



State Water Resources Control Board Follow-Up

The Division of Water Rights Has Reviewed and Updated Much of the Data It Uses to Calculate Its Annual Fees but Has More to Do to Institute Management Techniques That Could Aid in Processing Water Rights Promptly

August 2007 Report 2007-504



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The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

This letter report presents the results of a follow-up review the Bureau of State Audits (bureau) conducted concerning the efforts of the Division of Water Rights (division), within the State Water Resources Control Board (water board), in implementing selected recommendations from a report the bureau issued in March 2006 titled *State Water Resources Control Board: Its Division of Water Rights Uses Erroneous Data to Calculate Some Annual Fees and Lacks Effective Management Techniques to Ensure That It Processes Water Rights Promptly* (2005-113). During the follow-up review, we focused on key findings related to the division's use of erroneous data from its Water Rights Information Management System (WRIMS) to calculate annual fees. We also focused on key findings related to the division's lack of effective management techniques that ensure it processes water rights promptly. We did not follow up on our findings related to the division's method of charging annual fees because the California Supreme Court is currently reviewing a recent appellate court decision regarding the constitutionality of the annual fees the water board charges.

In response to our report, the division told us it developed a plan to update its WRIMS data associated with annual fee calculations. The division stated it had identified 12,571 water rights associated with annual fee calculations and it categorized these water right records into seven priority groups for review. However, the division decided not to review water rights in priority groups 6 and 7. The water rights in these two groups have diversion rates in gallons per day and water rights that authorize storage only. During our review, we found that the division had reviewed most of the water rights that it classified in priority groups 1 through 5 and updated the associated records in WRIMS before its planned transfer of data to a new Electronic Water Rights Information Management System (eWRIMS). Specifically, we found that as of July 2007 the division had reviewed more than 4,100 water rights of annual fee payers that it identified in its priority groups 1 through 5. However, the division has not developed the type of procedures that, if followed, would maintain the accuracy and completeness of the records in eWRIMS. Although the division is expecting that these procedures will be in place when eWRIMS is implemented, their completion might be delayed because the analyst who was hired to develop the office procedures manual, among other duties, has been assigned to other tasks instead. Finally, the division has determined processing timeline goals for completing water right applications that are measurable in days that, if adhered to by its management and staff, could ensure that water right applications and petitions are processed promptly. However, other efforts it initiated are still in their draft stages. The stakeholders are reviewing the draft project charter for the Anderson Creek Watershed Project and the division's draft delegation plan has yet to be presented to the water board for approval.

Background

In June 2005 the Joint Legislative Audit Committee (audit committee) requested an audit of the operations of the division. The audit committee asked the bureau to determine the reasonableness and fairness of the division's new fee structure and whether the division is providing services in a timely and efficient

manner. Specifically regarding the fee structure, the audit committee requested that we determine how the division established its new fee structure and assess its reasonableness and fairness, including the validity of the data the division used when it established its fees. In addition, the audit committee asked the bureau to determine what procedures and mechanisms the division has in place to review the fee structure and modify the fees when necessary. Finally, the audit committee asked us to evaluate the timeliness and effectiveness of the division's processing of applications for new water right permits and petitions to change existing water right permits.

In March 2006 we issued our report and concluded that the division uses erroneous data from its WRIMS to calculate some annual fees causing it to overcharge some fee payers and undercharge others. We found that the WRIMS data fields that the division used to calculate the fees did not always contain the correct amount of annual diversion authorized by permits or licenses. Moreover, the division lacks effective management techniques to ensure that it processes water rights promptly. For example, although the division uses three independent electronic tracking systems, the data in these systems were unreliable because the division failed to ensure that the systems contain accurate and complete data necessary to track pending applications.

According to the authority granted to the bureau, including the audit standards the bureau operates under, it has been a long-standing administrative practice to require each agency or department we have audited to report to the bureau on its progress in implementing our recommendations at three intervals—60 days, six months, and one year (California Government Code, Title 2, Section 8543, and Government Auditing Standards, paragraph 1.27). Under that same authority, it has also been a long-standing administrative practice of the bureau to conduct follow-up reviews of audits when resources are available and the bureau determines it is prudent to do so.

