist.* (1985) 165 Cal.App.3d 227, 235 [211 Cal.Rptr. 567]).) A regulatory fee, however, does not require a precise cost-fee ratio to survive as a fee. (*CAPS, supra*, 79 Cal.App.4th at p. 950.) In *CAPS*, the court recognized that flexibility is an inherent component of reasonability and that regulatory fees, unlike other types of fees, often are not easily correlated to a specific, ascertainable cost due to the complexity of the regulatory scheme, the multifaceted responsibilities of the responsible agency and its employees, intermingled funding sources, and accounting systems that are not designed to track specific tasks. (*Id.* at p. 950.) Thus, the SWRCB has discretion and flexibility in developing a regulatory fee structure as long as it is reasonable.

The Legislature has authorized the SWRCB to charge regulatory fees to water users. Water Code section 1525, subdivision (c), requires the SWRCB to set the fee schedule so that the total amount of fees collected equals the amount necessary to recover the water right program's costs. The SWRCB must set a fee schedule that will generate revenues in the amount the Budget Act sets for water right fee revenues, and it must review and revise the fees each fiscal year as necessary to conform to the revenue levels set forth in the annual Budget Act. If the revenue collected is greater or less than the amount set in the annual Budget Act, then the SWRCB may further adjust the annual fees to compensate for the over or under collection of revenue. (Wat. Code, § 1525, subd. (d)(3).) In accordance with the Water Code, the water right fees are calculated solely to cover the costs of the SWRCB's regulatory program and not to generate additional revenue.

In addition, the Legislature created a special fund, the Water Rights Fund, to assure that the fees are used for water right program costs and not for unrelated revenue purposes. (See Wat. Code, § 1550). All water right fees and all water quality certification fees for FERC-licensed hydroelectric projects are deposited in the Water Rights Fund. (*Id.* § 1551.) These funds may be expended only for specified purposes, all of which involve administration of the water rights program, administration of water quality certification for FERC-licensed hydroelectric projects (a program carried out by the Division), or administration of the fees by the SWRCB and BOE. (*Id.* § 1552.)

Thus, the evidence in the record, including the Budget Act and the Governor's Budget clearly demonstrate that the estimated program costs that form the basis of the water right fees are reasonable. The amount budgeted for the water rights program provides a good estimate of what the costs of the SWRCB's regulatory program plus the BOE's costs for collection will be.<sup>21</sup> Appropriations from the Water Rights Fund are less than total program costs, the fees are calculated based on the amounts appropriated from the Water Rights Fund, and the fees are not used for any other purpose. The estimated costs of the regulatory activity for which the fees are assessed have been clearly established, and the fees do not exceed the estimated costs of that regulatory activity.

Arguing that "the fees exceed any fair and reasonable cost of providing services relating to the processing of permits or ministerial functions," Petitioners appear to suggest that SWRCB's regulatory costs should be limited to the costs of certain routine functions. As Water Code section 1525, subdivision (c), recognizes, however, regulatory costs include those costs incident to the issuance of a permit or license, such as administration, monitoring, and enforcement. (*CAPS, supra*, 79 Cal.App.4th at p. 945.) Additionally, adjudicative hearings and public workshops related to the administration of water rights are an integral part of the regulatory program. Adjudicative hearings often are necessary before the SWRCB to apply or enforce regulatory requirements. Public workshops enable the SWRCB to obtain input from water right holders and the affected public on both specific regulatory decisions under consideration and on broader proposals to more effectively administer the regulatory program. A water right hearing, for example, may be integral to the determination of whether or under what conditions a water right permit should be issued, what enforcement action should be taken in response to a permit violation, or what permit terms should be considered to coordinate operations under permits to divert from the same stream. All of the costs of the SWRCB's water right program are within the scope of the costs that may be recovered through fees under Water Code section 1525, subdivision (c), and all of these costs may be recovered through regulatory fees.

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<sup>21</sup> The Governor's Budget includes expenditures from previous fiscal years, as well as the amount the Governor proposes to be appropriated for the upcoming fiscal year. This information clearly indicates that the amount budgeted for the water right program is a fair estimate of the amount that will be expended.

