

January, 2016

## > LIST OF WATER RIGHTS SUBJECT TO PAYMENT OF FEE DUE TO NON-USE

DGA Resolution No 4420, containing the annual list of water rights subject to payment of a fee for non-use, was published in the Official Gazette on January 15th.

The list of water rights affected by the payment of fee for non-use is available for download here.

The Water Code establishes the payment of a fee, by the owner of the water right that is not being exercised, totally or partially. The Water Bureau (DGA) issues a yearly resolution every January 15th, with the list of the water rights subject to the fee and the corresponding amount to be paid.

*The fee amount is determined through a mathematical formula in which the following factors are relevant:*

- 1 Geographical location;
- 2 Flow;
- 3 Consumptive or non-consumptive exercise;
- 4 Altitude difference (in the case of non-consumptive water rights)
- 5 Permanently or eventually exercisable; and
- 6 Years that the water right has not been used.

Payment of the tax is due during the month of March, in any bank or authorized institution. Outstanding fees are sought through a judicial procedure which may end with a public auction of the water right.

A detailed review of the list is advisable, since the inclusion of water rights which are effectively being used, is a common occurrence, as well as inaccurate and outdated information with regards to the ownership of the water rights.

If a fee has been imposed incorrectly, the owner of the water right may file a reconsideration appeal before the DGA, within 30 days from the publication of the list. A reclamation appeal before the relevant Court of Appeals is also available.



If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Carey contact.

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