The Division Has Reviewed and Updated Much of the Data It Uses to Calculate Annual Fees

In our March 2006 report we found that the division did not accurately assess some annual fees using WRIMS, causing it to overcharge some fee payers and undercharge others. For example, the division charged incorrect fees for 18 of the 80 water rights we tested for fiscal years 2004–05 and 2005–06 because the WRIMS data used to calculate the fees did not match the terms specified in the permits and licenses. In addition, the division did not bill two water rights because WRIMS did not list them as active in the system. The division acknowledged that our information suggested

there were some data deficiencies in its system pertaining to annual amounts specified on permits and licenses, but it stated that redirecting staff to conduct fee reviews would reduce staff time dedicated to other division programs, and was considered to be a lower priority for the division. We recommended that the division review all the water right files for those that pay annual fees and update WRIMS to reflect all the necessary details specified on a permit or license.

In its March 2007 one-year response to our audit, the division told us that it developed a plan to update the WRIMS data associated with annual fee calculations. The division stated it had identified 12,571 water rights associated with annual fee calculations and it categorized these water right records into seven priority groups for review.

The Table shows the water rights in each of the seven groups of active records of annual fee payers the division identified and the number of records in each of the priority groups.

Table
Priority Groups Into Which the Division Classified Water Right Records

PRIORITY GROUP	DESCRIPTION	COUNT
1	Permits and licenses the bureau identified as incorrectly entered in WRIMS	18
2	Water rights having multiple diversion seasons, with diversion rates expressed in cubic feet per second and with a blank field for maximum annual use in WRIMS	150
3	Water rights held by federal and state agencies	157
4	All other large water rights having no maximum annual use amount	2,395
5	All remaining large water rights	1,916
6	Water rights with diversion rates in gallons per day	2,775
7	Water rights that authorize storage only	5,160
Subtotal		12,571
Other*	Includes records that are not active, statements filed by riparian and pre-1914 water rights holders, and other records that are not associated with annual fees	26,754
Total		39,325[†]

* "Other" is the difference between the number of records in the application data set of WRIMS that the division provided to us and the records that the division identified as active annual fee payers in priority groups 1 through 7.

[†] The total number of records in the application data set of WRIMS that the division provided to us.

As of March 2007 the division asserted it had corrected data associated with 2,737 water right records and believed it was on track to correct the remaining data according to its schedule. Further, the division asserted its corrections involved all data

fields, not just those associated with fee calculations. However, the division also stated that it would not review the 7,935 water right records included in its priority groups 6 and 7. According to the division's priority groupings, these water rights have diversion rates in gallons per day or are authorized for storage only and the division believes the marginal returns of completing the work associated with reviewing these records do not warrant redirecting staff to complete these reviews.

The division provided us with a listing containing 12,553 records that the division identified as active and classified as priority groups 2 through 7. Together with the 18 priority group 1 records shown in the Table that the division asserted it had already reviewed and corrected, the division has a total of 12,571 records that it identified as active annual fee payers. We confirmed that the division correctly identified all the active records of annual fee payers in WRIMS by electronically identifying the active records in the most recent copy of the records from the system that the division provided to us and reconciling our count to the number of records the division identified as active. Our tests confirmed that the division accurately counted the active water right records associated with annual fee payers.

The division also provided us a listing of 4,177 records that it stated it had reviewed as of July 2007 from the 4,618 records in its priority groups 2 through 5. We randomly selected 50 records from the division's priority groups 1 through 7 for testing and found one record that had an error in the data field for the storage amount. However, the division classified this record in priority group 7, which is one of the groups that it stated it would not review because of the marginal returns it believes reviewing these records would yield. The error we found—an understatement of 19.5 acre-feet per year—will not, by itself, materially affect the total amount of water allowed to be diverted.