The evidence in the record also demonstrates that the fee schedule allocates program costs among fee payers so that the charges allocated to a payer bear a fair or reasonable relationship to the payer's burdens on or benefits from the regulatory activity. The basis for this conclusion is summarized below, and discussed in greater detail in a memorandum prepared in connection with the SWRCB's adoption of the fee schedule for this fiscal year.<sup>22</sup>

In establishing the fees, the SWRCB decided that annual permit and license fees should fund most of the program in Fiscal Year 2004-2005. These fees are based in part on the principle that the activities of the fee payers create the need for the regulatory program, and they benefit from it. As the Legislative Analyst observed: "Since water rights holders benefit directly from all aspects of the water rights program—including permit issuance and compliance monitoring—we conclude that the existing fee structure should be revised so that fee revenues replace all General Fund support budgeted for the board's program." (Legislative Analyst's Office, Analysis of the 2003-04 Budget Bill at p. B-125.) The fact that each fee payer benefits from the regulation of other fee payers, and that diversion and use by one fee payer may affect the need for regulation of others, simply underscores the point that the fee system can provide for a fair and reasonable allocation of costs, based on the fee payers' burdens on or benefits from the regulatory activity.

For example, most of the Division's costs are related to actions that are for the primary purpose of managing existing water rights. These actions include the following: conducting compliance inspections of existing diversion facilities; processing petitions to amend permit or license conditions; conducting field inspections of permitted diversion projects to determine the amount of water beneficially used prior to issuing a water right license; monitoring and enforcement to determine when permits and licenses should be revoked for non-use; administering the requirements for SWRCB approval of changes in point of diversion, place of use, or purpose of use; and investigating complaints alleging violation of permit or license conditions, waste of water, or violation of the public trust. Moreover, a substantial portion of the cost of processing applications and petitions is devoted to protecting other water right holders, including providing

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<sup>22</sup> Memorandum to File by Victoria A Whitney, Chief, SWRCB Division of Water Rights (Oct. 6, 2004), entitled "Water Rights Fee Program Summary and Recommended Fee Schedule for Fiscal Year 2004-2005."

notification to permit and license holders when applications or petitions are filed, considering protests filed by those permit and license holders, and determining whether and on what conditions to approve new appropriations. Similarly, much of the environmental review costs associated with processing new applications involves consideration of the cumulative impacts of the proposed diversion in combination with the diversions of others holding permits and licenses to divert from the same stream system. Thus, each water right holder both benefits from, and imposes a burden on, the Division's administration of water rights.

Permit and license holders also benefit from the activities of the SWRCB to prevent unauthorized diversions, including review of diversions made under claim of riparian or pre-1914 rights to make sure that diversions do not exceed what is authorized under those rights. Unauthorized diversions deprive permit and license holders of water to which they are entitled. Where unappropriated water is available, and the ultimate effect of enforcement is to require a permit for a previously unauthorized diversion, that action still serves to provide better regulatory control over diversions, providing better protection for those holding previously issued permits and licenses, as well as to require the diverter to pay its fair share of fees.

Moreover, a regulatory program is for the protection of the health and safety of the public, which benefits from the orderly management of the state's water resources; accordingly, a regulatory fee is enacted for purposes broader than assigning the privilege to use a service or to obtain a permit. Fees may be charged because the activities of the fee payer create the need for the regulatory program, even if the program provides no clear benefit to the fee payer, other than the benefits of greater predictability and uniformity.<sup>23</sup> In particular, the costs of environmental protection may be shifted from the general public to persons who propose or carry out activities that impact the state's natural resources, without subverting Proposition 13's objectives. (*CAPS, supra*, 79 Cal.App.4th at p. 950. See also, *San Diego Gas & Electric Co. v. San Diego County*

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<sup>23</sup> The courts have concurrent jurisdiction to apply many of the requirements applied as part of the SWRCB's regulatory program. (See generally, *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 426 [189 Cal.Rptr. 346, 350].) The existence of a regulatory program means that these requirements are applied more predictably and more uniformly than if these requirements were applied only through private actions in court. Regulatory proceedings will also be less expensive than litigation. In these respects a regulatory program may be seen as a benefit to regulated entities, even where regulation focuses on protecting the public from harm threatened by regulated activities instead of protecting the interests of the regulated entities.

*Air Pollution Control District* (1988) 203 Cal.App.3d 1132, 1148 [250 Cal.Rptr. 420, 430][finding that shifting pollution control costs from the tax-paying public to the pollution-causing industries to be a reasonable way to achieve Proposition 13's goal of tax relief]; *Brydon v. East Bay Mun. Util. Dist.* (1994) 14 Cal.App.4th 178 [29 Cal.Rptr.2d 128] [approving an inclined rate structure for water customers as a regulatory fee, in part, because it achieved the regulatory goal of water conservation].)

Petitioners claim that the fee is not reasonably related to a fee payers' burdens on the regulatory system because holders of riparian, pre-1914, and pueblo water rights benefit from, and impose burdens on, the SWRCB's water right program, but are not subject to the annual fees.

