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February 2015

LIST OF WATER USE RIGHTS AFFECTED BY THE PAYMENT OF A FINE FOR LACK OF USE

On January 15th, Resolution DGA N° 3,438 was published. It contains a list of water rights subject to the payment of a fine for lack of use.

The fine must be paid during the month of March, 2015. The term to contest such resolution is 30 days, as counted from the date of publishing.

To review the list of water rights subject to a fine for non-use click here.

The water regulation calls use the payment of a fine by the owner of the water right that is not being effectively or partially used. The Water Bureau (DGA) publishes a resolution every January 15th that contains a list of every water right that is affected to the payment of the respective fine, establishing the amount that must be paid.

In the determination of the amount to pay for each right, the following criteria are relevant:

1. Geographical location;
2. Flow;
3. Consumptive or non-consumptive;
4. Permanent or eventually exercisable;
5. Height (in the case of not consumptive water rights)
6. Years that have passed in which the water right has not been used.

On the basis of these elements, the law establishes a mathematical formula used by the DGA to calculate the amount of the fine.

The payment must be done during the month of March of every year, in any bank or institution authorized to collect taxes. If an owner of a water right does not pay the fine within the indicated term, a judicial procedure will begin to force its payment, which could end up with the auction of those rights.

It is advisable to made an exhaustive review of the list, since it is very

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common that water rights that are effectively being used are included, or the information contained is not updated or contains errors.

Given this situation, the law allows every owner of a water right to file reconsideration before the DGA within a term of 30 days as from January 15th and also a claim before the respective Court of Appeals.

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