During our follow-up review, we also found that the division is using control procedures to ensure that its review and update of the active records of annual fee payers in its priority groups 1 through 5 are accurate and complete. We found that it uses a quality assurance process that requires its staff to compare the WRIMS records of the annual fee payers against the actual permit or license in the application folders. The changes are documented, reviewed, and approved before the changes are entered into WRIMS. In our tests, the data in WRIMS that we examined are consistent with information in the permit or license.

As shown in the Table on page 3, beyond the holders of water rights that the division assigned to priority groups, WRIMS contains more than 26,700 other types of water right records, shown in the Table as "Other." These records include inactive accounts, small domestic use and livestock pond registrations, stockpond certificates,

The division is using control procedures to ensure that its review and update of the active records of annual fee payers in its priority groups 1 through 5 are accurate and complete.

statements of water diversion and use filed by riparian and pre-1914 users of water, and federal reserve rights. As previously mentioned, the division is reviewing and updating the water right records that it classified in priority groups 1 through 5. The division also told us that it will not redirect staff to review those water rights in priority groups 6 and 7 because this effort will only result in marginal returns. The division stated that it plans to transfer records in these last two priority groups, together with records of water rights contained in the "Other" category in the Table, many of which have missing or invalid data, to eWRIMS primarily using an automated cleanup process. By using this process, the division is aware it will be allowing some records to be transferred to the new system that have inaccurate or incomplete data fields.

The Division Needs to Ensure That Data Critical to Application Tracking Are Accurate and Complete

In March 2006 we reported that the electronic systems the division uses to track its pending workload are unreliable because the division failed to ensure that the systems contain accurate and complete data. The tracking systems consist of three independent electronic systems for applications, petitions, and environmental reviews. We concluded that the division could not rely on these systems as an effective management tool to track the progress and status of its pending workload. For example, we found that of the 615 pending applications in the division's application tracking system, 41 percent were assigned to supervisors who no longer are employed by the division and another 44 percent did not have any staff assigned to them. Furthermore, we found that the "next step date" field in the application tracking system, used to track upcoming stages of the application process, such as the dates the division expects to send public noticing instructions or issue a permit, was not always updated or was blank. In addition, we found that 36 of the 530 active petitions in the petition tracking system showed no information in any of three critical fields, including which staff was assigned, what action had been taken to process the petition, and when the last action occurred. Similarly, we found that 74 percent of the applications in the environmental tracking system did not have any staff assigned to them, and 85 percent of the applications did not contain any data in the "activity target date" field. We recommended that the division review its pending workload and update its tracking systems for pending applications and petitions to ensure accuracy and completeness. We also recommended that the division implement procedures to ensure that staff maintain the accuracy of the data in the tracking systems.

In its March 2007 response to our audit, the division asserted that it had reviewed and updated more than 90 percent of the data in its application and environmental tracking systems. During our follow up, the division explained that this review included 328 pending applications in the counties of Marin, Napa, Sonoma, Mendocino, and portions of Humboldt that are part of the reporting requirement the division is statutorily mandated to do. According to the division, its review of the 328 pending applications in the North Coast area was a more far-reaching review, as the division not only made updates, but it also set short-term goals for the upcoming year and long-term goals for final action dates for each of these 328 applications.

During our follow up, the division could not provide us with documentary evidence of its activity, such as a list of corrected records and the related changes it made to these records, nor could it demonstrate that it had implemented input controls that would ensure that changes were being tracked, reviewed, and approved for accuracy and completeness. However, the division provided us with the current data in its tracking systems as of our test date and told us the data fields it decided to migrate to its new eWRIMS. We used this information to assess whether the division adequately reviewed and updated the critical fields in the tracking system. From a random sample of 30 application records, we identified six containing errors in data fields that the division plans to transfer to eWRIMS. The types of errors we found include incorrect data fields and blank data fields. Among the data fields in error were the staff assigned to the file; the date for the next step; and the water source, which is essential in identifying the watershed of the proposed water diversion. One of the six erroneous pending application records is part of the 328 North Coast projects that the division stated it had thoroughly reviewed. Although it expects that eWRIMS will incorporate a division-wide project-tracking element, the division acknowledged that it has not yet developed updated procedures. The division chief asserted that the testing phase of the migration to eWRIMS will help identify areas that need attention and the division will then develop procedures for the tracking function in eWRIMS using the expertise of its information technology consultants.