Petitioners misconstrue the applicable standard. As explained above, the charges allocated to a fee payer must bear a fair or reasonable relationship to the payer's burdens on or benefits from the regulatory activity. Absolute precision is not required. (*CAPS, supra*, 79 Cal.App.4th at p. 950.) The SWRCB's regulatory program focuses almost entirely on the regulation of permit and license holders, water right applicants, and unauthorized diverters of water. Annual permit and license fees are appropriate because all of the Division's activities either benefit permittees and licensees, address the impacts of permitted or licensed diversions, or both.<sup>24</sup> The fact that holders of riparian, pre-1914, and pueblo water rights may incidentally benefit from, and impose burdens on, the SWRCB's water right program, but do not pay fees, does not render the fees unconstitutional. The SWRCB has the authority and discretion to allocate the fees among the water right holders it directly regulates as part of the statutory system of water right administration.<sup>25</sup>

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<sup>24</sup> Permit and license holders also receive some benefits that are not available to riparian, pre-1914 or other water right holders, including the availability of administrative proceedings to determine whether proposed changes are permissible. (Compare Wat. Code. § 1700 et seq., 1725 et seq., 1735 et seq. [setting forth procedure for changes, including expedited procedures for short term changes] with Wat. Code. § 1706 [providing no administrative procedure for changes to pre-1914 rights, potentially creating greater uncertainty and risk of litigation].)

<sup>25</sup> If Petitioners suggest that riparian and pre-1914 water right holders should also pay fees, they fail to explain how the SWRCB would identify those water right holders and determine how much they are authorized to divert. Although Water Code section 5100 et seq. requires many riparian and pre-1914 water right holders to file statements of diversion and use with the SWRCB, the Division recognizes that many people do not file the statements. There is essentially no legal consequence for failing to file a statement. (Wat. Code, § 5108. But see *id.* § 5106, subd. (b) [SWRCB may rely on the statements in determining whom should be sent notice of SWRCB proceedings].)

Moreover, the SWRCB's regulation of riparian, pre-1914, and pueblo water right holders is insignificant relative to the SWRCB's regulation of other water right holders. Although the SWRCB has the authority to apply public trust and reasonable use requirements to riparian, pre-1914, and pueblo water right holders, it has applied those requirements so infrequently that the associated costs amount to an insubstantial portion of the water right program costs. Similarly, the SWRCB's oversight of these diverters to make sure that they don't exceed their rights, which is essentially the same oversight the SWRCB undertakes to prevent any unauthorized diversion, amounts to an insignificant, albeit necessary, portion of the SWRCB's responsibilities and program costs. The SWRCB's oversight and regulation of riparian, pre-1914, and pueblo water right holders, no matter how nominal, protects the rights of permit and license holders by preventing unauthorized diversions, freeing up water for other water right holders, and helping to spread the burden of public trust, water quality or other environmental requirements.

In sum, the fee allocation bears a reasonable relationship to the fee payers' burdens on and benefits from water right regulatory activity.

## **5.2 The Water Right Fees Do Not Deprive Petitioners of Property Rights Without Due Process**

Petitioners baldly assert that the fees are unfair and unreasonable, thus violating Proposition 13 and Petitioners' substantive due process rights, because the fees (1) impermissibly discriminate between water right holders who hold permits or licenses and holders of riparian, pre-1914, and pueblo water rights and (2) impose a fee based on the face value of the permit or license that does not take into account the benefits obtained, or burdens imposed, by water right holders. Substantive due process requires that legislation have a reasonable relation to a proper legislative purpose. (See *Morgan v. City of Chino* (2004) 115 Cal.App.4th 1192, 1198 [9 Cal.Rptr.3d 784] (citing *Kavanau v. Santa Monica Rent Control Board* (1997) 16 Cal.4th 761, 771 [66 Cal.Rptr.2d 672]). Further, even in taxation cases, "[i]t is firmly established 'that neither due process nor equal protection imposes a rigid rule of equality in tax legislation.'" (Citations omitted).") (*California Assn. of Retail Tobacconists v. State of California* (2003) 109 Cal.App.4th 792, 844 [135 Cal.Rptr.2d 224].)

Petitioners' bare due process claim is inadequate to support an argument that the SWRCB's actions are arbitrary and without any conceivable rational basis. As discussed above and in SWRCB Order WRO 2004-0010-EXEC, the annual permit and license fees bear a reasonable relationship to the SWRCB's costs of administering existing water rights and were apportioned among permittees and licensees in a reasonable manner. Because the SWRCB's water right program primarily focuses on permits and licenses, it is logical to charge annual fees to permittees and licensees. The annual fees are distributed in proportion to the amount of water that each permit and license holder is authorized to use.<sup>26</sup> In general, the Division's workload is related to size of the authorized diversion, and the Water Code expressly authorizes the SWRCB to set fees schedules that are graduated. (Wat. Code, § 1530, subd. (a).) It is reasonable for larger diverters to pay higher fees because larger diversions generally have a greater impact on third-party water right holders and the environment.<sup>27</sup> Thus, the fees bear a reasonable relationship to the legislative purpose of funding the water rights regulatory program through the assessment of fees on the persons who appropriate the water.

