STATE OF CALIFORNIA

CALIFORNIA NATURAL RESOURCES AGENCY

CALIFORNIA WATER COMMISSION

RESOLUTION NUMBER: 2019-01

RESOLUTION TO APPROVE DAM SAFETY PROGRAM ANNUAL FEE REGULATIONS

WHEREAS, the Department of Water Resources (Department or DWR), through its Division of Safety of Dams, implements Part 1 of Division 3 of the Water Code, which is commonly referred to as the Dam Safety Program. To implement this program, the Department collects fees from dam owners, including annual fees to cover the regulatory costs of implementing the supervision of dam safety, as described in Water Code section 6307;

WHEREAS, in 2017, newly enacted law Senate Bill 92 (SB 92) amended Water Code section 6307, which requires the Department's schedule of fees to also cover the new costs incurred by the expansion of the dam safety regulatory program, including but not limited to reviewing and approving inundation maps, repaying budgetary loans, and maintaining a prudent reserve. In accordance with new subdivision (a)(3) of Water Code section 6307, the schedule of annual fees adopted shall be based, in part, on the height of the dam on a per-foot basis. Senate Bill 92 also provided that any regulation promulgated pursuant to Section 6307 shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare;

WHEREAS, on March 26, 2018, the Department adopted emergency regulations that establish an annual fee schedule in accordance with Water Code section 6307, and the emergency regulations have been readopted. These emergency regulations will expire, and the Department is proceeding with the regular rulemaking process to make the regulations permanent, which requires the filing of a Certificate of Compliance with the California Office of Administrative Law by March 25, 2019;

WHEREAS, before publishing the Annual Fee Regulations in the California Notice Register, the Department provided an informal comment period to receive input from dam owners and other interested parties.

WHEREAS, on November 23, 2018, the Notice of Public Availability for the proposed Annual Fee Regulations was published in the California Regulatory Notice Register, posted on the Department's website, and mailed and emailed to dam owners and other interested persons. The fee calculation reflected in the proposed regulations was based on dam height, consistent with Water Code section 6307.

WHEREAS, the Department conducted a 55-day written comment period and held a public hearing on January 8, 2019 on the proposed Annual Fee Regulations. During this

process, the Department received 18 comment letters and received oral comments from three speakers at the hearing;

WHEREAS, the Department made revisions that are sufficiently related to the text of the Annual Fee Regulations that was initially proposed and noticed based on comments received during the comment period;

WHEREAS, the significant change was adding a fee component, beginning in Fiscal Year 2020-21, for dams with certain types of Critical Appurtenant Structures, so that the annual fee for these dams are more closely aligned to the impact that these types of dams have on the Dam Safety Program;

WHEREAS, on January 24, 2019, the Department circulated the revised Annual Fee Regulations and provided 15 days for public comment. The Department made no further substantive revisions to the regulations after the 15-day comment period;

WHEREAS, Water Code section 161 authorizes the California Water Commission to approve rules and regulations of the Department;

WHEREAS, the Annual Fee Regulations are hereby presented to the California Water Commission for consideration and approval;

WHEREAS, the adoption of the Annual Fee Regulations is exempt from the California Environmental Quality Act (CEQA) because adoption of these regulations is not a project under CEQA, and, even assuming that adoption of these regulations constitutes a project, it be exempt on the following grounds: (1) There is no possibility that the adoption of the Annual Fee Regulations will have a significant effect on the environment; (2) Adoption of the Annual Fee regulations is exempt because the fees will be used to administer the Dam Safety Program. (Pub. Res. Code §§ 21065, 21080, subd. (b)(8), 14 CCR §§ 15061, 15378.)

NOW, THEREFORE, BE IT RESOLVED that the California Water Commission:

Approves the Annual Fee Regulations at its meeting on February 20, 2019.

Signed:

Armando Quintero, Chair
California Water Commission

2/20/19
Date

Attest:

Joseph R. Yun, Executive Officer
California Water Commission

2/20/19
Date