Although it expects that eWRIMS will incorporate a division-wide project-tracking system element, the division acknowledged that it has not yet developed updated procedures.

The Division Still Has Not Implemented Procedures to Resolve Delays Between Various Phases of the Water Right Process

In March 2006 we also reported that it took the division an extensive amount of time to issue permits and licenses. For the sample of 15 permits and licenses that we reviewed, it took the division, on average, 3.3 years to issue the permits and 38.2 years to issue the licenses after permitting. Although we noted the process of approving

a water right is complex and can be legitimately time-consuming, we found the division may cause unnecessary delays because it is sometimes slow to approve and issue documents it needs to send to applicants. Contributing to some of these delays in the water right application process is that no formal timelines exist for the division to adhere to that would assure timeliness. For example, in one instance, it took the division 1,050 days to issue a permit for an application that was exempt from environmental review and did not have a material delay associated with protests. In another example, the division took 85 days to approve a permit and cover letter, and an additional 56 days to mail the documents. The division could not explain the long delay in mailing documents that had already been approved by management. We recommended that the division establish realistic goals that are measurable in days between the various stages of processing an application and implement procedures to ensure that staff adhere to these goals. In addition, we recommended the division develop procedures for improving the timeliness of management review and issuance of documents.

In its March 2007 response to our report, the division told us that it had undertaken a number of efforts to address the recommendations we made. Specifically, the division told us that it had reclassified two vacant technical positions to an administrative analyst position and a clerical position. Further, it hired an analyst on September 1, 2006, to work with all its programs, but particularly the application processing program. The analyst was to identify needed improvements, update the procedures manual, and revise route slips and templates as appropriate and necessary. Further, the division stated that the program managers were tasked with setting reasonable goals measurable in days to complete each step in each process. According to the division, based on this goal setting, the program managers established work plans for their respective program areas and provided these work plans to the division chief in October 2006. Moreover, the division reported it had completed a draft delegation recommendation that it believes could reduce the workload of division management and improve review times. The division stated it planned to present this recommendation to the water board for its consideration. Lastly, the division stated that it met with its stakeholders who are concerned with pending applications in certain coastal counties in Northern California and initiated a pilot project with a subgroup of these stakeholders to simultaneously process a group of pending water right applications within a single watershed and to coordinate the environmental and technical analyses for those same applications to obtain a comprehensive and expeditious conclusion. The division stated it hopes that this pilot project will result in a model that can be used to expedite application processing in other watersheds.

According to the division, it has determined processing time goals for 21 of the 34 phases of processing it identified in its critical path analysis.

During our follow-up review, the division told us that it had conducted a critical path analysis to map out the time goals for 34 phases of processing and had circulated the critical path document among upper management. According to the division, it has determined processing time goals for 21 of the 34 phases of processing it identified in its critical path analysis. The division plans to include these goals, together with time goals it estimates for the remaining 13 phases, in eWRIMS so it can track the goals and make changes as necessary. Further, the division acknowledged that the analyst hired to assist in updating the office procedure manual for the division and reviewing and improving the division's current business practices, among other duties, was instead doing other tasks for the chief of the division. Also, the division told us that the clerical position that was to assist division staff in completing its work related to applications and petitions processing is again vacant. Finally, the division plans to present its proposed delegation of authority to the water board in September 2007.

With regard to the pilot project that the division initiated a year earlier—the Anderson Creek Watershed Project—the division told us that the stakeholders are currently reviewing the draft of the project charter. The project charter establishes the steps required for the division to determine water availability, satisfy the requirements of the California Environmental Quality Act, evaluate the potential impacts of water appropriation on public trust resources, and make decisions on pending water right applications in the Anderson Creek Watershed group. One major project assumption is that all the participants can agree on the methodologies to be used in the various stages of the project. Further, the project charter notes that one of the risks that could cause the project to fail is that all the participants do not “buy-in” to the project.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the letter report.

Respectfully submitted,



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State Auditor

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