Moreover, the assessment of fees against water right holders does not impermissibly discriminate between the water right holders and the holders of riparian, pre-1914, and pueblo water rights. As discussed above, although riparian, pre-1914, and pueblo water right holders require a certain degree of oversight, water right holders' activities primarily create the need for the regulatory water right program. Thus, the SWRCB has a rational basis for imposing annual fees on permit and license holders.<sup>28</sup> Petitioners' due process claim is unpersuasive.

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<sup>26</sup> The "face value," or total amount of water authorized to be diverted is easily obtained from the Division's records. In contrast, basing the fee on the amount of water actually diverted or used is not feasible because license holders do not submit this information to the SWRCB annually, preventing accurate, annual calculation or adjustment of fee revenues.

<sup>27</sup> Moreover, it is reasonable to impose a \$100 minimum fee on all permits and licenses to recover the basic administrative costs associated with maintaining any permit and license as part of the water right system. These costs include the handling of required reports and filings and sending required notices to permittees and licensees. Approximately half of permits and licenses authorize the diversion of 10 acre-feet of water or less, and on average, the minimum fee will equal or exceed the cost of providing services to these smaller water right holders.

<sup>28</sup> Additionally, the mere fact that riparian, pre-1914, and pueblo rights typically have not been adjudicated to determine how much the water right holder is authorized to divert provides a rational basis for excluding them from fees.



## **6.0 CONCLUSION**

For the reasons discussed above, the SWRCB finds that its decision to impose water right fees was appropriate and proper. To the extent that this order does not address all of the issues raised in the petition for reconsideration, the SWRCB finds that either these issues are insubstantial or that Petitioners have failed to meet the requirements for a petition for reconsideration under the SWRCB's regulations. The petition for reconsideration is denied.

### **ORDER**

IT IS HEREBY ORDERED THAT the petition for reconsideration is denied.

Dated: January 12, 2005

*ORIGINAL SIGNED BY*  
Celeste Cantú  
Executive Director

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.**

**ATTACHMENT 1**

NAME	SWRCB ID
ABBOTT, SALLY G	A025662
ADAMS, RUSSELL D	A017866
ALBERTSON, DAN	A025603
ALBERTSON, DAN	A028171
ALBERTSON, DAN	A028172
ALBERTSON, DAN	A028173
ALBERTSON, DAN	A030653
ALBERTSON, MARGE	A025604
ALBERTSON, MARGE	A025605
ALBERTSON, MARGE	A025606
ALMOND, STEPHEN W	A021755
ALTA VISTA RANCH	A030536
ANDERSON, GUSTAF A	A027676
ANDREOTTI, DINO E	A004357
ANDREOTTI, DINO E	A022596
ATKINSON, GLADYS R	A026915
AZEVEDO, JOE T	A015175
B & B FARMS	A009201
B & B FARMS	A016255
BACIGALUPI, CHARLES N	A020264
BACIGALUPI, CHARLES N	A020769
BACIGALUPI, CHARLES N	A020979
BACIGALUPI, CHARLES N	A027757
BACIGALUPI, CHARLES N	A029671
BAILEY, WILLIAM G	A021811
BAKER, HARRY A	A022554
BAKER, RODNEY A	A016653
BAKER, RODNEY A	A030580
BARRA, PETER D	A004428
BARRA, PETER D	A023836
BARRA, PETER D	A024244
BARTOLUCCI, LEWIS	A022821A
BARTOLUCCI, LEWIS	A023549A
BARTOW, WILLIAM	A018677
BARTOW, WILLIAM	A021677
BECNEL, LEO J	A026298A
BEROLDO, DOROTHY	A013733
BIG BLUFF RANCH	A024971
BLYTHE JR, HARRY E	A016609
BLYTHE JR, HARRY E	A016829
BLYTHE JR, HARRY E	A018673
BLYTHE JR, HARRY E	A018754
BLYTHE JR, HARRY E	A018762
BLYTHE JR, HARRY E	A018763
BLYTHE JR, HARRY E	A021153
BLYTHE JR, HARRY E	A021262
BLYTHE JR, HARRY E	A023341
BLYTHE JR, HARRY E	A023917
BLYTHE JR, HARRY E	A023918

