

Other States with Water Use Fees

Two States with water use fees are California and Minnesota. Each state arrived at water use fees by a very different route. California's fees began only recently, in 2004, while Minnesota began a fee structure in the late 1960's early 1970's.

California's State Water Resources Control Board was required to set and collect fees when the legislature adopted SB1049 in September 2003. Water fees had to be implemented by January 2004 and had to generate \$4.4 million in revenue. 18,000 potential fees payers were noticed in October 2004, two workshops and stakeholder meetings were held in November and regulations were adopted in December. Fees are based upon the amount of water the permit holder is authorized to divert, not the actual water use in a given year. The fees are intended to fund the water rights program. 13,000 bills were sent, 1,749 petitions for reconsideration were received. Fees effectuate water policy by enforcing principles of beneficial use, diligence and forfeiture. The process has brought about voluntary revocations and verification of amount claimed on original application. More information on how fee amounts were determined and the actual fee schedule can be found in the attachments.

Minnesota has approximately 6,800 permits. A single permit could cover several diversion points. Flow meters or other approved measuring devices are required. Failure to have an approved measurement method is a misdemeanor with fines up to \$700 and/or 90 days in jail. Each year the state mails a form to the permit holder to complete and return with the water use information and fee. New permits are field inspected, but the state does not perform regular field verification of the measurement method or accuracy. In 2000 the program collected \$2.5 million, in 2003 the state increased water use fees and collected \$3.7 million. More information can be found in the attachments.

Other Types of Fees

All states I looked at have some variety of fee schedules to process **NEW** applications of all types.

Montana

Montana just passed a water adjudication fee, to be effective July 1, 2005. The fee has a sunset date of 2015 or fees cannot be collected once a cap of \$31,000,000 is reached. The fee is solely for the purpose of basin adjudication.

Alaska

Alaska has attempted to enact water use fees after the legislature directed them to find ways to fund their program through their own permit system. Since water use fees were not politically viable, they instead have an annual administrative services fee of \$50 for most permits. Currently the state is rewriting their fee structure for new permits to more accurately reflect the actual cost of processing a permit of a certain type, ie mining, agriculture, domestic, etc. The new fee structure will significantly increase fee costs and is expected to take effect within the year. Alaska has always required water use reporting

in the permitting process for their largest water users. According to Department personnel about 15 – 20 % of those billed do not respond.

Idaho

Idaho has measuring requirements and annual water use reports. Water users in an officially formed water district have always had to pay approximately \$75 per diversion to fund the water master in their district for water administration. Ground water users have generally formed ground water districts and employ their own person to make measurements for all the users in the district. Ground water users generally employ the power record method to estimate water use. Some water users are not in a district and file annual reports with the state for a \$25 fee.

Other States That Have Tried to Enact Water Use Fees

Details can be found in the attachments.

Colorado

The Colorado legislature passed Senate Bill 03-278 in 2003 requiring annual water administration fees to fund the Division of Water Resources. The law was subsequently repealed in 2004 and all funds collected were returned. The following reasons were given:

1. The legislative economic forecast indicates that the amount of revenue received from the water administration fees would be equal to the amount refunded by TABOR in fiscal year 2004-2005.
2. The general concept that water resources are a life-sustaining necessity and of comprehensive value to all of Colorado's citizens is a benchmark that pre-dates statehood – therefore, it is appropriate to fund water administration through general funds.

According to Division personnel the program was on track to spend a little less than \$200,000 to collect \$2 million. The cost includes all operational expenses: compensation for a staff of three, postage, printing, utilities, etc. In ensuing years, the division likely would have spent about half of the \$200,000. The program would have spent about \$1 to collect \$10 in year 1, and \$.50 to collect \$10 in years 2+.

When the original bill was passed, the state was in a fiscal crisis and the Department was told to find funding. The fee program was proposed. Because of the rush the Division had no time to educate the public on the new fee structure and did not have time to clean up their database to ensure that all the persons billed were up-to-date.

South Dakota

South Dakota does not have an annual water use fee. The South Dakota legislature introduced a bill approximately 10 years ago to implement an annual fee. Irrigators and

municipalities were united in opposing an annual water use fee. The bill was tabled at its first committee hearing. There was talk of a water fee plan in 2004, but it has not gone anywhere yet.

South Dakota does require all irrigators who use a pump as a means to divert water to complete an annual irrigation questionnaire (IQ) of water use (gravity water spreading systems are not required to report). This requirement is a condition of the water right and failure on the part of the irrigator to submit the IQ can result in suspension of the permit for one year. Three years of noncompliance can result in cancellation of the permit. Any action to suspend or cancel a water permit is taken by the Water Management Board which is a citizen Board which meets five times a year to consider various water allocation issues. In 2004 South Dakota sent out 2,945 questionnaires to surface and ground water irrigators. There are not late fees or other penalty fees. The state does not carry out any verification of the annual reports unless the report shows use greater than the permitted amount.

Additionally, municipalities, rural water systems and large commercial or industrial users are being phased into the water use reporting system as they apply for new permits.

Texas

Texas has a bill in committee that would create water use fees. Senate Bill Number 3; Author: Armbrister; Sponsor: none; Last Action: 05/09/2005 H Left pending in committee. This bill relates to the development and management of the water resources of the state, including the creation of a groundwater conservation district; imposing fees and providing penalties.

States with Measuring Requirements:

Washington

In the state of Washington the state water law was substantially revised in 1993. The 1993 revisions require measuring for all surface water diversions. The Department of Ecology must require measuring as a condition for all new surface water right permits and for existing water rights that meet certain criteria. Since the 1993 revision of the state water law, Ecology has been requiring measuring devices on all surface water withdrawals larger than one cubic foot per second. Since 1999, Ecology has also been requiring measuring devices on all new water rights for surface and ground water withdrawals, as well as on changes, transfers and enforcement actions.

Annual water use reporting on fish critical basins has been required in the last 2 years due to a court decision. The Department is required to account for 80% of total diversions in each basin. According to Department personnel 80% of the total diversions occur from 20% of the number of permits. Even so a couple of thousand permits require water use reports. The Department spent two months in the court house looking up property records for accurate owner information in just 1 basin. An updated computer system is

being developed to handle the new reporting, but is not finished and there is no staff time to do appropriate QA/QC on the data being reported.

Environmental groups have frequently lobbied for water use fees, but it has never gone anywhere.

Kansas

Kansas requires annual reports to be completed by the user and returned by mail. Late fees are assessed if a report is not returned on time.

New Mexico

Most ground water wells are metered and annual water use reports are filed either through the web or on paper.