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.  
ATTACHMENT 1**

NAME	SWRCB ID
BLYTHE JR, HARRY E	A023919
BLYTHE, BRUCE W	A021545
BOER, MICHAEL P	A016663
BRACK RECLAMATION DISTRICT #2033	A003613
BRADFORD, ROBERT L	A016249
BRADFORD, ROBERT L	A027892
BRADFORD, ROBERT L	A029632
BROCCHINI, ALBERT	A009834
BROCCHINI, ALBERT	A013628
BROCCHINI FARMS INC	A006963
BROWN, DONALD	A024126
BUNT, WALTER K	A029615
BURKE III, FRANCIS R	A026709
CADD, ALVIN R	A014051
CALVERT, CARL	A011819
CARDINAUX, RENE	A027564
CARTER, JANE F	A014682
CLARY IV, PAUL DENNIS	A025726
CLARY IV, PAUL DENNIS	A028372
CLIFTON, JAMES	A029871
COCHRAN, WALTER RICHARD	A019311
COLOMBINI, JAY J	A002380
COLOMBINI, JAY J	A006623
COLUSA PROPERTIES INC	A015452
CONNICK, THOMAS D H & CONNICK, E R	A011059
CONNICK, THOMAS D H & CONNICK, E R	A011118
CONNICK, THOMAS D H & CONNICK, E R	A013822
COOK, JOHN F	A011155
CORDELIA TRUST OF 1982	A024937
CORDELIA TRUST OF 1982	A024938
CORDELIA TRUST OF 1982	A024939A
CORDELIA TRUST OF 1982	A024940
CORDELIA TRUST OF 1982	A024941
CORDELIA TRUST OF 1982	A025705
CORDELIA TRUST OF 1982	A027685A
CORNETT, MILDRED	A016973
CORNETT, MILDRED	A022652
CROSSLEY, FRANK W	A016326
CUNEO, EUGENE	A021360
CURTONI, JAMES	A020271
CURTONI, JAMES	A020272
CURTONI, JAMES	A022472
DACH, JOHN R	A021256B
DELTA BREEZE PARTNERS LLC	A011268B01
DELTA BREEZE PARTNERS LLC	A017468A
DENNISON, PETER	A024352B
DENNISON, PETER	A027896
DENNISON, WILLIAM	A024352A
DESOTO, MARK	A019067

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.  
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NAME	SWRCB ID
DEWIT, BRADLEY C	A017442
DICKSON, PEGGY	A027281A
DICKSON, PEGGY	A027281B
EAGLE HYDRO PARTNERS	A027651
EL CAMINO IRRIGATION DISTRICT	A024685
ELLIS FAMILY TRUST	A013796
ESCOVER, ANTHONY J	A018520
EUTENIER, DONALD R	A024336
EUTENIER, DONALD R	A026123
EUTENIER, DONALD R	A029355
EUTENIER, DONALD R	A029356
FAGUNDES, MARVIN R	A025098
FAGUNDES, MARVIN R	A026965
FIELDS, ARTHUR A	A026511
FIELDS, STEVE	A028166
FLEMING, ANTHONY	A022445
FORD RANCH INC	A016317
FORD RANCH INC	A019576
FORD RANCH INC	A019577
FORD RANCH INC	A019578
FORD RANCH INC	A019579
FORD RANCH INC	A019580
FORD RANCH INC	A019581
FORD, GARY J	A022925
FOWLER, BOBBY J	A027028
FRANCES L & ESTATE OF MYRVIN C CA	A016797
FURLAN JOINT VENTURE	A012469A
GARGANO, BETTY L	A022733A
GEIGER, ERIK A	A013912
GEIGER, ERIK A	A016449
GEORGE DURST RANCH	A023644
GIANNINI, RITA	A017198
GOWAN, JAMES C	A009618
GOWAN, JAMES C	A024524
GOWAN, JAMES C	A024525
GOWAN, JAMES C	A024526
GRENADA IRRIGATION DISTRICT	A000448
GROTEGUTH, LAWRENCE B	A020506
GROTEGUTH, LAWRENCE B	A020512
GROTEGUTH, LAWRENCE B	A025669
GROTEGUTH, LAWRENCE B	A025670
GROTEGUTH, LAWRENCE B	A028511
GRUENTHAL, WILLIAM A	A013064
GRUENTHAL, WILLIAM A	A013065
HAGEN, JAMES A	A021188B
HAMEL, OWEN W	A024974
HAMEL, OWEN W	A024975
HAMEL, OWEN W	A025265
HARRIS, MICHAEL	A015120

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.**

**ATTACHMENT 1**

NAME	SWRCB ID
HAYES, JANET MAST	A022902
HAYS SR, THOMAS E	A022901
HEIER, JOE	A009410
HEIER, JOE	A013530
HEITZ WINE CELLARS	A029533
HEITZ WINE CELLARS	A029607
HEITZ WINE CELLARS	A030490
HEITZ WINE CELLARS	A030491
HERGER, BURTA HOUK	A004507
HERGER, BURTA HOUK	A013553
HILDEBRAND, ALEXANDER	A017950
HILDEBRAND, ALEXANDER	A019194
HORACE MEYER ESTATE	A016971
HORACE MEYER ESTATE	A017646
HORACE MEYER ESTATE	A017647
HORACE MEYER ESTATE	A017648
HORACE MEYER ESTATE	A017649
HOUK, DEAN R	A013552
HUBERT, MICHAEL V	A013426
HUBERT, MICHAEL V	A017526
J L JORDAN COMPANY, A CALIFORNIA	A012452
J L JORDAN COMPANY, A CALIFORNIA	A014604
J WINE COMPANY	A014762
J WINE COMPANY	A015724
JACKSON, RUSSELL J	A004942
JOE HEIDRICK FAMILY TRUST	A003466
JOE HEIDRICK FAMILY TRUST	A018154
JOHN B GROHL SR FAMILY RESIDUAL T	A018947
JOHN B GROHL SR FAMILY RESIDUAL T	A020598
JOHN B GROHL SR FAMILY RESIDUAL T	A021190
JORDAN, JUDITH LYNN	A013393
KEENEY, HEATHER C	A024162
KELSEY, HORACE G	A011814
KELSEY, HORACE G	A018344
KELSEY, HORACE G	A018345
KELSEY, HORACE G	A018346
KELSEY, HORACE G	A018347
KELSEY, HORACE G	A018348
KIDCO #11 L P	A012916
KIMMEL & SONS	A025070
KIMMEL & SONS	A028116
KIMMEL & SONS	A028824
KIRKPATRICK, BRADLEY H	A014995
KLINTWORTH, ROBERT	A023109
KLINTWORTH, ROBERT	A024766
L R MARTIN INC	A022888
L R MARTIN INC	A022889
L R MARTIN INC	A022890
L R MARTIN INC	A022891

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.  
ATTACHMENT 1**

NAME	SWRCB ID
L R MARTIN INC	A022892
L R MARTIN INC	A022893
L R MARTIN INC	A023504
L R MARTIN INC	A023505
L R MARTIN INC	A024032
L R MARTIN INC	A024034
L R MARTIN INC	A024035
L R MARTIN INC	A024036
L R MARTIN INC	A024037
L R MARTIN INC	A024038
L R MARTIN INC	A024039
L R MARTIN INC	A024040
L R MARTIN INC	A024041
L R MARTIN INC	A024042
L R MARTIN INC	A025014
LAKE ALPINE WATER COMPANY	A020312
LAKE ALPINE WATER COMPANY	A021485
LATIMER, WESTFORD R	A002381
LATIMER, WESTFORD R	A006612
LEDBETTER FARMS INC	A013267
LEDBETTER FARMS INC	A013453
LEDBETTER FARMS INC	A022608
LEDBETTER FARMS INC	A027149
LEDBETTER FARMS INC	A029405
LEDBETTER, JAMES	A013277
LEDBETTER, JAMES	A021245
LEE, H MAX	A018871
LEMENAGER, AUSTIN	A015363
LEMENAGER, AUSTIN	A017992
LITTLE, GARY W	A012329
LITTLEFIELD, LIBBY	A025289
LOCKETT, WILLIAM P	A002884
LOCKETT, WILLIAM P	A005160A
LONG, JAMES W	A022237
LOPEZ, JANET E	A021198
LY7 COMPANY A GENERAL PARTNERSHIP	A028848
LY7 COMPANY A GENERAL PARTNERSHIP	A028849
LY7 COMPANY A GENERAL PARTNERSHIP	A028962
LY7 COMPANY A GENERAL PARTNERSHIP	A028969
LY7 COMPANY A GENERAL PARTNERSHIP	A029354
MACKEY, JAMES KENNETH	A016327
MACREADY RANCH INC	A011453
MARCIEL, PAUL E	A025933
MARCIEL, PAUL E	A025934
MARCIEL, PAUL E	A028530
MASTERSON PROPERTIES	A019903
MASTERSON PROPERTIES	A019904
MASTERSON PROPERTIES	A020727
MASTERSON PROPERTIES	A020849

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.  
ATTACHMENT 1**

NAME	SWRCB ID
MASTERSON PROPERTIES	A026206
MASTERSON WEST	A019905
MASTERSON WEST	A025928
MC AULIFFE, JIM	A025182
MCDOWELL, CHARLES G	A009252
MCDOWELL, CHARLES G	A013488
MCGARVA RANCH	A013525
MCGARVA RANCH	A014758
MCM PROPERTIES, A CALIF CORP	A015150
MCM PROPERTIES, A CALIF CORP	A015152
MENDOCINO COUNTY RUSSIAN RIVER FC	A012919B
MERLO, ANITA J	A016711
MILBERG, ARTHUR	A029150
MILOVINA BROTHERS	A013661
MILOVINA BROTHERS	A018093A
MILOVINA BROTHERS	A024050
MILOVINA VINEYARDS	A023926A
MILOVINA, JAMES D	A006855
MONTAGUE WATER CONSERVATION DISTRICT	A003544
MONTAGUE WATER CONSERVATION DISTRICT	A003555
MONTAGUE WATER CONSERVATION DISTRICT	A004909
MOONEY, JAMES K	A009885
MOORE, THOMAS	A023820
MORAIS, MANUEL A	A007476
MORAIS, MANUEL A	A007804
MORAIS, MANUEL A	A025253
MORAIS, MANUEL A	A028711
MOSLEY, CAROLYN SUE	A020841
MOSS, RICHARD	A019237
MOSS, RICHARD	A027468
MOSS, RICHARD	A028206
MOUNT ST HELENA VINEYARDS	A026003A
MOUNT ST HELENA VINEYARDS	A026003B
MOUNT ST HELENA VINEYARDS	A030078
MOUNTS, RICHARD	A016524
MOUNTS, RICHARD	A020573
MT SHASTA FOREST PROPERTY OWNERS	A029350
MT SHASTA FOREST PROPERTY OWNERS	A029359
MULLER, HENRY E	A004922
MURPHY, BOB J	A029071
MURRAY JR, JOSEPH M	A019662
NACCARATO, ALEX	A020496
NACCARATO, ALEX	A029917
NAPA VINEYARDS INC	A026572
NEESE, WILLIAM MARION	A006464
NEESE, WILLIAM MARION	A023737
NORGARD PROPERTIES INC	A001983
NORGARD PROPERTIES INC	A014624
NORGARD PROPERTIES INC	A015677

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.**

**ATTACHMENT 1**

NAME	SWRCB ID
NORGARD PROPERTIES INC	A015678
NORGARD, STERLING	A003421
NORGARD, STERLING	A023839
NORGARD, STERLING	A023840
OLIVERA BROTHERS FARMS A PARTNERS	A016287
ORVIS, C BRUCE	A018036
ORVIS, C BRUCE	A019120
OSWALD, ERNEST G	A016733B
OWENS, BERT	A022438
PARDUCCI WINE ESTATES LLC	A013030B
PARDUCCI WINE ESTATES LLC	A025822A
PARDUCCI WINE ESTATES LLC	A025822B
PARKS FAMILY 1995 REVOCABLE TRUST	A003566
PENDELL, FRANK	A025072
PEREIRA, PATRICIA	A025952
POUNDSTONE, EMERY BURKE	A005916
POUNDSTONE, EMERY BURKE	A009987
PRITCHARD, WILLIAM	A011365
QUICK, GARY E	A016794
QUICK, GARY E	A017700A
QUICK, GARY E	A021887
QUICK, GARY E	A025225
RADANOVICH, GEORGE	A017095
RADER, LEROY C	A025625
RAMAGE, ALLAN	A016632
RICH, EDWARD A	A018148
RICH, EDWARD A	A030100
RICHARDS, ART	A025572
RICHARDS, ART	A027696
RIGHETTI, ERNEST	A017840
RIGHETTI, ERNEST	A021061
RIGHETTI, ERNEST	A022704
RIGHETTI, ERNEST AND SONS	A028883
RIVER BEND VINEYARDS, LTD	A010976
ROBINSON, LOWELL G	A012025
ROCK CREEK WATER DISTRICT	A030048
ROSENTHAL, KENNETH W	A026260
ROSENTHAL, KENNETH W	A026766
SAINI, EUGENE	A023539
SAINTE PARTNERS II LP	A005648C01
SAINTE PARTNERS II LP	A005648C09
SAINTE PARTNERS II LP	A013817
SAINTE PARTNERS II LP	A018352
SANDERS, MARK	A029669
SAUNDERS, MAGDALEN U	A018255
SCHMIDT, BRIAN L	A014066
SCHMIDT, BRIAN L	A014067
SCOTT VALLEY RANCH, A PARTNERSHIP	A011463
SILL PROPERTIES INC	A029353



**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.  
ATTACHMENT 1**

NAME	SWRCB ID
SILVA, DAN	A026674
SILVA, DAN	A029133
SILVERADO PREMIUM PROPERTIES II L	A024125
SILVERADO PREMIUM PROPERTIES II L	A024268A
SILVERADO PREMIUM PROPERTIES II L	A024268B
SILVERADO PREMIUM PROPERTIES II L	A024762A
SILVERADO PREMIUM PROPERTIES II L	A024762B
SILVERADO PREMIUM PROPERTIES LLC	A004977
SILVERADO PREMIUM PROPERTIES LLC	A013376
SILVERADO PREMIUM PROPERTIES LLC	A014245
SILVERADO PREMIUM PROPERTIES LLC	A015399
SILVERADO PREMIUM PROPERTIES LLC	A021756
SPURLOCK, JAMES M	A019437
SPURLOCK, JAMES M	A019910
SPURLOCK, JAMES M	A019911
SPURLOCK, JERRY	A019912
STEWART FAMILY TRUST	A027181
STORM, BONNIE	A017557
STORM, BONNIE	A022238
STORM, BONNIE	A024366
STRATHEARN BROS	A017474
STRATHEARN BROS	A021172B
STRATHEARN BROS	A021175B01
STRECKER JR, ARNOLD L	A003518
STULLER, DIANE J	A030298
STURTEVANT, W B	A014721
SWEETWATER SPRINGS ROAD MUTUAL WA	A026298B
SWEETWATER SPRINGS ROAD MUTUAL WA	A030391
SWISS OKIE CATTLE COMPANY	A026171
SWISS OKIE CATTLE COMPANY	A028248
THOMPSON, ROBERT I	A025545
THOMPSON, ROBERT I	A028209
THORNHILL VINEYARD PROPERTIES LLC	A020540
THORNHILL VINEYARD PROPERTIES LLC	A020541
THORNHILL VINEYARD PROPERTIES LLC	A024013
THORNHILL VINEYARD PROPERTIES LLC	A027992
TOPHAM, LURINE S	A018540
TOPHAM, LURINE S	A019005
TOPHAM, LURINE S	A020869
TOPHAM, LURINE S	A021951
TOPHAM, LURINE S	A022269
TOPHAM, LURINE S	A027159
TOPHAM, LURINE S	A027160
TRIONE TRUSTEES	A029202
TRIONE TRUSTEES	A029203
TRIONE, MARK H	A024894
TRIONE, MARK H	A027934
TRIONE, VICTOR S	A008974
TRIONE, VICTOR S	A009868

**In the Matter of the Petition for Reconsideration of the  
California Farm Bureau Federation et al.**

**ATTACHMENT 1**

NAME	SWRCB ID
TRIONE, VICTOR S	A013985
TRIONE, VICTOR S	A014030
TRIONE, VICTOR S	A015729
TRIONE, VICTOR S	A018241
TRIONE, VICTOR S	A024301
TRIONE, VICTOR S	A026022A
TRIONE, VICTOR S	A026022B
TRIONE, VICTOR S	A027955
TRIONE, VICTOR S	A029878
TRIONE, VICTOR S	A029879
TUOHY, DENNIS M	A011315
TURPIN, LYLE	A016736
UCC VINEYARDS GROUP	A013269
VAIRA, FRANCIS	A023805
VAIRA, FRANCIS	A028482
VANDER DUSSEN, CLAYTON	A028358
VIMARK INC	A024893A
VIMARK INC	A024893B
VRISMO, ELAINE R	A025541
WARDEN, R DONALD	A025664
WARDEN, R DONALD	A025665
WARDEN, R DONALD	A027652
WARDEN, R DONALD	A027653
WATTIS JR, PAUL L	A016765
WATTIS JR, PAUL L	A017073B
WEDEKIND, LORRAINE A	A009881
WELLS, LLOYD	A026926
WELLS, MARGOT CASANOVA	A014485
WHITNEY, ROYCE	A019388
WHITNEY, ROYCE	A020328
WILLIAM C FREDERICKS 1990 TRUST-M	A016885
WILLIAM C FREDERICKS 1990 TRUST-M	A021232
WINEMAN, EDWARD S	A016990
WINEMAN, EDWARD S	A022219
WOOD, JOAN JOAQUIN	A010598
WOOD, JOAN JOAQUIN	A030008
YAMADA BROTHERS	A004452
ZIMMERMAN, FREDERICK G	A018302
ZWALD, JOHN DAVID	A009714
ZWALD, JOHN DAVID	A018383
ZWALD, JOHN DAVID	A018384